



**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 SENATE COMMITTEE ON JUDICIARY
ON SENATE BILL NO. 1005
RELATING TO THE ELECTION OF THE PRESIDENT

February 16, 2023

Chair Rhoads and members of the Senate Committee on Judiciary, thank you for the opportunity to provide comments on Senate Bill No. 1005. This bill establishes a date for presidential primaries, as well as signature and fee requirements for a person to be nominated as a presidential primary candidate.

Operational Matters

The conduct of a presidential preference primary election would require the Office of Elections to conduct candidate filing, including an objection and appeal process, print and mail ballots to all registered voters, support and maintain the voting equipment, and count, report, and audit the ballots. The County Clerks would also be responsible for voter registration, absentee voting, voter service centers, and places of deposit at the cost of the State. Our initial estimate of the costs of State responsibilities is \$2,787,705 for over 900,000 registered voters. This does not include any costs accrued by the counties.

Mail ballot packet - ballot and envelopes	\$ 232,259
Ballot printing services	189,930
Ballot mailing services	237,774
Postage (Outgoing)	452,213
Postage (Incoming)	569,789
Balloting tracking	60,000
Counting Center Volunteers	192,500
Counting Center Facility	400,000
Staff Overtime	155,400
Voting System Vendor	147,840
Voter education campaign	150,000
Initial Estimate	<u>\$2,787,705</u>

Legal Considerations

As provided for in Article II, Section 9, “[a] presidential preference primary may be held as provided by law.” Such an election would also need to comply with Article II, Section 4, that provides “[s]ecrecy of voting and choice of political party affiliation or nonpartisanship shall be preserved.” Our voter registration laws do not involve individuals registering or affiliating with a particular party. Instead, voters during a primary election select the political affiliation they will vote on. We surmise the same would apply in the context of the presidential preference primary.

There are some fundamental differences between a presidential preference primary election and a traditional primary election that would need to be addressed in the bill. Most notably, results of the presidential preference primary election do not guarantee that one’s preferred presidential candidate appears on the general election ballot as described below in HRS § 11-113. Also, nonpartisan candidates have no involvement in the presidential preference primary election, unlike in a typical primary election.

The bill as written would provide for a presidential preference primary election that would precede the deadline in HRS § 11-113(c)(1) (i.e., 60 days prior to the general election) for a recognized political party to hold its state and national conventions to select who it ultimately nominates for president and vice-president to appear on the general election ballot. The winner of the presidential preference primary election is not guaranteed to appear on the general election ballot. Instead, voters are voting for a political party to send delegates associated with a candidate to their national convention.

This bill in concert with the current statute, HRS § 11-113, would establish a presidential preference primary for the state and national party of a recognized political party to follow certain procedures to have its nominees appear on the general election ballot. A recognized political party would be one defined in HRS § 11-61.

Additionally, individuals not associated with a recognized political party would retain the ability to petition for the inclusion of their presidential candidate and vice presidential candidate on the general election ballot. A party or group not qualified under HRS § 11-61 may submit a petition for the inclusion of a presidential candidate and a vice presidential candidate for the inclusion on the general election ballot. This process would need to be completed by the 90th day prior to the general election.

We propose the following amendments to the various statutes related to the conduct of a presidential preference primary to distinguish it from a traditional primary election.

1. HRS § 12-1 Application of chapter

To the extent Chapter 12, HRS, is intended to be used for purpose of the presidential preference primary election, as opposed to creating a new chapter, HRS § 12-1 should be amended to reflect that Chapter 12, HRS, is also applicable to the presidential preference primary, but that it in no way will supersede HRS § 11-113 in terms of the names that will appear on the general election ballot.

2. HRS § 12-2 Primary held when; candidates only those nominated

We propose adding a sentence stating the date of the presidential preference primary election and making it clear that presidential candidates are not precluded from appearing on the general election ballot if they were not the winner of the presidential preference primary election (i.e., HRS § 11-113 controls who will appear on the general election ballot).

3. HRS § 12-2.5 Nomination papers; when available

We propose adding a sentence designating when nomination papers for the presidential preference primary election will be available and that the papers will only be for political parties recognized under HRS § 11-61.

4. HRS § 12-4 Nomination papers; qualification of signers

We propose adding a sentence to clarify the applicability of this section to candidates seeking to appear on the presidential preference primary ballot for a political party recognized under HRS § 11-61.

