

**STATE OF HAWAII
OFFICE OF ELECTIONS**

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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 HAWAIIAN AFFAIRS

AND

THE SENATE COMMITTEE ON LABOR, CULTURE, AND THE ARTS

ON SENATE BILL NO. 727

RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS

February 5, 2019

Chair Shimabukuro and Chair Taniguchi and members of the Senate Committee on Hawaiian Affairs, and the Senate Committee on Labor, Culture, and the Arts, thank you for the opportunity to provide comments regarding Senate Bill No. 727. The purpose of this bill is to display candidates for the Board of Trustees, Office of Hawaiian Affairs, by residency and non-residency requirements and to randomize the order of candidate names within those groupings.

We would accomplish the purpose of this measure by randomly selecting a letter of the alphabet for each district/precinct (ballot type) to be the first letter to organize the list of names for the Office of Hawaiian Affairs contests. For example, if the letter "H" was randomly selected by lot, candidates whose last name started with an "H" would be listed first and subsequent names will follow alphabetically (e.g., "H", "I", "J").

We would also note, that the randomly selected letter should only be applied to the first letter of the last name and not modify additional alphabetizing. We use the alphabetical organization for proofing the ballots to ensure all candidates are properly listed, which corresponds to the voting position for the vote counting system.

Thank you for the opportunity to testify on Senate Bill No. 727.



SB727
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS
Senate Committee on Hawaiian Affairs
Senate Committee on Labor, Culture and the Arts

February 5, 2019

1:15 p.m.

Room 016

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **OPPOSE** SB727, which seeks to place OHA employees within the State's civil service and public employee collective bargaining systems. OHA has strong concerns that the bill would undermine our agency's autonomy as a fiduciary of the Native Hawaiian Trust Fund, by subjecting OHA to collective bargaining requirements and the provisions of the Hawai'i Civil Service Law. For OHA's perspective on the bill's provisions relating to term limits for OHA trustees, see OHA's testimonies on SB681 and SB730, which address term limits. Similarly, please see OHA's testimony on SB728 for OHA's perspective on the campaign public funding provisions in this bill.

1. SB727 collective bargaining and civil service requirements are an abrupt infringement on OHA's autonomy.

By requiring a sweeping inclusion of OHA in the state civil service law and the attendant collective bargaining process, SB727 would provide the Governor with a nearly controlling number of votes over how significant portions of OHA's trust fund is spent, severely undermining OHA's Board of Trustees' constitutionally recognized autonomy. Indeed, OHA's autonomy is firmly rooted in OHA's origins, when delegates to the 1978 Constitutional Convention expressed a clear intent "that the Office of Hawaiian Affairs will be independent from the executive branch and all other branches of government although it will assume the status of a state agency."¹ Moreover, Chapter 10 of the Hawai'i Revised Statutes (HRS) gives OHA many attributes of autonomy, including its status "as a body corporate which shall be a separate entity independent of the executive branch," led by a Board of Trustees that has the power "to determine the character of and the necessity for its obligations and expenditures[.]" HRS § 10-4 (emphasis added).

SB727 is an intrusion into OHA's and its Trustees' independent role and responsibility to the Native Hawaiian Trust Fund. Specifically, OHA is concerned that the proposed amendment to HRS § 89-6 would result in the OHA Board of Trustees holding only one of 14 votes when negotiating a collective bargaining agreement involving OHA employees, whose salaries make up a significant portion of OHA's operating budget.

¹ Proceedings of the Constitutional Convention of Hawai'i of 1978, Standing Committee Rep. No. 59, at 645.

Additionally, the requirements of the Civil Service Law, HRS Chapter 76, may significantly reduce OHA Trustees' ability to oversee and plan for personnel expenses by transferring that authority in large part to the decisions of the executive branch and in particular the Governor, who would hold seven out of 14 votes in collective bargaining negotiations involving OHA employees. Given such a voting imbalance, this measure would effectively require the OHA Board of Trustees to cede control over some of its key Native Hawaiian Trust Fund expenditures to the State.

2. The restructuring and potential expansion of OHA's organization and structure would not be a prudent use of the Native Hawaiian Trust Fund.

