

STAND. COM. REP. NO.

2296

Honolulu, Hawaii

FEB 13 2024

RE: S.B. No. 2392
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2392 entitled:

"A BILL FOR AN ACT RELATING TO ELECTIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Specify that election ballots issued by the Chief Election Officer or county clerk shall exclude any candidate who is disqualified by:
 - (A) Section 3 of the Fourteenth Amendment to the Constitution of the United States;
 - (B) Article XVI, section 3, of the Hawaii State Constitution; or
 - (C) Another constitutional or statutory provision;
- (2) Provide for a process for challenging a candidate's inclusion or exclusion on a ballot issued by the Chief Election Officer or a county clerk;
- (3) Include the grounds referenced in paragraph (1) as grounds for a complaint regarding an election contest;



- (4) Specify that electors of presidential and vice presidential candidates shall not be individuals who are disqualified by grounds referenced in paragraph (1), and provide for contests of nominations of individuals disqualified based upon those grounds; and
- (5) Prohibit electors of presidential and vice presidential candidates from voting for any presidential or vice presidential nominee who has been disqualified pursuant to section 3 of the Fourteenth Amendment to the Constitution of the United States, as determined by any federal court, or as determined by the Supreme Court in an election contest.

Your Committee received testimony in support of this measure from the Democratic Party of Hawai'i, Rainbow Family 808, Stonewall Caucus of the Democratic Party of Hawai'i, and ten individuals.

Your Committee received testimony in opposition to this measure from the Hawaii Republican Party, Hawaii Federation of Republican Women, and more than three hundred thirty individuals.

Your Committee received comments on this measure from the Department of the Attorney General, The Judiciary, and League of Women Voters of Hawaii.

Your Committee finds that citizens of the State have the right to expect that public servants be people of integrity, and not people who have committed actions that threaten democracy or undermine the vote of the people. This measure will ensure that public servants meet the requirements of the United States Constitution, Hawaii State Constitution, and other requirements set forth in statute.

Your Committee has amended this measure by:

- (1) Clarifying that electors of presidential and vice presidential candidates are prohibited from voting for any presidential or vice presidential nominee who has been disqualified pursuant to section 3 of the Fourteenth Amendment to the Constitution of the United States; article XVI, section 3, of the Hawaii State Constitution; or another constitutional or statutory



provision as determined by a federal court or the Supreme Court;

- (2) Requiring that any challenge to the inclusion or exclusion of any candidate on a ballot issued by the Chief Election Officer or clerk that is not filed pursuant to section 12-8, Hawaii Revised Statutes, be filed with the Supreme Court, rather than in district court;
- (3) Changing references to "district court" to "supreme court";
- (4) Deleting language that would have allowed any order entered by the district court to be reviewed and adjudicated by the Supreme Court under certain circumstances;
- (5) Deleting language that would have allowed the Supreme Court to decline reviewing an order;
- (6) Clarifying that a complaint filed in the Supreme Court for a contest for cause is required to set forth any cause or causes, including:
 - (A) Provable fraud, overages, or underages, that could cause a difference in election results; or
 - (B) A candidate's disqualification pursuant to section 3 of the Fourteenth Amendment to the Constitution of the United States; article XVI, section 3, of the Hawaii State Constitution; or another constitutional or statutory provision;
- (7) Clarifying that a complaint filed for a contest for cause shall be dismissed if the complaint is based on facts or substantially similar facts that could have previously been raised and the action failed;
- (8) Amending section 1 to reflect its amended purpose; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2392, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2392, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



