



**SB3 SD1**

**RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS**

House Committee on Ocean, Marine Resources, & Hawaiian Affairs

March 13, 2013

9:45 a.m.

Room 325

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The Office of Hawaiian Affairs (OHA) offers the following comments on SB3 SD1, which proposes to repeal the special election process for the election of members of the OHA Board of Trustees and establish a system of nonpartisan primary and general elections to begin with the 2014 elections.

We would simply point out that there may be additional costs to the Office of Elections in implementing this new system and additional costs to those OHA candidates who may now compete in both the primary election and the general election.

Mahalo for the opportunity to testify on this measure.



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TESTIMONY OF THE  
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS  
TO THE HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, &  
HAWAIIAN AFFAIRS  
ON SENATE BILL NO. 3, SD 1  
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS

March 13, 2013

Chair Hanohano and members of the House Committee on Ocean, Marine Resources, & Hawaiian Affairs, thank you for the opportunity to provide comments on Senate Bill No. 3, SD 1. The purpose of this bill is to provide for the election of Office of Hawaiian Affairs board members through a system of nonpartisan primary and general elections beginning in 2014.

We wish to note for your information that in Section 2 of the bill, the amendments to HRS § 13D-4(c) leaves in place the requirement that all names be arranged alphabetically. This is consistent with the current version of HRS § 11-115, which provides that names of candidates on a ballot shall be placed in alphabetical order. However, given pending legislation, in the form of House Bill No. 32, which proposes to amend HRS § 11-115 to provide a different manner of arranging candidate names, it may be advisable to amend HRS § 13D-4(c) to simply refer to arranging the names “as specified in HRS § 11-115” versus saying “alphabetically.” Otherwise, there could be some ambiguity over whether the names of candidates for the Board of Trustees should still be arranged alphabetically, in the event that HRS § 11-115 is amended to reflect a non-alphabetical manner of arranging candidates.

In regard to proposed HRS § 13D-4(d), (f), and (g), we wish to confirm the manner in which we will implement these provisions, so as to avoid any subsequent misunderstandings from candidates.

As you are aware, the elections for the nine member Board of Trustees are staggered so three At-Large Trustees, the Oahu Resident Trustee, and the Maui Resident Trustee (i.e. five seats) are elected in one election year and the remaining At-Large Trustee, Hawaii Resident Trustee, Kauai Resident Trustee, and Molokai Resident Trustee (i.e. four seats) are elected in the next election year.

In terms of the seats requiring residency on a particular island, the proposed statute is relatively straightforward. Specifically, if there is only one candidate at the close of filing, the candidate is immediately deemed duly and legally elected. Proposed HRS § 13D-4(f). If there are only two candidates for a residency seat, at the close of filing, then they both automatically appear on the General Election ballot and do not need to appear on the Primary Election ballot. Proposed HRS § 13D-4(d). However, if there are three or more candidates for the seat, then they must appear on the Primary Election ballot. If this occurs, then the two candidates receiving the highest number of votes will be deemed nominated and move on to the General Election. The exception to this is that if a candidate in the Primary Election receives more than fifty percent of the votes cast then the person is deemed elected at that time and the contest will not need to appear on the General Election ballot.

In terms of the treatment of the candidates for the three At-Large Trustee positions in one election and the subsequent election year in which a single At-Large Trustee position is on the ballot, clarification in the bill or in the committee report may be beneficial.

In a year in which there is a single At-Large Trustee position on the ballot, if there is only one candidate, then the candidate will be deemed automatically elected at the close of filing. Proposed HRS § 13D-4(f). However, it appears that even if there are only two candidates, the two candidates must appear on the Primary Election ballot and then again on the General Election ballot, unless one of the two candidates receives over fifty percent of the total votes cast for the seat. Proposed HRS § 13D-4(d) & (g).