OHA also has concerns over the potential adverse impacts that this bill may have on OHA's budget and the Native Hawaiian Trust Fund. Should the requirements of civil service and collective bargaining be imposed on OHA employees, OHA would have to materially change the way it hires, compensates, and maintains its workforce. Existing personnel policies would need to be overhauled, resulting in short-term disruptions to operations and the long-term restructuring of OHA that would be needed to ensure compliance with collective bargaining and civil service requirements. OHA Trust Funds may also need to cover higher wages or increased benefits resulting from collective bargaining agreements and civil service classifications. In addition, compounding the burden on the agency, the bill requires establishing a Department of Civil Service within OHA, similar to counties with a much larger personnel force, without adopting the full support structure of the state's civil service law. Accordingly, even were it not an effective intrusion into OHA's autonomy, the directives in this measure would represent an imprudent use of the Native Hawaiian Trust Fund.

As a general trust principle, OHA's Board of Trustees has a fiduciary responsibility to prudently manage and protect OHA's trust assets. Given the high likelihood of arbitrary increased personnel costs resulting from the proposed imposition of collective bargaining and civil service laws on its operations, OHA cannot support this measure.

In light of the above, we ask that the Committees **HOLD** this bill. Mahalo for the opportunity to testify on this matter.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Thirtieth Legislature, State of Hawaii
The Senate
Committee on Hawaiian Affairs
Committee on Labor, Culture and the Arts

Testimony by
Hawaii Government Employees Association

February 5, 2019

S.B. 727 – RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports Part IV of S.B. 727 which allows employees of the Office of Hawaiian Affairs civil service benefits and collective bargaining rights. We take no position on the other sections of S.B. 727 at this time.

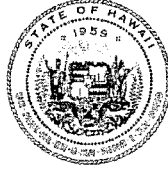
HGEA represents more than 42,000 members employed by the state and county, in eight bargaining units and also serves a large associate membership composed of retirees, other state and county employees and officials, and federal and private sector employees. As the state's largest labor organization, we firmly believe in the fundamental right for all employees, like those employed by the Office of Hawaiian Affairs, to have the right to collectively bargain their wages, benefits, and terms and conditions of employment. Similarly, we support a robust Civil Service system based on the merit principle – worksite fairness free from coercive political influence. These foundational beliefs concur with and are upheld by the Hawaii State Constitution, Articles XIII, Section 2 and XVI, Section I.

Thank you for the opportunity to provide our support on Part IV of S.B. 727.

Respectfully submitted,

Randy Perreira
Executive Director

KRISTIN E. IZUMI-NITAO
EXECUTIVE DIRECTOR



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LATE

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

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HONOLULU, HAWAII 96813

February 4, 2019

TO: The Honorable Maile S.L. Shimabukuro, Chair
Senate Committee on Hawaiian Affairs

The Honorable Kaiali`i Kahele, Vice Chair
Senate Committee on Hawaiian Affairs

The Honorable Brian T. Taniguchi, Chair
Senate Committee on Labor, Culture and the Arts

The Honorable Les Ihara, Jr., Vice Chair
Senate Committee on Labor, Culture and the Arts

Members of the Senate Committee on Hawaiian Affairs

Members of the Senate Committee on Labor, Culture and the Arts

FROM: Kristin Izumi-Nitao, Executive Director *kei*
Campaign Spending Commission

SUBJECT: **Testimony on S.B. No. 727, Relating to the Office of Hawaiian Affairs**

Tuesday, February 5, 2019
1:15 p.m., Conference Room 016

Thank you for the opportunity to testify on this bill. The Campaign Spending Commission ("Commission") offers the following comments on this bill.

This bill applies a term limit to the Board of Trustees of the Office of Hawaiian Affairs ("OHA"), requires that the names of candidates for a seat on the Board of Trustees be placed on the ballot in a random manner, increases the amount of public funding available for candidates for the OHA Board by increasing the expenditure limit and maximum of public funds available, and subjects employees of OHA to the state's civil service and collective bargaining laws. The Commission's comments only pertain to the amendments to the partial public financing program.