5. HRS § 12-6 Nomination papers: time for filing; fees

As to the proposed language of the bill regarding the deadline for the close of candidate filing, we would recommend that it be the 85th day prior to the date of the election.

6. HRS § 12-7 Filing of oath

We would recommend a sentence be added to clarify that an oath is required for purposes of appearing on the ballot for the presidential preference primary election.

7. HRS § 12-8 Nomination papers; challenge; evidentiary hearings and decision

We would recommend the deadline for a challenge to the nomination paper of someone for the presidential preference primary election be the 75th day prior to the election, as opposed to the 60th day.

8. HRS § 12-9 List of candidates

We would recommend a sentence be added to address the presidential preference primary election. As currently written, it may be misinterpreted as authorizing nonpartisan candidates for the election.

9. HRS § 12-21 Official party ballots

We would recommend a sentence be added to address that the ballot for the presidential preference primary election will not include nonpartisan candidates.

10. HRS § 12-31 Selection of party ballot; voting

We would recommend a sentence be added to address that one cannot vote for nonpartisan candidates in the presidential preference primary election.

11. HRS § 12-41 Result of election

We would recommend a subsection be added to address the consequences of receiving the greatest number of votes as a candidate of a party in a presidential preference primary election. Specifically, the current language of HRS § 12-41 indicates that the candidate with the most votes appears on the general election ballot. However, the language of HRS § 11-113, taking into consideration the relevant national convention, determines who appears on the general election ballot. As such, the statute should be amended to specify the exact wording of the direction the political party is being given after the results of the presidential preference primary election, as to the designation of its delegates and how they are to vote at the national convention.

12. HRS § 12-42 Unopposed candidates declared elected

We would recommend additional language for HRS § 12-42 to clarify that an unopposed candidate in a presidential preference primary election would not be considered to have been elected outright. Again, the political party would merely be sending delegates to their national convention.

Thank you for the opportunity to provide comments on Senate Bill No. 1005.



Democratic Party of Hawai'i Supports S.B. No. 1005

Aloha,

The Democratic Party of Hawai'i supports S.B. No. 1005, which amends the state election law to provide for a Presidential Primary to permit the voters of the State of Hawai'i to select by ballot party candidates for the office of President of the United States of America in primary elections organized and controlled by the State of Hawai'i.

I recently attended a meeting of the Democratic National Committee ("DNC"). I was told by a member of the DNC senior leadership that they seldom think about the State of Hawai'i. We admittedly give them few reasons to think about us. The DNC has Ohio, Michigan, Wisconsin, Pennsylvania, Florida, Georgia, Arizona, and Nevada to consider. On the other hand, New Hampshire is a state with a population about the same size as Hawai'i, but candidates for the Presidency visit New Hampshire all the time. Iowa is concerned with corn, and for decades, we have listened to future Presidents gush over Iowa corn to no reasonable end. All the while, we here in Hawai'i are ignored. I would be very happy if future Presidents would care about us the way they care about Iowa. We need to give them reason to care about us. We need to matter.

I remember thinking about voting for President when I was sixteen years old. I registered to vote as soon as I was eligible. I did so because I realized as a young person that voting for the President of the United States of America was one of the most consequential things that I could do as a young person growing up amidst times of high controversy and social change. Right now, there are serious issues floating around the national discourse, about a person's freedom to choose, gun safety, climate change, the new green economy, the right to work, student loans, access to education, jobs, housing, homelessness, the right to marry the one we love, and the right to live in a lifestyle that may not conform with the expectations of "traditional society." If I were a young person, I would want to vote, because decisions are being made right now that may affect me for the rest of my life. We need to encourage young people to participate in the Presidential selection process. I must also question why a young person should be required to join a political party to exercise a right to vote. Presidential caucuses run by political parties can be rather uninviting. We need to make the process of voting accessible to young people. We encourage all members of the Legislature of the State of Hawai'i to vote for and/or to support S.B. No. 1005. Mahalo.

Dennis W. Jung
State Party Chair
Democratic Party of Hawai'i



Legislation Committee of the Democratic Party of Hawai'i Supports S.B. No. 1005

On behalf of the Democratic Party of Hawai'i ("DPH"), the DPH Legislation Committee testifies in further support of S.B. No. 1005, which amends the state election law to provide for a state-run Presidential Primary to permit the voters of the State of Hawai'i to select by ballot party candidates for the office of President of the United States of America in primary elections organized and controlled by the State of Hawai'i.

