



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2013**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 3, RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY AND LABOR

**DATE:** Thursday, February 28, 2013                      **TIME:** 10:30 a.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Charleen M. Aina, Deputy Attorney General

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Chair Hee and Members of the Committee:

The Department of the Attorney General recommends that the following revisions be made to the bill, if the Committee votes to report the bill to the floor for second reading:

First, revise subsection (c) of section 13D-4 on page 4, lines 1-10, of the bill, by deleting the last sentence from that subsection beginning on page 4, line 8, in light of its almost verbatim restatement in subsection (e) on page 5, lines 1-4, of the bill. When so revised, subsection (c) of section 13D-4 at page 4, lines 1-10, of the bill should read as follows:

"~~Ballot.~~ (c) The board of trustees ballot shall be prepared in such a manner that every voter qualified and registered under section 13D-3 shall be afforded the opportunity to vote for each and every candidate seeking election to the board. The ballot shall contain the names of all board candidates arranged alphabetically; provided that the names of candidates seeking seats requiring residency on a particular island shall also be grouped by island of residency. ~~[Each eligible voter shall be entitled to receive the board of trustees ballot and to vote for the number of seats available.]~~"

Second, insert a new section 3 at page 5, line 20, to remove all of the references to "special election" in section 13D-5, Hawaii Revised Statutes (HRS). We recommend that section 13D-5 be amended to read as follows:

"§13D-5 **Term of office; vacancies.** The term of office of members of the board shall be four years beginning on the day of ~~[the special election held in conjunction with]~~ the general election ~~[of the year in]~~ at which they are elected, or if elected at a primary election, on the day of the general election immediately following the primary election at which they are elected, and ending on the day of ~~[the special election held in conjunction with]~~ the second general election after their election~~[-; except that the term of office of board members elected in 1980~~

~~shall be as follows: the four board members elected with the highest number of votes shall serve four years; the remaining members elected shall serve two years].~~ Members of the board may be re-elected without restriction as to the number of terms.

Any vacancy that may occur through any cause other than the expiration of the term of office shall be filled in accordance with section 17-7."

Finally, insert a new section 4, and re-number the present sections 3 and 4 of the bill, sections 5 and 6, to remove all of the references to "special election" in section 17-7, HRS. We recommend that this be done by bracketing and striking through the phrase "special election held in conjunction with the" in every place that it appears in section 17-7.

Please do not hesitate to call us if there are questions or concerns about these recommendations.

**RICKY R. WATANABE**  
County Clerk

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**JADE K. FOUNTAIN-TANIGAWA**  
Deputy County Clerk

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**ELECTIONS DIVISION**  
**OFFICE OF THE COUNTY CLERK**  
4386 RICE STREET, SUITE 101  
LĪHU'E, KAUA'I, HAWAII 96766-1819

TESTIMONY OF RICKY R. WATANABE  
COUNTY CLERK, COUNTY OF KAUA'I  
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR  
ON SENATE BILL NO. 3  
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS  
February 28, 2013

Chair Hee and Committee Members:

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

A handwritten signature in blue ink, appearing to read "Ricky R. Watanabe".

**RICKY R. WATANABE**  
County Clerk



**STATE OF HAWAII**  
**OFFICE OF ELECTIONS**  
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PEARL CITY, HAWAII 96782  
[www.hawaii.gov/elections](http://www.hawaii.gov/elections)

SCOTT T. NAGO  
CHIEF ELECTION OFFICER

TESTIMONY OF THE  
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS  
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR  
ON SENATE BILL NO. 3  
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS

February 28, 2013

Chair Hee and members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to provide comments on Senate Bill No. 3. 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.

The Office of Elections sees no administrative problems that would interfere with our ability to implement the provisions of this bill in 2014. However, given that there are candidate reporting requirements to the Campaign Spending Commission and to the Ethics Commission we would suggest that those laws be reviewed to determine if there are any conflicts or issues.

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



**SB3**  
**RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS**  
Senate Committee on Judiciary and Labor

February 28, 2013

10:30 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) offers the following comments on SB3, 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.

## hee2 - Kathleen

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 27, 2013 9:13 AM  
**To:** JDLTestimony  
**Cc:** kahiwal@cs.com  
**Subject:** Submitted testimony for SB3 on Feb 28, 2013 10:30AM

### **SB3**

Submitted on: 2/27/2013

Testimony for JDL on Feb 28, 2013 10:30AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Clarence Ching	Individual	Oppose	No

Comments: While the process suggested here has merit - the gist of my testimony is that OHA elections, although OHA is operated as a "state" agency, but in some/many ways, does not operate as a "typical" state agency, it should have an electoral process distinct and separate from "regular" "state" elections - and held on a different date. This is/was one of the problems that resulted in the decision of the u.s. supreme court appeal - Rice vs. Cayetano - that opened OHA elections to the entire voting population.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**hee2 - Kathleen**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 25, 2013 7:14 PM  
**To:** JDLEstimony  
**Cc:** pamelapcm@gmail.com  
**Subject:** \*Submitted testimony for SB3 on Feb 28, 2013 10:30AM\*

**SB3**

Submitted on: 2/25/2013

Testimony for JDL on Feb 28, 2013 10:30AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pamela Williams	Individual	Oppose	No

Comments:

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**hee2 - Kathleen**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 27, 2013 12:55 AM  
**To:** JDLTestimony  
**Cc:** Kealii8@hotmail.com  
**Subject:** Submitted testimony for SB3 on Feb 28, 2013 10:30AM

**SB3**

Submitted on: 2/27/2013

Testimony for JDL on Feb 28, 2013 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Kealii Makekau	Individual	Support	Yes

Comments: ASk for committee members to consider the following; (1) Deleting duplicative language at the suggestion of the Department of the Attorney General; (2) Making conforming amendments to additional statutory provisions regarding an OHA board member's term of office and vacancies by removing references to special elections; and (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

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