



**STATE OF HAWAII
OFFICE OF ELECTIONS**

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SCOTT T. NAGO
CHIEF ELECTION OFFICER

TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
ON SENATE BILL NO. 238, SD 2
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS

March 16, 2021

Chair Nakashima and members of the House Committee on Judiciary & Hawaiian Affairs, thank you for the opportunity to provide comments on Senate Bill No. 238, SD 2. This bill amends ballot requirements to display candidates for the Office of Hawaiian Affairs Board of Trustees, by residency and non-residency requirements and to randomize the order of candidate names within those groupings.

We would accomplish the purpose of this bill by randomly selecting a letter of the alphabet to be the first letter to organize the candidate names for the Office of Hawaiian Affairs contests. For example, if the letter "H" was randomly selected by lot, candidates whose last name start with an "H" would be listed first and subsequent names will follow alphabetically (e.g., "I," "J," "K").

We would also note that the randomly selected letter would 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. 238, SD 2.

Statement Before The
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Tuesday, March 16, 2021

2:00 PM

Via Video Conference, Conference Room 325

in consideration of
SB 238, SD2
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.

Chair NAKASHIMA, Vice Chair MATAYOSHI, and Members of the Judiciary & Hawaiian Affair Committee

Common Cause Hawaii provides written comments on SB 238, SD2, which amends ballot requirements to display candidates for the Office of Hawaiian Affairs Board of Trustees, by residency and non-residency requirements and to randomize the order of candidate names within those groupings.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to strengthening democracy through modernizing our elections system, starting with our ballots.

It has long been recognized that “the order in which candidates’ names appear on a ballot influences voters’ decisions. Typically, candidates listed at the top of a ballot earn a greater share of the vote than they would receive in any other position, regardless of their policies and personalities.” See https://insight.kellogg.northwestern.edu/article/first_among_equals. A candidate listed first on a ballot increases his/her/their chance of winning by almost five percentage points. *Id.* Further, research shows that “[g]oing from last to first on the ballot raises a candidate’s vote share by 10 percentage points.” See <https://www.npr.org/2016/07/27/487577930/why-the-first-name-on-the-ballot-often-wins>. Thus, randomizing the order of candidate names on a ballot will improve the fairness of elections. To truly correct for the first named candidate bias on a ballot, each individual voter would have to have a randomized ballot. Such a method, however, would be very costly to implement with our vote-by-mail system.

In sum, SB 238, SD2 is laudable. Thank you for the opportunity to provide comments on SB 238, SD2. If you have questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii



SB238 SD2

RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS

Ke Kōmike Hale o ka Ho‘okolokolo a me ke Kuleana Hawai‘i
House Committee on Judiciary & Hawaiian Affairs

Malaki 16, 2021

2:00 p.m.

Lumi 325

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB238 SD2, which would direct the Chief Election Officer to place the names of candidates on the OHA Board of Trustees ballot in random, rather than alphabetical, order.

To the extent that the Legislature seeks to randomize the names of candidates listed on an election ballot, OHA respectfully requests that the randomization occurs across all ballots overseen by the Chief Election Officer, rather than singling out the OHA Board of Trustees ballot for such treatment.

Mahalo nui loa for the opportunity to testify.

SB-238-SD-2

Submitted on: 3/13/2021 2:06:53 PM

Testimony for JHA on 3/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dana Keawe	Individual	Support	No

Comments:

i support sb238 sd2

SB-238-SD-2

Submitted on: 3/13/2021 7:51:01 PM

Testimony for JHA on 3/16/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

I am in support of SB238 SD1

TESTIMONY IN SUPPORT OF SB238, SD2

I am a Native Hawaiian kama’aina interested in assuring that all candidates who run for the position of Trustee of the Office of Hawaiian Affairs have a fair and equitable opportunity to do so. I believe that SB238, SD2, as well as SB981 SD2, would advance that objective.

The two bills direct the Office of Elections to display candidates for the Office of Hawaiian Affairs Board of Trustees, by residency and non-residency requirements, and to randomize the order of candidate names within those groupings. SB981 SD2 additionally included a provision to change the maximum amount of public funds available to qualifying candidates for the Board of Trustees, to a percentage of the campaign expenditure limit for OHA trustee candidates.

To make the case in support of both measures, here is a summary of the OHA elections campaign spending reports on the Hawaii Campaign Spending website; and the election results posted at the Hawaii Office of Elections website:

Year	Contributions of \$5000 or more	\$1500-\$4999	Less than \$1500	Total Nr of Candidates
2020	10	3	11	24

Candidates elected: 4

Candidate 1 received \$183,672 in contributions and had expenditures of \$183,015.83.

Incumbent whose last name began with an “A”

Candidate 2 received \$21795.05 in contributions and had expenditures of \$25,680.44.

New candidate whose last name began with an “A”

Candidate 3 received \$12,125 and had expenditures of \$14350.95, and whose last name began with the alphabet “L”

Candidate 4 who reported no contributions and no expenditures; who was an incumbent, and whose last name began with the alphabet “A”

Conclusion: Money, name recognition of incumbent; and with last name beginning with alphabet “A”. Almost half of the candidates had insufficient funds to wage a competitive campaign.

2018	8	3	13	24
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Candidates elected: 5

Candidate 1 received \$31582.14 in contributions and had expenditures of \$34,297.11 and whose last name began with the alphabet “A”

Candidate 2 received \$21008.99 in contributions and had expenditures of \$21008.99.

Incumbent whose last name began with the alphabet “L”

Candidate 3 received \$15171 and had expenditures of \$16215.84, and whose last name began with the alphabet “L”

Candidate 4 received \$595.24 in contributions and had expenditures of \$644.24. Candidate was an incumbent, whose last name began with the alphabet "W"

Candidate 5 received no contributions and reported expenditures of \$700. Candidate was an incumbent, whose last name began with the alphabet "A"

Conclusion: Name recognition of incumbents and money spent by newcomers were the major factors in the outcome of this election. One of the new incumbent's name began with the alphabet "A" that could have also been a factor. At least half of the candidates had insufficient funds to compete successfully.

Year	Contributions			Total Nr of Candidates
	of \$5000 or more	\$1500-\$4999	Less than \$1500	
2016	4	1	9	14

Candidates elected: 4, all of whom were incumbents. Two with last name beginning with alphabet "A"; one with alphabet "L" and one with alphabet "M". Contributions ranged from \$2155 to \$125,040; and expenditures from \$632.92 to \$114,089.

Conclusion: Name recognition of incumbents; money to run campaign in two races where opponents spent \$47,874 and \$60,205, but lost. Clearly, those with a campaign bank of less than \$5000, except for an incumbent, were at a disadvantage.

2014	14	3	5	22
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Candidates elected: 5, 3 of whom were incumbents; and two newcomers, both with last name beginning with alphabet "A".

Candidate 1. Donations received \$24346; expenditures \$25340. Incumbent.

Candidate 2. Donations received \$78178; expenditures 78593. Newcomer "A" last name

Candidate 3. Donations received \$6363; expenditures \$5571. Incumbent

Candidate 4. Donations received \$28975; expenditures \$26590. Incumbent "A" last name

Candidate 5. Donations received \$792; expenditure \$792. Newcomer "A" last name

Conclusion: Name recognition of incumbents; alphabet "A" and money.

Please note that this testimony is not intended to imply that the candidates selected in past elections did not deserve to do so. Rather, it is intended to make the case of erasing the appearance of any system favoritism; and in support of increased funding to raise opportunity for those with limited finances so that they can better compete and campaign.