Article I, Section 1 of the DPH Constitution provides as follows:

Section 1. General. The Democratic Party of Hawai'i shall be open to all persons who desire to support the Party, who wish to be known as Democrats, and who live in Hawai'i. The Democratic Party of Hawai'i believes that its primary election, a state-imposed mandatory nomination procedure, ought to be open to participation of only such persons as are willing to declare their affiliation with and support for the Party, either through public registration to vote, or through maintenance of membership in the Party. The Party further believes that the current Constitution and laws of the State of Hawai'i, by maintaining secrecy of affiliation, and by compelling the Party to admit to its nomination procedures those who may have no interest in, or actually oppose the interests, values, and platform of the Party, do violence to the Party's associational freedoms and the individual freedoms of its membership to define their own political views, guaranteed under the Constitution of the United States.

Notwithstanding the above, we wholeheartedly support S.B. No. 1005, because we accept the reality of modern politics. State run caucuses reach out and touch a much smaller number of prospective voters, who may or may not reflect the economic, geographical, and social diversity of our people, even despite our best efforts of our state parties to be inclusive. Our last state-run caucus reached out to approximately 80,000 prospective voters. Compare this number with the number of how many people vote in our primaries to vote for our candidates for governor.

The President of the United States of America is arguably the most important leader in the free world. It makes a difference who we elect to sit in the Oval Office. So consequential is this matter that we ought to do everything within our power to bring the question of who should be President to each and every registered voter in the State of Hawai'i. This proposal would make it easier of citizens of Hawai'i to participate and vote in selecting their national leader.

S.B. No. 1005 recognizes the need for a special election during the time when our nation turns its attention to the question of who should be President. S.B. No. 1005 gives voice to the people of Hawai'i. S.B. No. 1005 encourages all of our political parties to engage in a uniform process to bring forth their best candidates and to give choice to the people of Hawai'i. We urge passage of S.B. No. 1005.

DEMOCRATIC PARTY OF HAWAII

PO Box 2041 • Honolulu, HI 96805 • www.hawaiidemocrats.org

SB-1005

Submitted on: 2/13/2023 2:24:35 PM

Testimony for JDC on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Andrew Crossland	Individual	Oppose	Written Testimony Only

Comments:

I oppose this Bill.

SB-1005

Submitted on: 2/13/2023 3:16:33 PM

Testimony for JDC on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Oppose	Written Testimony Only

Comments:

As of now, the parties control the nominations for presidential candidates. The state does not run a primary. Is this bill saying that the state will cover the costs? How much will that cost?

Has anyone considered the positions of the national, not state or county, parties? They do have a say. The Democratic National Committee changed the dates certain states can hold caucuses or primaries. Some of hte dates they picked run counter to state laws.

This bill opens up a hornets nest. Time to defer and work bewteen sessions.

SB-1005

Submitted on: 2/14/2023 7:06:45 AM

Testimony for JDC on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
John Bickel	Individual	Support	Written Testimony Only

Comments:

I am testifying for this bill as an individual. I have had experience with the Central Committee of the Democratic Party, the Affirmative Action Committee of the Party, and the Presidential Preference Poll committee of the Party. I am familiar with the Democratic Party rules for state parties as they choose their delegates to the Democratic National Convention. The Democratic National Committee has been urging us to hold a state run primary. In 2020, we did our first Party-run Presidential Primary. This opened the process to a lot more people than the old caucus system. One reason I like the state-run primary is it opens the process even more. Admittedly I like a closed primary, but I understand the State Constitution makes that unlikely. Yet a primary gives the parties key data that enables the parties to award delegates to national conventions. I also like ranked choice voting. We did it in 2020. You may want to amend the bill to accommodate this. The Democratic Party nationally gives an incentive to hold primaries a little later in the calendar. So Hawaii Democrats got a bonus of two extra delegates in 2020 for holding the primary on or after April 1. Therefore I encourage you to amend this bill to move the date to early April. For Democrats it is helpful to get the bonus delegates but also to have time between the primary and the state convention. The state conventions usually translate the numbers to named individuals who will go to the national convention. So it is helpful to have some lead time. The mail-in voting system is fine for the Democratic National Committee. They do want drop boxes. We want our presidential nominees to be the ones supported by the party members. President Biden has indicated he wants to see primaries more than caucuses. This bill would help make that a reality. It is big task to ask the parties to run their primaries. Having the state do it ensures it is fair and done with enough resources to do the job.

