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Campaign commission head says legal ruling's timing wasn't deliberate

By Sandra S. Oshiro
Advertiser Government Bureau

A controversial legal opinion won't create a big loophole in the campaign spending law and wasn't deliberately timed, according to the state Campaign Spending Commission's spokesman.

Executive Director Jack Gonzales responded yesterday to Common Cause/Hawaii charges that the opinion will deny the public important information on campaign financing and that its release last month is suspect.


Gonzales

The state attorney general's opinion was issued just as the commission took up allegations of campaign spending violations involving former state land board member Larry Mehau and his booking agency, Ma-Mon Productions Inc.

The commission was advised that the law requires campaign spending reports only from organizations that "expend" more than $1,000 per election.

A contribution, however, isn't an expenditure, according to the legal opinion. As a result, a corporation that contributes more than $1,000 to a candidate needn't file campaign spending reports.

Candidates who receive the donations, though, must report them to the commission, and that's enough to satisfy the law's intent that the donations be publicly disclosed, the opinion concludes.

Relying in part on that legal advice, the commission last month dismissed allegations that Mehau and Ma-Mon failed to report contributions to Gov. George Ariyoshi's 1982 re-election campaign. (It found "probable cause," however, in two other complaints involving donations to Ariyoshi's campaign.)

Common Cause spokesman Ian Lind believes the opinion is flawed because it doesn't cite a pertinent legislative committee report on the law.

He also charged that the attorney general "has attempted to eliminate a number of campaign spending law violations with the stroke of a pen."

Asked if that meant he felt the opinion was issued to clear alleged violations such as those involving Mehau and his firm, Lind said the timing of its release "pushes you to that conclusion."

Gonzales denied that the opinion's release was deliberately timed. He said the issue of whether a contribution was an expenditure for reporting purposes has been a "gray area" for several months.

It came to a head, however, when an Oahu grand jury filed a complaint with the commission to review possible campaign violations involving contributions to Ariyoshi. It was then that the attorney general was asked to clarify the law.

Until the opinion was issued, Gonzales had been advising corporations and others contributing more than $1,000 to submit spending reports if they hadn't done so.

Gonzales thinks the impact is not a major one, since candidates will still have to report corporate contributions, even though the corporations and groups themselves won't have to.

Such groups can contribute up to $4,000 each election year per candidate and be exempt from filing reports. Among them will be many businesses that limit their political spending to campaign contributions, but that have been providing the commission with a listing of their donations.

To get the same information, the public will have to go through each of the candidates' reports and compile for itself the group's total donations.

Gonzales said he would have more misgivings about the opinion if the limit of $4,000 per election year in contributions wasn't in effect. He said those who want to influence an election would want to contribute more than the maximum amount. And if they do so, they'll have to file reports.

Gonzales said this includes such unions as the Hawaii Government Employees' Association, which establishes telephone banks for candidates and which doesn't limit its political spending to contributions.

In Hawaii...

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Common Cause Sees Huge Loophole

Campaign-Fund Ruling Criticized

By Stirling Morita
Star-Bulletin Writer

The attorney general's office has created a major loophole in the state campaign spending law by ruling that a corporation doesn't have to report political contributions, Common Cause/Hawaii charged today.

Ian Lind, executive director of the citizens' lobbying group, said the attorney general's opinion "is in error" and attempts "to eliminate a number of campaign spending law violations with the stroke of a pen."

In a letter to Jack Gonzales, executive director of the Campaign Spending Commission, Lind asked whether the commission will follow the attorney general's opinion.

"The infusion of cash from corporations, unions, political action committees and other organized groups into campaigns has grown dramatically in recent years, and without adequate reporting, the public will be denied an opportunity to gauge the extent to which this money is capable of influencing the political process," Lind said in the letter.

IN JULY, the commission received the legal opinion that says a corporation which donates more than $1,000 in an election year doesn't have to file reports with the commission as long as it only makes contributions and doesn't spend money for other political purposes.

The commission apparently relied on the opinion when it considered a complaint by an Oahu grand jury that Larry E. Mehau and his company failed to file disclosure reports after allegedly making anonymous contributions to Gov. George Ariyoshi's re-election campaign.

The grand jury had sent 12 possible charges to the Campaign Spending Commission, including four involving required reports by Mehau and his corporations.

The commission upheld only two charges involving anonymous contributions, but didn't recommend action on charges involving the disclosure reports.

GONZALES had said the opinion had been requested because numerous corporate attorneys had inquired whether their corporations would be subject to the disclosure requirement.

Lind said, "In order to reach this conclusion, the attorney general's office had to ignore the clear wording of the law as well as its explicit legislative history."

The law requiring disclosure reports by organizations spending more than $1,000 in an election year was enacted in 1981 when legislators intended to close the so-called "HGEA" loophole. The Hawaii Government Employees Association had long opposed the change.

In 1981, the Senate Judiciary Committee said the new law would cover corporations as well as unions and other organizations. The law could be implemented "without unduly burdening organizations making small expenditures," the committee said.