



**STATE OF HAWAII
OFFICE OF ELECTIONS**

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TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE HOUSE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 3293
RELATING TO CONSTITUTIONAL CONVENTION

February 7, 2008

Chair Waters and members of the House Committee on Judiciary, thank you for the opportunity to testify in support of House Bill No. 3293. The purpose of this bill is to appropriate funds for the Office of Elections to provide voter education on the pros and cons of holding a constitutional convention.

The office always believes in voter education and would welcome any funding the Legislature could provide. However, the office does not feel that it is appropriate to campaign "for" or "against" a constitutional convention. We would be more than willing to distribute the information drafted by another third-party agency, such as the Legislative Reference Bureau.

Thank you for the opportunity to testify in support of House Bill No. 3293.

Respectfully Submitted:

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Testimony on HB3294 Relating to “Constitutional Convention; Appropriations” HB3293 “Con-Con; Voter Education; Appropriation”

Good Evening, Members of the Judiciary Committee.

I applaud your consideration of these two bills. HB3293 appropriates educational funds for better informing our citizens about the choice they have to make this November, about the nature of a Constitutional Convention, and how it operates, and how they get to approve or turn down any recommendations made by the Convention.

HB3294 sets some basic features of the process itself. As I wrote a lengthy op-ed that appears in the Honolulu Star Bulletin last May, describing the workings of the 1968 ConCon, let me list some of my recommendations here, as they relate to the present bills.

<http://starbulletin.com/2007/05/06/editorial/special.html>

A CONCON REQUIRES ADEQUATE PREPARATION

Without adequate pre-convention activities to study a host of major issues, make proposals and publicly discuss them, delegates will be elected primarily on the basis of name familiarity, large campaign expenditures or the backing of well-organized special interest groups. Votes will be cast hardly on the basis of good information about issues and the candidates themselves. Fortunately, Hawaii has historical precedents for doing a good job of organizing pre-ConCon activities, and we could adopt their approach.

EXTENSIVE PLANNING FOR THE 1968 CONCON

In 1968 a Citizens Committee on the Constitutional Convention played a major role in educating the public on constitutional issues and **stimulating a wide cross-section**

of individuals to stand as delegates to the convention. The following are some guiding principles, which I derive from University of Hawaii professor Normal Meller's book "Constitution Making In Hawaii."

» **Utilize citizen good-government groups.** Starting 12 months before the convention, members of the American Association of University Women, the Junior League of Honolulu, the League of Women Voters and other interested organizations pooled efforts to promote a large-scale conference about six months before the election.

In preparation for what turned out to be a three-day conference, 12 subcommittees, comprised of balanced representations of various points of view, were established to prepare proposals for the conference and convention.

These committees considered: the Constitution and the Convention; State-County Relationships; Tax and Finance; Judicial Article; Bill of Rights; Ethics; Legislative and Executive; Cultural Affairs; Health and Welfare; Conservation and Planning; Elections; Education; Amendment; Initiative, Referendum and Recall; and Continuing Informational Effort.

» **Job of subcommittees.** Within their assigned spheres of interest, the subcommittees had the responsibility to:

- 1) collect and disseminate background information in a form that could be made readily available to interested people;
- 2) encourage serious discussion of all proposals by making fact-based research materials and expert speakers available to interested organizations;
- 3) refine proposals to be submitted to the Constitutional Convention, phrased in precise language suitable for adoption;
- 4) act as a resource of personnel and information for the secretariat and the Subcommittee on Continuing Informational Effort;
- 5) develop and recommend programs designed to sharpen issues, increase citizen interest and educate the public; and
- 6) select and present the material to be covered at the Constitutional Conference sponsored by the Citizens Committee.

Each subcommittee worked out public presentations for the press, radio and television. They prepared drafts for one-minute spots on radio and television, highlighting the issues that would come before the convention. They furnished short to medium-length articles outlining the pro and con aspects of each issue.

While the original objective of bringing various community organizations together was to hold a conference for the ConCon, the representatives agreed that the committee's purpose should be **focused more toward citizen education** than just the conference. The Citizens Committee divided its activities into two stages: planning and running the conference itself, and a continuing effort to last until the revised Constitution was presented to voters for their approval.

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Pulling off such an ambitious project required a lot of planning, coordination, effort and financial support. Subcommittees had to be organized, a conference headquarters established, and an extensive public information program laid out by professionals from public relations firms and the press, radio and television.

