



**STATE OF HAWAII
OFFICE OF ELECTIONS**

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
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SCOTT T. NAGO
CHIEF ELECTION OFFICER

TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE SENATE COMMITTEE ON JUDICIARY
ON SENATE BILL NO. 216
RELATING TO ELECTIONS

January 29, 2019

Chair Rhoads and members of the Senate Committee on Judiciary, thank you for the opportunity to provide comments on Senate Bill No. 216. This bill requires a mandatory recount of election votes when the margin of victory is equal to or less than one-half of one percent of the votes cast.

While the Office of Elections takes no position on this bill, it is our understanding that any election contest must "be determined by a court of competent jurisdiction" pursuant to Article II, Section 10 of the Hawaii State Constitution. As a result, HRS §11-173 (repealed by Act 217, SLH 1973), acknowledged this by providing that if there was a small vote difference, a complaint would need to be filed in court for an order to conduct a recount.

Thank you for the opportunity to testify on Senate Bill No. 216.



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COMMITTEE ON JUDICIARY

Tuesday, January 29, 2019, 9:00 a.m., Room 016
SB 216 RELATING TO ELECTIONS

TESTIMONY

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

Chair Rhoads, Vice-Chair Wakai and Committee Members:

The League of Women Voters of Hawaii strongly supports the intent of this measure that would require a mandatory recount of election votes when the margin of victory is less than one-half of one percent of the votes cast. We offer comments for your consideration.

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. Why not also provide mandatory recount for 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 we suggest that the rules for the recount be disclosed to the public. As called for in the bill, close elections cannot be certified until after results of mandatory recounts are known. As set out in Section 3, we also support a deadline of no later than 13 days for complaints to the State Supreme

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



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Court for votes subject to a mandatory 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 Senate Committee on Judiciary
From: Brodie Lockard, Board Member, Common Cause Hawaii
Date: Tuesday, January 29, 2019, 9:00 am

In support of SB 216

Dear JDC Chair Rhoads, Vice Chair Wakai and Committee Members—

Common Cause Hawaii supports SB 216.

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

- 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
- Time and money wasted in the court system
- Time and money wasted on a special election

Please pass SB 216 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

SB-216

Submitted on: 1/25/2019 9:33:33 PM

Testimony for JDC on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments:

Given the mess that ensued in the Honolulu Council District 4 election, which has just been invalidated by the Supreme Court, this is a needed amendment to the election law.

Also, the law needs to be amended to include specific language as to whether the ballots must be in the P.O. Box of the clerk by 6 pm on election day or actually in the actual possession of the clerk.

lynne matusow

SB-216

Submitted on: 1/25/2019 11:14:16 PM

Testimony for JDC on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Support	No

Comments:

Yes, close races should have a recount. Nothing is perfect and close races should be reviewed.

Michael Golojuch, Sr.

TO: Members of the Committee on Judiciary

FROM: Natalie Iwasa
808-395-3233

HEARING: 9 a.m. Tuesday, January 29, 2019

SUBJECT: SB216, Mandatory Recount of Election Votes – **SUPPORT with
Amendment**

Aloha Chair and Committee Members,

Thank you for allowing me the opportunity to provide testimony on SB216, which would require mandatory recounts in close elections. I support automatic recounts.

Close margins may also occur for **ballot questions**; therefore, please include language to include mandatory recounts in those situations.

LATE

SB-216

Submitted on: 1/28/2019 3:14:48 PM
Testimony for JDC on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
James Logue	Individual	Support	No

Comments:

LATE

SB-216

Submitted on: 1/28/2019 3:43:59 PM
Testimony for JDC on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Support	No

Comments:

LATE

SB-216

Submitted on: 1/28/2019 4:28:00 PM
Testimony for JDC on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
William Caron	Individual	Support	No

Comments:

Aloha Chair Rhoads,

Please pass this common sense reform. As recent court rulings show, we definitely need an automoatic recount for election results within 1% of margin of error.

Mahalo for accepting public comment,

Will Caron
Palolo Resident

LATE

SB-216

Submitted on: 1/28/2019 5:34:39 PM
Testimony for JDC on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Individual	Support	No

Comments:

Aloha Chair Rhoads, Vice Chair and members,

I support this measure.

Mahalo, Ann S. Freed

Mililani, HI 97889

LATE

SB-216

Submitted on: 1/28/2019 8:23:03 PM

Testimony for JDC on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Canales	Individual	Support	No

Comments:

Strongly Support

LATE

SB-216

Submitted on: 1/28/2019 10:11:08 PM
Testimony for JDC on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph P. Picon	Individual	Support	No

Comments:

To the Senate Committee on Judiciary receiving testimony in the hearing for this bill; my name is Joesph P. Picon a registered voter in Waipahu, 96797.

SB 216 RELATING TO ELECTIONS. I SUPPORT this bill.

LATE

SB-216

Submitted on: 1/29/2019 1:32:56 AM
Testimony for JDC on 1/29/2019 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Randy Gonce	Individual	Support	No

Comments:

Strong Support