SB-1005

Submitted on: 2/14/2023 2:29:48 PM

Testimony for JDC on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jane Sugimura	Individual	Support	Written Testimony Only

Comments:

As a n active voter since the age of 18, I strongly this bill and ask that it be passed out by this Committee.

SB-1005

Submitted on: 2/14/2023 2:33:01 PM

Testimony for JDC on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Larry Smith	Individual	Support	Written Testimony Only

Comments:

I strongly support SB 1005 which would authorize a State-Run presidential preference primary for the 2024 election cycle. There are not funds available privately to carry out this election process. The Democratic National Committee has strongly supported State Run primaries to include a fair and safe voting process.

Larry Smith

3178 Kaohinani Dr

Honolulu, HI

96817

SB-1005

Submitted on: 2/14/2023 5:31:37 PM

Testimony for JDC on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Betty B Vega	Individual	Support	Written Testimony Only

Comments:

I support SB1005. A state-run Presidential Primary will be more accurate, fair and gives every voter an equal opportunity to participate. Political parties usually represent less than a quarter of the voters who vote in accordance with one of the two major political parties. A state-run Presidential Primary, as noted in SB1005, allows every voter in the state of Hawaii the opportunity to weigh in on who should run for President of the United States, regardless of whether the voter is a member of a political party or not. More opportunity is afforded to political parties, other than the dominant two parties, to post candidates in the primary. Every voter in the state of Hawaii deserves to have their voice heard in the Presidential primary, on the designated date.

To: JDC Chair Karl Rhoads, Vice Chair and Committee members

Date of Hearing: Feb. 16, 2023, at 9:30, Rm. 016

Re: Testimony in support of SB1005 Relating to the Election of the President

Thank you for considering my testimony in support of SB1005 relating to the election of the President.

The strength of a democracy is in the participation of its citizens in the democratic process. It has never been more important to assure transparency and the widest possible participation of America's citizens and voters in the selection of their candidates and elected leaders.

The Hawai'i legislature should be congratulated for making voting easier and more convenient. Voting by mail and automatic registration at driver's license renewal were important advancements in citizen participation.

Prior to 2016, the selection of the Democratic candidate for President was done in caucuses. I recall how across the state, in schools and community centers, registered Democrats gathered to select their Presidential candidate. Democrats gathered at a specific date and time to cast their vote for the candidate of their choice. But not those who didn't drive at night, were disabled, had to work, had childcare or family issues, or, as in the 2008 or 2012 elections, couldn't find parking or get through the crowds to cast a vote.

In 2020, in an effort to expand participation beyond caucuses, the Democratic Party of Hawai'i held a Party-run Presidential Primary. It was a mail-in ballot, so access was not a problem. However, not all Democrats are registered, and only registered Democrats received a ballot. Of the 79,000 registered Democrats who were mailed ballots, 35,000 voted in the 2020 Party-run Presidential Primary; by contrast, over 131,000 voted for Congressman Ed Case in the uncontested CD-1 Primary race.

I should mention that some the Party prefer a closed primary, which would deter crossover voting. Hawai's open primary would allow all unaffiliated voters to cast a vote for a Primary candidate and crossover voting. Among the various primary elections there is no single dominate election method. There are open, closed, partially open, partially closed, and top-two primaries (https://documents.ncsl.org/wwwncsl/Elections/Primary-Types-Table_2021.pdf).

The only certainty is to get the widest voter participation we need to move to a State-run presidential primary. Please pass SB1005.

Thank you,

Amy Monk

DNC Committeewoman for Hawai'i

SB-1005

Submitted on: 2/14/2023 5:50:53 PM

Testimony for JDC on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lynn Otaguro	Individual	Support	Written Testimony Only

Comments:

I support SB 1005, to provide for presidential primary elections.