» **"The People's Conference."** To provide content as well as glamour to the event, five distinguished mainland commentators were asked to participate. The bulk of the program, however, was carried out by more than a hundred local academic, community and political leaders who discussed the pros and cons of the major issues likely to come before the constitutional convention.

Ten thousand promotional brochures were mailed. The newspapers and other media provided extensive advance publicity and, on the opening day, Gov. John Burns spoke before a standing-room-only audience of 500. In all, some 711 persons attended the three-day pre-convention conference.

As UH's Meller concluded, ***"The conference admirably served the dual purpose of directing the attention of the public to the forthcoming election and convention, and also helped to clarify the nature of the issues."*** An added bonus was that many of the heavily involved panel members and members of the audience ran later as delegates. The conference spun off similar activities and citizen participation on the Big Island and Kauai.

» **Supplying the public with information.** With the successful completion of its three-day conference, the Citizens Committee on Oahu directed its attention to public outreach. It produced a weekly "Con Commentary" radio call-in program, and prepared and mailed folders to church, community and service organizations listing both issues and sources of additional information.

The UH Speakers Bureau coordinated requests from organizations for speakers, frequently using people recruited by the Citizens Committee. UH also offered eight-week seminars on Constitutional Convention issues. All branches of the state library maintained a collection of convention materials for public perusal.

>> **Voter's pamphlet.** One of the subcommittees whose work expanded after the conclusion of the conference was the Subcommittee on Continuing Informational Effort, which gathered basic biographical information by questionnaires sent to all candidates, and from other sources. All of this data was printed in a roster of candidates, with photographs, published as a tabloid insert in a joint Sunday issue of the Honolulu Star-Bulletin and Honolulu Advertiser. In all, the Citizens Committee succeeded in publishing brief biographies for 360 of the 378 announced candidates, providing

background information on the many unknown individuals who were running for public office for the first time.

» **Symposium for newly elected delegates.** The final activity of the Citizens Committee was a three-day symposium at UH, held after the delegates were elected. The symposium featured four mainland specialists on constitutional revision. In addition, delegates had an opportunity to consult with local government officials who shortly would be called on to provide services to the convention. A good part of the symposium was devoted to sessions on the experiences of other conventions.

» The 1978 convention. While 1978's pre-convention activities were not as well organized, many efforts were undertaken to "tool up the community." Meller and Richard H. Kosaki reported, "***The media encouraged broad public involvement and solicited reactions to probable constitutional issues. Workshops were held on how to campaign for a convention seat. Public forums were scheduled throughout the state to examine a range of materials which might be considered in the convention. Polls taken under various auspices sought to probe the public's formulation of issues.***"

HOW TO DO IT

Holding a Constitutional Convention takes careful planning. Here are some guidelines.

- Elect two delegates per district: Prominent, well-financed candidates have a high probability of being elected. Providing a second choice allows fair representation of district's minority views. The highest two vote-getters are elected.
- Pay delegates a living wage: Pay at least \$4,000 a month, since we want a representative cross-section of the community running for, and being involved in, the ConCon. Otherwise, only paid lobbyists or paid representatives of entrenched power groups and the well-off or financially independent can be involved for such a long period.

Provide adequate funding for:

- » a citizens' committee to handle coordination and publicity, disseminate educational information, create a Web site and run a delegate symposium
- » special election mail-in ballots
- » salaries for 103 delegates
- » ConCon operational costs
- » adequate support staff and supplies
- » A Legislative Reference Bureau to perform research and provide assistance
- » voter's information pamphlets

>>**University of Hawaii role:** The university can play a significant role in this preliminary stage. Set up a "Learning Community" series of courses focusing on what constitutional changes would make sense. The ConCon could be tinkering about the edges, or consider fundamental structural questions (such as home rule).

>>**Campaign funding:** To provide a level playing field for candidates, minimally set strict campaign spending limits; allow only individual contributions (no corporate or PACs), limited to \$250, from registered voters who live in the district.

>>**Use mail-in ballot:** To increase voter turnout and reduce the costs of a special election, adopt the Oregon process.

SUGGESTED SCHEDULE --The first steps on the path to a Constitutional Convention in 2010 should be taken next year. A proposed schedule of events leading to a ConCon include:

2008

» November: Ballot proposal on whether to hold a ConCon in 2010.

2009

» January-May: Legislature passes bill to set up and fund pre-convention activities and the ConCon itself.

