HB32

TESTIMONY OF THE

CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS

TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

ON HOUSE BILL NO. 32

RELATING TO ELECTIONS

March 28, 2013

Chair Hee and members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to provide technical comments regarding House Bill No. 32. The purpose of this bill is to require the Chief Election Officer to establish procedures to select a letter of the alphabet by lot and arrange candidate names on ballots in alphabetical order of the last names, beginning with the randomly selected letter.

The Office of Elections provides the following comments and recommendations:

The current bill's provision of randomly selecting a letter of the alphabet and then arranging names in alphabetical order of the last names, beginning with the selected letter, appears to work as follows:

1.   The letter Z is randomly selected.

2.   The name ZIEGLER, Thomas would come first, then ZIFF, John.

3.   After the Zs were exhausted, we would go to the A's and organize the names alphabetically (i.e. ABE, Timothy, then ADAMs, Lindsay, and so on).

4.   We would then proceed to B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, and Y.

Such a system could be easily implemented and with appropriate candidate/voter education could mitigate any candidate/voter confusion.

In order to ensure consistency in the manner in which names of candidates appear on the ballot, we would recommend that HRS § 13D-4, relating to the order of candidates on the ballot for the Board of Trustees for the Office of Hawaiian Affairs, be amended to simply refer to arranging the names "as specified in HRS § 11-115" versus "alphabetically." Otherwise, there could be some ambiguity over whether the names of candidates for the Board of Trustees should still be arranged alphabetically, starting with the letter "A," in the event that HRS § 11-115 is amended to reflect a different manner of arranging candidates on the ballot.

Thank you for the opportunity to testify on House Bill No. 32.

SENATE COMMITTEE ON JUDICIARY AND LABOR
Senator Clayton Hee, Chair, Senator Maile S.L. Shimabukuro, Vice Chair

Thursday, March 28, 2013, 10:30 a.m.

SB 32, RELATING TO ELECTIONS

TESTIMONY
Janet Mason, Vice-President, League of Women Voters of Hawaii

Chair Hee, Vice Chair Shimabukuro, and Committee Members:

**The League of Women Voters of Hawaii offers comments on SB 32, which would
require** the Chief Elections Officer to establish procedures to select a letter of the alphabet
by lot and arrange candidate names on the ballot in alphabetical order by last name,
beginning with the randomly selected letter. Our reading of the bill is that the proposed
letter selection followed by alphabetic ordering would be the same throughout the State,
without differences among legislative districts.

The League applauds the fact that this bill recognizes ballot design is important in
producing a fair election, and hopes the Office of Elections will consider the good
suggestions about the format of the ballot that are contained in this measure.

But the main purpose of the bill appears to be addressing the well-known problem that
coming first on the ballot increases a candidate's total vote count.[1] This phenomenon is
well documented in political science and psychology research. Estimates of the typical
average advantage are varied, from two to three percentage points, depending on whether

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[1] Krosnick, Jon A. and Joanne M. Miller, *The Public Opinion Quarterly*, Vol. 62, No. 3 (Autumn, 1998), pp.
291-330

major or minor party candidates are involved, whether it is a nonpartisan race or whether it is a primary or general election.[2]

This is not trivial theoretical research. In 2000 in California, George W. Bush got nine percent more votes in the assembly districts where he was listed first than in the assembly districts where he was listed last. This occurred in California even though California was also rotating the name order across assembly districts. The nine percent advantage was present even when researchers took into account the fact that certain districts tend to vote Democratic and others tend to vote Republican. The authors concluded that although name order cannot swing the votes of decided voters, in a close race similar to this 2000 presidential race the winner can, and has been decided by the order of candidates' names on the ballot.[3]

HB32 proposes a simple rotation scheme to mitigate this positional problem. Choosing a letter of the alphabet would introduce a small amount of randomization, but not much. [4] Using the procedure described in the bill wouldn't eliminate the problem – it would only lead to greater success for the candidate who was lucky enough to get selected first in the draw. I am also saying "simple" rotation because the bill does not propose to rotate the order of names across the State, as many states such as Ohio and California already do. In an ideal world, you would want each possible ordering of candidates to be represented equally on our ballots. This is not accomplished with the alphabet drawing approach in this bill. For example, if there were 4 candidates for the Democratic primary election in Senate

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[2] Ho, Daniel E. and Kosuke, Imai, "Estimating the Causal Effects of Ballot Order from a Randomized Natural Experiment: the California Alphabet Lottery, 1978-2002, *The Public Opinion Quarterly, (2008) 72 (2): 216-240.*

[3] Jon A. Krosnik, Joanne M. Miller, and Michael P. Tichy, "An unrecognized need for ballot reform,'" in Ann N. Crigler, Marion R. Just, and Edward J. McCaffery (eds.), Rethinking the Vote:The Politics and Prospects of American Election Reform (New York: Oxford University Press, 2004), pp. 52, 53, 63

[4] One problem is that the letters of the alphabet are not equally like to be used at the beginning of last names. I know only one person in Hawaii whose last names begins with X," but I know many people whose last names begin with "L."

District 23, there would be 24 possible orders of candidates.[5]   Even with extremely careful printing and distribution by the Office of Elections, it would be impractical and confuse voters to print and distribute 24 different ballot orderings in this district.   The Office of Elections currently makes sample ballots available for voters in advance of elections, and this "best practice" would be infeasible. With 24 different orderings how could voters feel assured they had received the correct ballot?

Coming up with a fairer approach to ballot ordering is definitely possible in Hawaii elections, when there are a limited number of candidates (e.g. the presidential candidates in a general election) for a relatively large number of districts. Ohio, for example, tries hard to optimize fairness and accountability by varying the name order across the state so that each possible order permutation appears an equal number of times, and observers can inspect ballots on Election Day to be sure the rotation was done properly. Idaho, North Dakota, Wyoming and a few other states use versions of this system. [6] But the larger the field of candidates the more difficult it is to use this approach.

The League concludes that the intent of the proposed bill is good, but the methodology and implementation are very imperfect.   Under these circumstances, there is no compelling reason to spend the money required to implement the proposed complex ballot order system rather than using the current approach of ordering names alphabetically. Thank you for the opportunity to submit testimony.

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[5] (4 factorial, i.e. 4x3x2x1)).

[6] Krosnick, Jon A. "In the Voting Booth, Bias Starts at the Top," **New York Times**, November 4, 2006.