

STAND. COM. REP. NO.

1195

Honolulu, Hawaii

March 27, 2015

RE: S.B. No. 364
S.D. 2
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 364, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ELECTIONS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish requirements and procedures for the recounting of ballots in an election;
- (2) Add unlawful activity and force majeure, and deleting overages or underages, as causes for which a complaint to contest an election shall be limited; and
- (3) Require a complaint for a contest for cause to state why the alleged cause or causes might create a difference in the election success of one or more candidates.

The Office of Elections provided comments on this measure. The Department of the Attorney General provided comments and recommended amendments.

Your Committee has amended this measure to:

- (1) Permit a petition for recount if the margin between the successful candidate and the petitioning candidate is

SB364 HD1 HSCR JUD HMS 2015-2879-1



less than five hundred votes or one-quarter of one percent of all votes cast for that contest, whichever is smaller;

- (2) Delete all provisions that assess the cost of the recount on the candidate who petitions for the recount;
- (3) Calculate the vote margin on the votes cast in the "contest" rather than the "race" as recommended by the Office of Elections;
- (4) Require that the petition for recount shall be filed by the close of business on the second day after the election. The tabulation of the recount shall be reported expeditiously to the Office of Elections and the Chief Election Officer shall certify and release the results no later than the close of business on the sixth day after the election;
- (5) Specify that a candidate may petition for recount under this measure or file a complaint for a contest for cause with the Supreme Court pursuant to Part XI of Chapter 11, Hawaii Revised Statutes, but not both;
- (6) Specify that if a recount of the ballots cast in a contest covers all the precincts of another contest, then all of those contests shall be recounted and recertified by the Chief Election Officer, but only if all of those contests must be recounted by the counting system;
- (7) Specify that the Supreme Court shall adopt the certified results of a recount as the undisputed result for the purposes of a contest for cause; provided that the complainant in the contest for cause did not petition for the recount of the contest; and
- (8) Make technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 364, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 364, S.D. 2, H.D. 1, and be referred to the Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary,

Karl Rhoads

KARL RHOADS, Chair



