

Statement Before The
SENATE COMMITTEE ON JUDICIARY

Friday, February 18, 2022

9:30 AM

Via Videoconference

in consideration of

SB 3244**RELATING TO LEGISLATIVE REAPPORTIONMENT.**

Chairs RHOADS, Vice Chair KEOHOKALOLE, and Members of the Senate Judiciary Committee

Common Cause Hawaii provides comments on SB 3244, which repeals the definition of permanent resident for legislative reapportionment purposes.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening democracy through ensuring that everyone is represented in our representative democracy.

Common Cause Hawaii believes in a fair reapportionment and redistricting process and believes that all our voices must be heard in determining the future of our families and communities.

Currently, active-duty military members and their dependents, people from Hawaii who marry military members, and students studying in Hawaii are without voting rights – either in Hawaii or the state of their origin -- and are completely silenced in the redistricting process. This focus on military, their dependents and students creates a system where stricter rules are placed on military members and their dependents and students in terms of residency, while other populations, e.g., temporary and part-time residents, are not subject to the same definitions.

Common Cause Hawaii also asserts that, along with using the total resident population as of Census Day for redistricting, prison gerrymandering must end. Hawaii counts incarcerated people where they are imprisoned as of Census Day rather than at their home addresses, even though known and reported to the U.S. Census. Including incarcerated persons in the population count for the district in which their facility is located alters representational proportions and, as a result, the voting power of residents. Counting Hawaii's incarcerated population according to their home addresses will ensure an accurate and true reapportionment of Hawaii's political districts. California, Colorado, Connecticut, Delaware, Illinois, Maryland, Nevada, New Jersey, New York, Virginia, and Washington State, and more than 200 cities and counties have taken action to end prison gerrymandering.

Thank you for the opportunity to provide comments on SB 3244. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii



SENATE COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Friday, February 18, 2022 9:30 a.m.
Via Videoconference

SB3244, RELATING TO LEGISLATIVE REAPPORTIONMENT

OPPOSITION

Good morning Chair, Vice-Chair and Members,

My name is Bart Dame and I am testifying as an individual in opposition to this bill.

The bill will remove from HRS language that was added only last year by SB1350. Language that was intended to clarify the meaning of the phrase “permanent resident” as used in the state constitution to form the population base upon which apportionment of legislative seats between the four counties is calculated and who districts are drawn.

There was a disagreement last year between the two chambers on what sort of “clarification” was appropriate. The Senate position, up until the final conference committee, was not so much a legitimate “clarification,” but an attempt to overrule the State Supreme Court’s interpretation of the phrase, rendering in the Solomon decision.

As I often find myself saying, I am not an attorney, and would welcome being informed by those who are, but I do not believe the Legislature can impose its own interpretation on constitutional language in a way that trumps the obvious intent of the Legislature that proposed the constitutional language back in 1992, as well as the intent of the voters who ratified the amendment with a strong majority.

Fortunately, the House position prevailed last year and the bill when adopted DID lend some clarification by putting g into statute what the Court had found, that a permanent resident is one that maintains their domicile in Hawaii. As I understanding it, a person can maintain several residences, but can legally only have one domicile. The domicile is the permanent and legal residence.

Should this bill pass, the removal of that phrase would not mean the Supreme Court’s interpretation of the phrase “permanent resident” would no longer hold. It just reduces by a small amount the clarity needed by future Reapportionment Commissions to understand the term is less ambiguous than they might wish it to be.

Please hold this bill. Thank you for the opportunity to testify. I am available for questions.



AMERICANS FOR DEMOCRATIC ACTION

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February 15, 2022

TO: Chair Rhoads and Members of the Judiciary Committee

RE: SB 3244 RELATING TO LEGISLATIVE REAPPORTIONMENT.

Opposition for a Hearing on February 18

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

Americans for Democratic Action Hawaii opposes this bill as it would attempt to repeal the definition of permanent resident for legislative reapportionment purposes.

First if the intent is to change the population base, the correct approach would be to propose a constitutional amendment. This bill is not proposing a constitutional amendment and is, in all likelihood, constitutionally flawed.

Second we suspect this bill is trying to undo the clarification made by last year's SB1350, which reaffirmed the *Solomon* decision's determination that a permanent resident is one who maintains a "domicile" in Hawaii. One may maintain residences in multiple states, but you can have only one legal domicile. This seems quite reasonable.

This bill would delete that clause. But since the HRS did not include that phrase in the past and the Supreme Court said that was the definition for the phrase, "Permanent Resident" in the state Constitution, removing the clause from the statute will not have any legal impact, though it may encourage the next commission to mistakenly think they can ignore *Solomon*.

Thank you for your consideration.

Sincerely,

John Bickel, President

SB-3244

Submitted on: 2/12/2022 11:42:42 AM

Testimony for JDC on 2/18/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Scott Smart	Individual	Support	No

Comments:

I SUPPORT the intent of SB3244; however, I am concerned that without a change to the Hawaii Constitution requirement for reapportionment based on "permanent residents" that it will be left up to the Reapportionment Commission and courts to define "pemanent resident".

LATE

SB-3244

Submitted on: 2/17/2022 4:33:10 PM

Testimony for JDC on 2/18/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Bronsten Kossow	Individual	Oppose	No

Comments:

Please oppose, mahalo.