In a year in which the three At-Large Trustee positions are on the ballot, the form of the ballot is essentially a single contest in which all names are listed and the top three candidates are selected as At-Large Trustees. In practice, the bill appears to require that all candidates will appear on the Primary Election ballot, even if there are only three candidates. The top six candidates, if there are at least six candidates, move on to the General Election ballot, given the language in the bill which says "no more than twice the number of qualified candidates as seats available" and there will be three seats available. Proposed

HRS § 13D-4(g). However, if in the Primary Election, a candidate receives over fifty percent of the votes cast then it appears that person would be deemed automatically elected at that time. Proposed HRS § 13D-4(d). If so, then there would only be two remaining seats available for the General Election, meaning that only four candidates would move on to the General Election ballot.

Finally, in Section 4, regarding vacancies in HRS § 17-7(b), the bill removes all reference to “special election held in conjunction with the general election” and simply leaves the reference to General Election. However, there does remain a single reference to “special election” in the second sentence of HRS § 17-7(b)(1). This does raise an issue as to whether the Legislature seeks for the vacancy to be filled in a winner take all single special election, such as what occurs with a vacancy in the office of United States Representative, under HRS § 17-2, or does the Legislature seek for the vacancy in the Board of Trustees to be treated similar to a vacancy in the State Senate where candidates are nominated in the Primary Election to appear on the General Election for the remaining portion of the vacated office. HRS § 17-3(b)(1).

Thank you for the opportunity to testify on Senate Bill No. 3, SD 1.

**RICKY R. WATANABE**  
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TESTIMONY OF RICKY R. WATANABE  
COUNTY CLERK, COUNTY OF KAUA'I  
TO THE HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES  
& HAWAIIAN AFFAIRS  
ON SENATE BILL NO. 3, SD 1  
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS  
March 13, 2013

Chair Hanohano and Committee Members:

Thank you for the opportunity to testify on Senate Bill No. 3, SD 1. This Bill provides for the election of the Office of Hawaiian Affairs Board Members through a system of Nonpartisan Primary and General Elections to begin with the 2014 Elections.

Our office takes no position on the Bill but notes that it will probably increase the cost of running for office since candidates for the Board of Trustees for the Office of Hawaiian Affairs (OHA) may now need to conduct campaigns in two elections to be elected.

From an operational perspective, since the Bill establishes a Primary Election which will cut down the number of OHA candidates moving on to the General Election, OHA contests will require less space on the General Election ballot so the likelihood of a second ballot will be reduced.

Thank you for this opportunity to testify on Senate Bill No. 3, SD 1.

**RICKY R. WATANABE**  
County Clerk

# **HAWAIIAN AFFAIRS CAUCUS**

## **DEMOCRATIC PARTY OF HAWAII**

1050 ALA MOANA BLVD D-2150, HONOLULU, HI 96814

### **LEGISLATIVE TESTIMONY**

SENATE COMMITTEE ON OCEAN MARINE RESOURCES AND HAWAIIAN AFFAIRS

HEARING: RM.325 03/13/2013 9:45 AM

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#### **SB 3 - RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS**

**POSITION: SUPPORT**

The Hawaiian Affairs Caucus is submitting testimony in **STRONG SUPPORT** of **SB3**. The OHA election process has long been plagued by the current process, that severely undermines the democratic process. It is the only election in the State that does not have a primary election to narrow the field of candidates going into the general election.

The winning candidate in numerous OHA elections often wins by having the largest percentage of votes, but not the majority of votes. Because the number of candidates is so large, votes get dispersed amongst all the candidates and the majority of voters do not vote for the winner. This is a severely distorted election process and must be rectified.

It behooves the legislature to ensure that OHA elections adhere to the democratic process.

'O ia ihola nō me ke aloha.

## omhtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 11, 2013 11:26 AM  
**To:** omhtestimony  
**Cc:** Kealii8@hotmail.com  
**Subject:** Submitted testimony for SB3 on Mar 13, 2013 09:45AM

### **SB3**

Submitted on: 3/11/2013

Testimony for OMH on Mar 13, 2013 09:45AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kealii Makekau	Individual	Support	Yes

Comments: Move that S.B. No. 3, S.D. 1. Be passed as is.

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