



**STATE OF HAWAII
OFFICE OF ELECTIONS**

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TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR
ON SENATE BILL NO. 247
RELATING TO ELECTIONS

February 3, 2017

Chair Keith-Agaran and members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to provide testimony on Senate Bill No. 247. This bill authorizes recounts when the margin of victory is less than two hundred fifty votes or less than one per cent of the votes cast, whichever is less. While the Office of Elections takes no position on this bill, we offer the following comments.

Currently, a contested election is resolved by the courts pursuant to Article II, Section 10, of the Constitution of the State of Hawaii. This bill proposes that election results be administratively changed by the Office of Elections through a mandatory recount; and then allows the parties to file a contest for cause. Our office defers to the Department of the Attorney General regarding the constitutionality of this measure. Specifically, it is unclear if the recount provision could be interpreted as some form of determining a contested election caused by a close vote count.

We believe that this bill should clarify the effects on the results of the recount. All contests on the affected ballots will be counted through the vote counting system. For example, a recount for a statewide office, such as President, Governor, U.S. Senator, or Office of Hawaiian Affairs Trustee, requires all ballots to be scanned through the vote counting system. As such, all contests on the ballots will be recounted and produce new result reports. It should be clarified that the results of contests other than the close contest that triggered the recount can be certified, or if those results could be altered if the recount indicates that the results of other contests on the same ballot should be

changed. If the results of other contests are permitted to be changed, it should be clarified that no further recount will be permitted, even if the difference in those contests now meet the threshold for a recount.

Additionally, we propose amending the contest deadline to “no later than 4:30 p.m. on the thirteenth calendar day following the election or the third calendar day following a recount, whichever occurs first.” This allows time to proof, approve, and print the general election ballot.

Thank you for the opportunity to provide comments on Senate Bill No. 247.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: *Submitted testimony for SB247 on Feb 3, 2017 08:45AM*
Date: Tuesday, January 31, 2017 10:51:08 AM

SB247

Submitted on: 1/31/2017

Testimony for JDL on Feb 3, 2017 08:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Zehner	Individual	Oppose	Yes

Comments:

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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To: [JDLTestimony](#)
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Subject: *Submitted testimony for SB247 on Feb 3, 2017 08:45AM*
Date: Tuesday, January 31, 2017 2:55:09 PM

SB247

Submitted on: 1/31/2017

Testimony for JDL on Feb 3, 2017 08:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Higa	Individual	Oppose	No

Comments:

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