SB-1005

Submitted on: 2/14/2023 7:23:52 PM

Testimony for JDC on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lorna Takehara Strand	Individual	Support	Written Testimony Only

Comments:

It is with deep gratitude and appreciation that I write this letter of support for SB1005. In order to maintain our democracy, it is vital that all citizens have the opportunity to participate in the election of the President of the United States.

The caucus system used by the Democratic Party of Hawaii (DPH) prior to 2020 is now null and void as an option for election of the President. As President Joe Biden wrote in his recent letter to the Rules and Bylaws Committee of the DNC:

Our party should no longer allow caucuses as part of our nominating process. We are a party dedicated to ensuring participation by all voters and for removing barriers to political participation. Caucuses - requiring voters to choose in public, to spend significant amounts of time to caucus, disadvantaging hourly workers and anyone who does not have the flexibility to go to a set location at a set time - are inherently anti-participatory. It should be our party's goal to rid the nominating process of restrictive, anti-worker caucuses.

As Chair of Oahu County Democrats and Co-Chair of the Presidential Preference Poll Committee, I was involved in changing the party's election process in 2020 from the 2016 caucus system that generated app. 34,000 participants to a Party-run Presidential Primary (PRPP) that was conducted via vote-by-mail. App. 35,000 DPH members participated in the 2020 PRPP. In the 2020 Hawaii state-run general election Biden received 366,130 votes indicating that the PRPP reached only 10% of the potential Democratic voters. A Hawaii Presidential Primary would hopefully ensure "participation by all voters."

Mahalo for selecting the "first Tuesday after the first Monday in March" or Super Tuesday as the date for the Hawaii Presidential Primary. As President Biden stated: "We must ensure that voters of color have a voice in choosing our nominee much earlier in the process and throughout the entire early window. ... and that includes Black, Brown and Asian American and Pacific Islander voters." Hawaii's multicultural voice will be heard loudly across the nation on Super Tuesday, 2024.

In this time when voter suppression schemes are proliferating and voting processes are being challenged at local polling stations around the country, I am grateful that Hawaii is now moving towards greater access and inclusion and tested voting procedures to strengthen and preserve our democracy.

Lorna Takehara Strand

SB-1005

Submitted on: 2/14/2023 10:13:23 PM

Testimony for JDC on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this bill.

Mahalo nui,

Cards Pintor

SB-1005

Submitted on: 2/14/2023 11:19:11 PM

Testimony for JDC on 2/16/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Steve Canales	Individual	Support	Written Testimony Only

Comments:

To the Members of the Judiciary Committee,

I am in favor of SB1005.

I am in favor, because the people of this state shall have the right to nominate the candidate of their choice for the Presidency of the United States. It shouldn't be left to a selected few who want to sway their vote for someone that doesn't represent our views and values.

Mahalo,

Steven Canales

SB-1005

Submitted on: 2/15/2023 9:47:30 AM

Testimony for JDC on 2/16/2023 9:30:00 AM



Submitted By	Organization	Testifier Position	Testify
Barbara Dalton	Individual	Support	Written Testimony Only

Comments:

I write to support and urge the swift passage of SB 1005.

Voters in the 50th state have been effectively denied a voice in choosing the national nominees for President. With our own biennial primary election occurring after the major political parties have convened to select their national nominee, we've had to rely on, among other things, haphazard caucusing, informal preference polling, or a party-run "primary" to have our voices heard. Or, worse, party leaders have unilaterally decided who to back with little or no input from voters.

We want to cast our votes for the Presidential nominees. The only way to ensure that is for the Office of Elections to conduct a statewide election. SB 1005 is an excellent first step to achieving that.

The creation of a Presidential Primary Election will also encourage voter participation. With the lowest voter turnout nationwide, we MUST take active measures that allow Hawai'i voters to engage. What better way to do that than to run a formal election? This will eliminate the confusion that invariably accompanies the party processes used in presidential election years.

Those who do not avidly follow politics or serve as party officials simply don't pay attention to the minutiae of how to support a presidential candidate. Since 2008, inspired voters have been moved to turn out for a candidate that speaks to them, but, from my experience as a Democratic Party leader on the Big Island, they have little grasp of the process that (barely) allows them to do so. A state-run election would solve this.

Thank you for this opportunity to testify. I do so with more than ten years' experience organizing and executing the process for Hawai'i Island Democrats to express their preference for president. We need the Office of Elections to help make the process successful.