



**STATE OF HAWAII
OFFICE OF ELECTIONS**

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
elections.hawaii.gov

SCOTT T. NAGO
CHIEF ELECTION OFFICER

TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE HOUSE COMMITTEE ON FINANCE
ON HOUSE BILL NO. 428, HD 1
RELATING TO ELECTIONS

February 21, 2019

Chair Luke and members of the House Committee on Finance, thank you for the opportunity to provide comments on House Bill No. 428, HD 1. The purpose of this bill is to require a recount of votes cast for a candidate or on a ballot question, when the difference in the number of votes cast for the top two candidates or on a question is equal to or less than 100 votes or 0.5 percent, whichever is greater.

The costs for conducting a recount would be nominal as we believe it can be conducted by staff during regular working hours. Additionally, the cost of a recount for the voting and vote counting system are provided in our contract.

We would note that if this provision had been in place for the 2018 Elections, a recount would have been required for four contests in the Primary Election, and one contest in the General Election. This includes one federal contest, Congressional District I, and two statewide contests, Governor and Lieutenant Governor, in the Primary Election for nonpartisan candidates who qualified to appear on the General Election ballot. The Democratic contest for House District 30 in the Primary Election, and the contest for Council District IV, City and County of Honolulu, in the General Election would have also triggered recounts.

Thank you for the opportunity to testify on House Bill No. 428, HD 1.



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

COMMITTEE ON FINANCE

Thursday, February 21, 2019, 1:30 p.m., Room 308
HB428 HD1 RELATING TO ELECTIONS

TESTIMONY

Janet Mason, Legislative Committee, League of Women Voters of Hawaii

Chair Luke, Vice-Chair Cullen and Committee Members:

The League of Women Voters of Hawaii supports this measure that would require a mandatory recount of election votes when the margin of victory is less than 100 votes or one-half of one percent of the votes cast, whichever is greater. Also, since submitting our testimony on HB709 HD1, proposing a Constitutional amendment for a mandatory recount, we acknowledge that having a Constitutional amendment to Article II, Section 10, as well as passing HB428 HD1 appears necessary.

This is a very important bill, which we hope will make Hawaii compare more favorably with 43 states that already permit some form of recount. Twenty 20 states and the District of Columbia already provide for *mandatory* recounts like that proposed in this bill. All citizens need to be confident that in close elections there has been a fair examination of counting and other procedures. For a mandatory recount, the cost of the recount should be borne by taxpayers as required in this bill.

The League supports the premise of the bill that most of the time it should not be necessary for the Judiciary to intervene in close elections. The State's Chief Elections Officer can conduct the recount in the case of Federal or State elections and the County Clerk can conduct the recount in the case of single County-only elections. We are fortunate that these elections officials have protocols which should make it relatively easy to implement this bill, including using paper ballots, reconciliation of the number of ballots during the election, ballot security and independent observation of elections.

This bill calls for a close votes recount for contests between individual candidates as well as ballot measures. Regarding the .5% trigger for a recount, this appears to compare favorably with an average of .4% used in other jurisdictions.¹

We fully support allowing candidates or their representatives or parties challenging a ballot question to witness the recount and to maintain voter confidence in the recount, we suggest that the rules for the recount be disclosed to the public.

¹ Halvorseon, Mark, Platten, Jane, Reed, Sam and Ritchie, Mark. *Recount Principles and Best Practices*, February 2014, page 3.



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As called for in the bill, close elections cannot be certified until after results of mandatory recounts are known. As set out in Section 1, we support a deadline of no later than 7 days for completion of mandatory recounts; we also support the Section 3 requirement that complaints concerning votes subject to a mandatory recount be filed no later than five days after the announcement of the results of a recount. Voters and candidates do have the right to prompt certification of an election.

Thank you for the opportunity to submit testimony.



Hawaii

Holding Power Accountable

Common Cause Hawaii • 307A Kamani St. • Honolulu, HI 96813 • 808.275.6275

To: The House Committee on Finance
From: Brodie Lockard for the Common Cause Hawaii Board
Date: Thursday, February 21, 2019, 1:30 pm

In strong support of HB 428

Dear FIN Chair Luke, Vice Chair Cullen and Committee Members—

Common Cause Hawaii strongly supports HB 428.

The 2018 Honolulu City Council election makes it very clear that an automatic recount in a very close election should be mandatory. A recount would avoid

- Time and money wasted in the court system
- Time and money wasted on a special election
- Voters' loss of confidence in the electoral system
- Acrimony among candidates and their supporters
- Time wasted by the office in question
- Inefficiency and confusion in the body of which the office is a part, e.g., the City Council

Please pass HB 428 and save all of the trouble caused by a contested election.

Thank you for the opportunity to testify.

Brodie Lockard
Board Member, Common Cause Hawaii

HB-428-HD-1

Submitted on: 2/20/2019 2:19:20 PM

Testimony for FIN on 2/21/2019 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

HB-428-HD-1

Submitted on: 2/17/2019 4:39:09 PM

Testimony for FIN on 2/21/2019 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeannine Johnson	Individual	Support	No

Comments:

Aloha mai kākou,

I am one of the 39 petitioners in Council District IV who sued Scott Nago, the Office of Elections and the City Clerk. While the law provided the Office of Elections could choose to conduct a recount, it didn't, forcing me and 30 others to sue in order to ensure the integrity of our election process. "The right to vote is perhaps the most basic and fundamental of all the rights guaranteed by our democratic form of government. Implicit in that right is the right to have one's vote count and the right to have as nearly perfect an election proceeding as can be provided. The result we reach must be consistent with these principles." Former Chief Justice William Richardson

Mahalo for your support.

Mahalo for your support.