



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

LATE

ON THE FOLLOWING MEASURE:

S.B. NO. 2044, S.D. 1, RELATING TO PROPOSING AN AMENDMENT TO ARTICLE IV, SECTION 2, OF THE HAWAII STATE CONSTITUTION TO ADDRESS THE SELECTION OF MEMBERS OF THE REAPPORTIONMENT COMMISSION.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Wednesday, February 14, 2018 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Valri Lei Kunimoto,
Deputy Attorney General, at (808) 586-0618)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General has concerns with the provisions of S.D. 1 and provides the following comments.

The purpose of this bill is to propose an amendment to the Constitution of the State of Hawai'i for the appointment of members to the Reapportionment Commission where there are no minority party representatives or senators in a house of the State Legislature to appoint the members. S.D. 1 provides that the presiding officer of the respective house of the Legislature will appoint two members from a list of three persons nominated by the chairperson of the minority party.

The Department has concerns regarding section 1 of the bill as it describes the purpose of the Act. The section includes a reference to "after consulting with the chair of the minority party" on page 1, line 7, of this bill, which is not reflected in section 2. The Department suggests that this phrase be deleted.

The Department also has concerns regarding section 2 of the bill because there is no definition or description of "minority party" in the bill. Presently, there are four qualified political parties in Hawaii, i.e., the Democratic Party of Hawaii, Green Party of Hawaii, Libertarian Party of Hawaii, and the Hawaii Republican Party. See,

<http://elections.hawaii.gov/political-parties/qualified-political-parties/>. The bill is unclear as to which is the minority party and the Department suggests that the wording be clarified. If it is intended that the minority party is the party that received the most votes in the last gubernatorial election and that is not the same party as the presiding officer of the House or Senate, the bill should include this description.

Lastly, section 3 of the bill provides the question to be printed on the ballot. The Department has concerns that the question is not accurate. The bill refers to "each house of the legislature" on p. 5, line 7, when it should be: "the house of the legislature. The question would then read:

"To meet the constitutional requirement of equal representation of all political parties on the reapportionment commission, if there are no members belonging to a minority party in a house of the legislature, shall the chair of the minority party nominate three persons to the presiding officer of the house of the legislature, who shall then select two members of the reapportionment commission from the three persons nominated?"

Additionally, the definition or description of "minority party" should be reflected in the question presented.

Thank you for the opportunity to testify on this bill. We respectfully request that you pass this bill with the recommended amendments.