

*To: Chair  
Keith-Agaran  
From: Dante*



Tuesday, February 15, 2011, 2:00 PM  
State Capitol Room 325

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House Committee on Judiciary  
Representative Gilbert S.C. Keith-Agaran, Chair  
Representative Karl Rhoads, Vice Chair

**HB 1368 RELATING TO ELECTIONS**

Chair Keith-Agaran, Vice Chair Rhoads and Members of the House  
Committee on Judiciary:

Thank you for this opportunity to provide comments to the Judiciary  
Committee. My name is Dante Carpenter and I am the Chairman of the  
Democratic Party of Hawai'i. The Democratic Party of Hawai'i strongly  
supports the intent of HB 1368 RELATING TO ELECTIONS. This  
measure defines a party candidate and modifies the withdrawal process.  
Further, it clarifies the filing process and provides original jurisdiction to  
resolve challenges to an individual's candidacy.

The Democratic Party of Hawai'i shares the concerns set forth by HB 1368  
and recommends the committee consider portions of HB 1439 RELATING  
TO ELECTIONS, which addresses the withdrawal process and clarifies how  
and when a vacancy relating to the election of party candidates occurs.

Additionally, portions of SB 1204 RELATING TO DISQUALIFICATION  
OF CANDIDATES FOR PUBLIC OFFICE PURSUANT TO OBJECTION  
allow for a Party Candidate Vetting Process. Further, SB 1204 clarifies that  
the chairperson of a political party may make an objection to the validity of  
nomination papers; requires publication on state or county websites of a list  
of all candidates within twenty-four hours of the close of the filing deadline;  
establishes requirements for notice to the candidate of objections and any  
withdrawal of objections and deletes requirement for a political party to file  
a complaint in circuit court for prompt determination of the objection.

Thank you again for this opportunity to comment on HB 1368.

Attachment:  
HB 1439, SB1204

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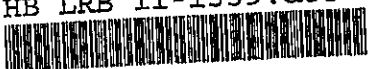
# A BILL FOR AN ACT

RELATING TO ELECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1           SECTION 1. Section 11-118, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) ~~[In case of]~~ If the death, withdrawal, or  
4 disqualification of any party candidate after the close of the  
5 filing<sup>[7]</sup> period, as provided by section 12-6, results in no  
6 candidate of a party remaining eligible for election in the  
7 primary election, or if the vacancy arises after the primary  
8 election, the vacancy so caused may be filled by the party. The  
9 party shall be notified by the chief election officer or the  
10 clerk in the case of a county office immediately after the  
11 death, withdrawal, or disqualification. The death, withdrawal,  
12 or disqualification of a party candidate before the close of the  
13 filing period, as provided by section 12-6, shall not be deemed  
14 to create a vacancy if another party candidate remains eligible  
15 for election in the primary election."

16           SECTION 2. The office of elections shall take all actions  
17 necessary to implement this Act prior to the 2012 election  
18 period.



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Cindy Evans

JAN 26 2011



**Report Title:**  
Elections; Vacancies; New Candidates

**Description:**  
Clarifies how and when a vacancy relating to the election of party candidates occurs.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



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# A BILL FOR AN ACT

RELATING TO DISQUALIFICATION OF CANDIDATES FOR ELECTION TO PUBLIC OFFICE PURSUANT TO OBJECTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. Section 12-8, Hawaii Revised Statutes, is amended to read as follows:

**"§12-8 Nomination papers; challenge; evidentiary hearings and decisions.** (a) All nomination papers filed in conformity with section 12-3 shall be deemed valid unless objection is made thereto by a registered voter, ~~[an officer]~~ the chairperson of a political party whose name is on file with the chief election officer, the chief election officer, or the county clerk in the case of a county office. Within twenty-four hours after the close of filing pursuant to section 12-6, the chief election officer, or the county clerk in the case of a county office, shall publish on their respective websites a list of all candidates who have filed nomination papers. All objections shall be filed in writing not later than 4:30 p.m. on the thirtieth day or the next earliest working day prior to the primary or special election.

(b) If an objection is made by a registered voter, the candidate objected thereto shall be notified of the objection by the chief election officer or the clerk in the case of county offices by registered or certified mail.

2/14/2011

(c) If an objection is [~~filed~~] made by [~~an officer~~] the chairperson of [~~a~~] the political party [~~with the circuit court,~~] under whose governing documents the candidate claims to be an eligible candidate for public office, the candidate objected thereto shall be notified of the objection by [~~an officer~~] the chairperson of [~~the~~] that political party by registered or certified mail[-], with a copy to be mailed to the chief election officer or the clerk in the case of a county office. If the objection is mailed to the candidate within seven business days after the close of filing, the candidate shall be deemed ineligible to run as a candidate in the primary election of that party, unless within fourteen days after the mailing of the objection the party withdraws the objection. The withdrawal of the election, if made, shall be by certified or registered mail to the candidate with a copy mailed to the chief election officer or the clerk in the case of a county office. An objection shall not be subject to judicial review or review by an election officer. A candidate may, but need not, run as an independent candidate if the objection is not withdrawn.

(d) Except for objections by [~~an officer~~] the chairperson of a political party [~~filed directly with the circuit court,~~] pursuant to subsection (c), the chief election officer or the clerk in the case of county offices shall have the necessary powers and authority to reach a preliminary decision on the merits of the objection; provided that nothing in this subsection shall be construed to extend to the candidate a right to an administrative contested case hearing as defined in section 91-1(5). The chief election officer or the clerk in the case of county offices shall

render a preliminary decision not later than five working days after the objection is filed.

