

EXECUTIVE CHAMBERS

HONOLULU

JUNE 20, 2002

COPY

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2843

Honorable Members
Twenty-First Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2843, entitled "A Bill for an Act Relating to Elections."

The purposes of this bill are to (1) require all special elections other than those held in conjunction with a primary or general election to be conducted by mail, with the provision that a voter will be allowed to vote in person at a special election polling place up to ten working days before the date of the special election; (2) mandate recounts for elections with small vote differences; (3) provide separate ballots for each party in the primary election; and (4) clarify the time of conviction for the disqualification of elected officials convicted of election frauds.

The mandated recounts for elections with small vote differences will result in problems when applied to primary elections, because the period of time between primary elections and general elections was not increased. The Office of Elections may have a very limited period of time to prepare the ballots for the general election. Moreover, our overseas citizens may not have a fair opportunity to vote by absentee ballot, in violation of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

A fair opportunity to vote by absentee ballot would be one in which election officials mail an absentee ballot to a voter on a date sufficiently in advance of election day to allow the voter to receive the ballot, cast his or her vote, and return the ballot to the election official by the close of the polls on election day. Currently, the Federal Voting Assistance Program

recommends a minimum of forty-five days for the round trip. Forty-two states provide a minimum of forty-five days. In this State, there are approximately forty-five days between the primary election and the general election, depending on the election year. At a minimum, thirty-four days is provided for under the current law if a contest for cause is filed, because eleven days are allowed for such election contests (contests for cause must be filed within six days of the primary election and a decision rendered within five days of that by the Supreme Court). After the contest for cause is decided, the general election ballot will have to be prepared before absentee ballots can be mailed out, which means that the actual time remaining before the general election will be less than thirty-four days.

The mandatory recount provisions of this bill will shorten that period by as much as seven more days. If election results show the small differences set forth in this bill, the results must be recounted no later than seven days after the election. If a recount is made, the eleven-day contest filing and court decision period for that election will not begin until the recount is completed. When the federal government sued the State under UOCAVA in 1986, it was noted that a reasonable time for delivery by the United States Postal Service and the United States Department of State was ten to fourteen days, each way, and that the Military Postal Service Agency estimated thirty to thirty-five days for delivery and return of an absentee ballot. Consequently, the mandatory recount provisions, without the increase in time period between the special and general elections, may result in violations of UOCAVA.

For the foregoing reasons, I am returning House Bill No. 2843 without my approval.

Respectfully,



BENJAMIN J. CAYETANO
Governor of Hawaii

COPY

P R O C L A M A T I O N

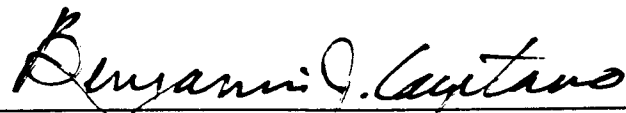
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 2843, entitled "A Bill for an Act Relating to Elections," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 2843 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 2843 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 20
day of June, 2002.



BENJAMIN J. CAYETANO
Governor of Hawaii