This bill aligns public financing for candidates for the OHA Board with candidates for the office of the Lieutenant Governor. The bill also repeals the provision that limited the maximum amount of funds available to OHA Board candidates to \$1,500 in an election year. Thus, the amount of public funding available to OHA Board candidates will increase significantly under this bill.

Currently, under Hawaii Revised Statutes (“HRS”) §11-423, the expenditure limit for OHA Board candidates is \$142,553 in the primary election and the same amount in the general election for the 2020 elections. Under HRS §11-425, the maximum amount of public funds available to OHA Board candidates is \$1,500 in the 2020 election year. The amendment in this bill to HRS §11-423 would increase the expenditure limit to \$997,871 in each election. This is a 700% increase in the expenditure limit for OHA Board candidates. In the 2018 elections, one of the twenty-four OHA Board candidates had total expenditures (primary and general elections combined) of \$122,308.83. The next highest spending candidate had total expenditures of \$45,384.96. Twelve candidates reported total expenditures of less than \$1,000. The amendment in this bill to HRS §11-425 would increase the maximum amount of public funds available to OHA Board candidates to \$99,787 in the primary election and the same amount in the general election. This is an over 6,600% increase in the amount.¹

The Commission suggests that the bill be amended by deleting the amendment to HRS §11-423 and placing OHA Board candidates in subsection (b) (15% of the expenditure limit) of HRS §11-425 rather than subsection (a) (10% of the expenditure limit). If the foregoing is done, the expenditure limit per election for OHA Board candidates will remain the same at \$142,553 per election, but the maximum amount of public funds available will increase from \$1,500 in an election year to \$21,383 per election. In 2018, only four of the twenty-four candidates spent more than \$21,383 in each election. These are more realistic numbers than the ones proposed by this bill.²

¹ The increase is even more considering that the new maximum amount would be available in both the primary and general elections. Under present law, the maximum amount, \$1,500, is available for the whole election year.

² If expenditure limits and maximum amount of public funds available for OHA Board candidates align with those of candidates for the office of Lieutenant Governor, as this bill attempts to do, then the minimum qualifying contribution amount for OHA Board candidates should be raised to \$50,000 in HRS §11-429, which is the amount that must be raised by candidates for the office of Lieutenant Governor to qualify for public funding.

LATE

SB-727

Submitted on: 2/5/2019 9:44:11 AM

Testimony for HWN on 2/5/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Testifying for Ho`omana Pono, LLC	Support	Yes

Comments:

In strong support of this bill...

SB-727

Submitted on: 1/31/2019 8:58:13 PM

Testimony for HWN on 2/5/2019 1:15:00 PM

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

Comments:

It is interesting that the legislature wants to impose term limits on all offices except their own. Currently the Governor, Lt. Governor, and Mayors, and members of the county council are subject to term limits. The last two categories are governed by their charters, which imply the voters wanted the limits. Now there is an attempt to place limits on OHA trustees. But what about the members of the State House and State Senate. Are you wanting to keep your seats for life. If term limits are good for everyone else, then the place to start is with the legislature, eights consecutive years with a four year break before you can serve again. That is only fair, only pono.

TESTIMONY OF ESTHER KIA'AINA
IN SUPPORT OF SB 727 BEFORE THE
SENATE COMMITTEE ON HAWAIIAN AFFAIRS

February 5, 2018, 1:15 p.m., Room 016

Chair Shimabukuro, Vice-Chair Kahele and Members of the Senate Committee on Hawaiian Affairs:

My name is Esther Kia'aina of Nanakuli, Oahu. I am testifying in support of SB 727. While the measure includes several provisions that are as considered as free-standing bills today, I wanted to speak about the right of OHA employees to be able to vote on whether or not collective bargaining should apply to them. The welfare and well-being of OHA employees should be paramount on a daily basis. However, given the challenges that have faced OHA employees because of abusive trustees and the recent physical attack on individual OHA employees at OHA's headquarters, I believe it is a good time to consider how to safeguard their welfare and well-being apart from increased security. Collective bargaining can be part of that solution.

I respectfully urge the committee members to support the passage of SB 727 out of Committee with an amendment that would give OHA employees the right to vote on whether they want collective bargaining to apply to them.

Respectfully,

Esther Kia'aina
estherkiaaina@aol.com