» July-December: Citizens Committee Working Groups convene about six months prior to Citizens Conference to fully prepare for ConCon.

2010

» Jan. 15: Citizens Committee three-day conference.

» February: Candidate education workshop on campaigning

» February-March: Public information campaign on ConCon issues

» April 1: Special election for ConCon delegates -- mail-in ballots

» Mid-April: Symposium for elected delegates

» May-July: Constitutional Convention

» August-October: Public education on amendments

» Nov. 5: Regular elections and vote on ConCon amendments

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Testimony Supporting HBs 3293 and 3294 (Constitutional Convention)
Ed Case

Committee on Judiciary, Hawaii State House of Representatives
February 7, 2008
5:30PM

Mr. Chair and members of this Committee, I am Ed Case, testifying as a private citizen in full support of HBs 3293 and 3294, both relating to a potential Hawaii state constitutional convention.

As we all know, Hawaii voters will answer this question at this year's general election: "Shall there be a convention to propose a revision of or amendments to the Constitution?" The submission of this question to the voters this year is mandated by our Constitution. If the voters answer yes, the details of how and when to convene the convention are mostly left to this legislature.

My own answer to the basic question is an unqualified yes. I believe we should convene a constitutional convention as soon as possible because, at our half-century mark of statehood, it is time for us to consider the big picture of our social and governmental compact going forward, to reaffirm what works and to improve what doesn't.

That discussion – whether or not to convene a convention – will continue over the next nine months and, I hope and believe, spark increased citizen engagement in our government. The bills before you today are neutral on the substance of the voters' choice but necessary to ensure a fully-informed decision.

The first, HB 3293, proposes that we do what we have otherwise done on similar submissions to the voters: assure that voters have the basic information with which to make an informed choice. In my own observation, given that it has been ten years since the question was last submitted to the voters and thirty years since our last constitutional convention, there is a substantial lack of knowledge among voters today as to our Constitution's requirements and the issues and outcomes of convening or not convening a convention.

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We can expect that, as public discussion picks up in the coming months, the level of public knowledge will increase. However, we cannot ensure, without an effort such as called for in this bill, that all voters will be provided with objective information, which is why we have authorized the Office of Elections to disseminate such information widely and objectively in past elections and should do so again this year through this measure.

The second, HB 3294, is an integral part of this same effort. In setting the basics of a convention now, should the voters choose this November to proceed with a convention, the legislature would be providing the voters with maximum information with which to make an informed decision. Voters will reasonably ask what-where-when-how-how much when the choice of whether to convene a convention is put to us, and this measure, as the legislature may choose to amend it, will provide that answer when it should be provided.

Beyond that basic reason, if the voters vote this November to convene a convention, this measure will accelerate the process of a convention and the submission to the voters of proposed constitutional amendments from the 2011-2012 timeframe to that of 2009-2010. If this measure is not enacted this year, and the legislature does not call special elections to select delegates next year, those delegates will be chosen at the 2010 regular elections, a convention convened in 2011-2012, and any proposals submitted to voters in 2012. But if it is enacted, then an orderly process will be established for delegate election in '09, a convention in '10, and submission of any proposals to the voters at '10's regular elections.

The policy question for you is whether, if the voters mandate a convention this year, we should collectively get on with it or effectively put it off for four years. I believe strongly that we should get going if the voters mandate a convention. It will not only be the voters' expectation, and not only exactly the right time to do so as we move into our next half-century of statehood together, but as well the broader issues of how we govern ourselves going forward in a changing Hawaii are ripe for collective discussion and decision.

Some may argue that the provisions of this bill may and should be put off until the legislature's '09 session; that this measure could be passed then and still establish a process of delegate election, convention and submission to the voters in the '09-'10 timeframe. I respectfully disagree, for three reasons.

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First, as discussed above, I believe voters should have the proposed details available to them to make a truly informed choice this November on whether or not to proceed. Second, the successful conventions of the past (1968 being the most notable example) resulted from a coordination of the delegate election/convention/proposed amendment submission basics with extensive public discussion and education on the specific issues; that process needs time to set up and carry out, and commencing it knowing the details after this year's election as opposed to the middle of next year after the '09 session would produce a far better result. And third, if unforeseen circumstances require any amendments in the process established by this measure this year, those adjustments can be made in the '09 session.

For these reasons, I urge advancement of HBs 3293 and 3294. Mahalo for your consideration.

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