(e) If the chief election officer or clerk in the case of county offices determines that the objection may warrant the disqualification of the candidate, the chief election officer or clerk, as appropriate, shall file a complaint in the circuit court for a determination of the objection; provided that such complaint shall be filed with the clerk of the circuit court not later than 4:30 p.m. on the seventh working day after the objection was filed.

~~[(f) If a political party objects to the nomination paper filed by a candidate because the candidate is not a member of the party pursuant to the party's rules filed in conformance with section 11-63, an officer of the party whose name appears on file with the chief election officer shall file a complaint in the circuit court for a prompt determination of the objection; provided that the complaint shall be filed with the clerk of the circuit court not later than 4:30 p.m. on the thirtieth working day or the next earliest working day prior to that election day.]~~

~~[(g)]~~ (f) If ~~[an officer of a political party whose name appears on file with the chief election officer,~~] the chief election officer~~]~~ or clerk in the case of county offices files a complaint in the circuit court, the circuit court clerk shall issue to the defendants named in the complaint a summons to appear before the court not later than 4:30 p.m. on the fifth day after service thereof.

~~[(h)]~~ (g) The circuit court shall hear the complaint in a summary manner and at the hearing the court shall cause the evidence to be reduced to writing and shall not later than 4:30 p.m. on the fourth day after the return give judgment fully stating

all findings of fact and of law. The judgment shall decide the objection presented in the complaint, and a certified copy of the judgment shall forthwith be served on the chief election officer or the clerk, as the case may be.

~~(i)~~ (h) If the judgment disqualifies the candidate, the chief election officer or the clerk shall follow the procedures set forth in sections 11-117 and 11-118 regarding the disqualifications of candidates."

SECTION 2. The chief election officer shall take all actions necessary and proper to ensure that the provisions of this Act shall be implemented in the 2012 election cycle.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: \_\_\_\_\_

**Report Title:**

Elections; Nomination Papers; Challenge

**Description:**

Clarifies that the chairperson of a political party, and not an officer of the party, may make an objection to the validity of nomination papers; requires publication on state or county websites of a list of all candidates within twenty-four hours of the close of the filing deadline; establishes requirements for notice to the candidate of objections and any withdrawal of objections; deletes requirement for a political party to file a complaint in circuit court for prompt determination of the objection.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



## JUDtestimony

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**From:** LWV [lwvhawaii@gmail.com]  
**Sent:** Monday, February 14, 2011 3:47 PM  
**To:** JUDtestimony  
**Subject:** Testimony on HB 1368  
**Attachments:** HB 1368 Filling vacancies.doc

Sent by Jean Aoki, LWV Legislative Committee  
**To: Committee on Judiciary**  
**Hearing on Date: Tuesday, February 15, 2011**  
**Time: 2:00 P.M.**  
**Place: Conference Room 325**

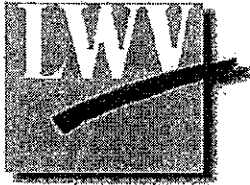
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League of Women Voters  
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Visit us at [www.lwv-hawaii.com](http://www.lwv-hawaii.com)  
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A Non-Partisan Organization to Encourage Informed Citizen Participation in Government



# THE LEAGUE OF WOMEN VOTERS OF HAWAII

## TESTIMONY ON HB 1368 RELATING TO ELECTIONS

Committee on Judiciary  
Rep. Gilbert S.C. Keith-Agaran, Chair  
Rep. Karl Rhoads, Vice Chair  
Date: Tuesday, February 15, 2011  
Time: 2:00 P.M.  
Place: Conference Room 325

Testifier: Jean Aoki, LWV Legislative Committee

Chair Keith-Agaran, Vice Chair Rhoads, members of Committee on Judiciary,

The League of Women Voters supports HB 1368 which makes an amendment to Section 11 – 117, HRS which closes a loophole used last election to deliberately give the party more time to look for a candidate to fill an empty slot. The line, “Any person who withdraws their nomination papers prior to the close of filing shall not be considered to have caused a vacancy that may be filled by a party under section 11-117”, makes it crystal clear that that person has not been nominated for that seat.

The same rules should be followed by everyone who withdraws from an election or who files for nomination, without exception, and we hope that all incumbents planning not to run for office in the next election will declare that intent early enough to give all interested citizens a fair opportunity to assess his/her chances of being able to mount a competitive campaign. When a vacancy appears, people need time to assess their personal situations, their willingness to withstand the demands and rigors of campaigning, their capability of getting a crew and volunteers to help in the campaign and the chances of getting enough donations or public funding to run competitive races.

Giving the State Supreme Court original jurisdiction over challenges to candidacies helps expedite the resolutions of these cases when speed is of the essence since elections will not wait.

Thank you for this opportunity to support HB 1368.

**Steven Nishimura & Associates, Inc.**  
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Lihue, Kauai, Hawaii 96766  
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February 14, 2011

Representative Keith Agaran  
Chairman of the House Judiciary Committee  
Hawaii State Capital  
Honolulu, HI

RE: HB 1368

Dear Sir:

Hope everything is going well with you and your colleagues during this legislative session. The residents of Kauai also thank you and your supporters for the tremendous effort put forth towards enacting bills on behalf of our public.

I am currently County Chairperson for the Kauai Democratic Party and most recently involved in a civil lawsuit against a republican candidate, who unsuccessfully sought the House District 14 seat. Reasons given that allowed this individual an opportunity to enter a house race past deadlines were unsubstantiated in my opinion.

The result of this litigation is now before you in measure to correct and clarify rules governing the election process and the authority of the State Elections Office. I pray for your indulgence to remedy this situation, which hopefully prevents shady practices by opposing parties in future elections. Thank you for your consideration.

Sincerely,



**Steven J. Nishimura**