



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Third Legislature, 2025 Regular Session

House Committee on Judiciary and Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

Wednesday, March 12, 2025, 2:00 p.m.
State Capitol, Conference Room 325 and Videoconference

by

Jeannette H. Castagnetti
Chief Judge of the First Circuit

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WRITTEN TESTIMONY ONLY

Bill No. and Title: Senate Bill Number 1515, Senate Draft 1, Relating to Elections.

Purpose: Replaces the boards of registration with on-call circuit judges to hear elections disputes when the board lacks full membership.

Judiciary's Position:

The Judiciary respectfully opposes this measure, which seeks to replace the board of registration with an on-call circuit judge to hear elections disputes if the board lacks full membership. The intent of this measure is noble, namely to streamline the process for appealing



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decisions by precinct officials during voter challenges; however, replacing the board of registration with an on-call circuit judge will have the opposite effect.

First, the current board of registration is comprised of several three-member boards for the islands of Hawai'i; O'ahu; Kaua'i and Ni'ihau; and Maui, Lāna'i, Moloka'i, and Kaho'olawe, pursuant to HRS § 11-41. These members each are appointed by the governor and with the advice and consent of the senate for the specific purpose of serving on the board of registration. Board members serve four-year terms and, by law, in no case shall any board consist entirely of members of one political party. In their four-year terms, board members will undoubtedly obtain experience and insight about voter challenges as they will hear every disputed issue that may arise in each county. An "on-call circuit court judge" will be a rotating assignment for circuit court judges without the specialized focus of a carefully selected board member.

Second, the bill fails to provide clear guidelines on whether judges are to act as direct substitutes for the boards by conducting administrative appeals under existing statutes and rules or as judicial reviewers under circuit court procedures. For example, HRS §11-41 requires the boards to convene on election day and at other times as the county clerk determines within their respective counties to hear appeals. In addition, the procedures for challenges and appeals are set forth in Title 3, Chapter 177, Subchapter 5 of the Hawai'i Administrative Rules. Those rules establish requirements, standards, and processes for hearing appeals, including timelines for decisions, evidentiary standards, and procedures for hearings depending on how the voter challenge was made. However, the bill is silent as to whether the statute and rules would apply to on-call circuit judges hearing appeals. In the circuit courts, the procedural rules would allow for discovery and trial unless the law provides otherwise. See Haw. R. Civ. P. Rule 81(b)1910). The lack of clear guidelines may lead to inconsistent application of the law between the boards and judges and unintended delays in resolving disputes.

Furthermore, even if the circuit court takes over the board's role as initial decision maker, that will unfortunately not reduce the inevitable appeals of the initial decision to the Intermediate Court of Appeals, as required by HRS §11-51. In essence, this bill will have the practical effect of substituting one decision maker with another, while simultaneously losing the expertise of the board of registration.

The foregoing issues arise from the bill's attempt to insert judges into administrative appeals in a manner that may blur the line between judicial and administrative roles. As a practical alternative, the Committee may wish to consider amending the measure to have hearing officers or other executive branch personnel perform the role of unavailable board members. This would preserve the current administrative framework for appeals while avoiding the issues associated with assigning administrative functions to the courts.

For these reasons, we respectfully oppose Senate Bill 1515, Senate Draft 1. Thank you for the opportunity to testify on this measure.

SB-1515-SD-1

Submitted on: 3/10/2025 1:40:47 PM

Testimony for JHA on 3/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Daniel R Freund	Individual	Support	Written Testimony Only

Comments:

SUPPLEMENTAL TESTIMONY

I write to respond to the premise underlying the judiciary's opposition to this bill -

In their four-year terms, board members will undoubtedly obtain experience and insight about voter challenges as they will hear every disputed issue that may arise in each county

I served on the Kauai board for *more* than four years and we heard a total of **zero** disputed issues and we obtained **no** experience or insight about voter challenges.

I understand the judiciary's concern regarding more work being dumped in its lap but I think it will find the reality is that there is little or no work to be done.

Thank you,

Dan Freund, Kapaa