



**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 HOUSE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 428
RELATING TO ELECTIONS

January 31, 2019

Chair Lee and members of the House Committee on Judiciary, thank you for the opportunity to provide comments on House Bill No. 428. This bill requires a mandatory recount of election votes when the margin of victory is less than one-half of one percent of the votes cast.

While the Office of Elections takes no position on this bill, it is our understanding that any election contest must “be determined by a court of competent jurisdiction” pursuant to Article II, Section 10 of the Hawaii State Constitution. As a result, HRS §11-173 (repealed by Act 217, SLH 1973), acknowledged this by providing that if there was a small vote difference, a complaint would need to be filed in court for an order to conduct a recount.

Thank you for the opportunity to testify on House Bill No. 428.



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COMMITTEE ON JUDICIARY

Thursday, January 31, 2019, 2:00 p.m., Room 325
HB428 RELATING TO ELECTIONS

TESTIMONY

Janet Mason, Legislative Committee, League of Women Voters of Hawaii

Chair Lee, Vice-Chair San Buenaventura and Committee Members:

The League of Women Voters of Hawaii strongly supports the intent of this measure that would require a mandatory recount of election votes when the margin of victory is less than one-half of one percent of the votes cast. We offer comments for your consideration.

This is a very important bill, which we hope will make Hawaii compare more favorably with 43 states that already permit some form of recount. Twenty 20 states and the District of Columbia already provide for *mandatory* recounts like that proposed in this bill. All citizens need to be confident that in close elections there has been a fair examination of counting and other procedures. For a mandatory recount, the cost of the recount should be borne by taxpayers as required in this bill.

The League supports the premise of the bill that most of the time it should not be necessary for the Judiciary to intervene in close elections. The State's Chief Elections Officer can conduct the recount in the case of Federal or State elections and the County Clerk can conduct the recount in the case of single County-only elections. We are fortunate that these elections officials have protocols which should make it relatively easy to implement this bill, including using paper ballots, reconciliation of the number of ballots during the election, ballot security and independent observation of elections.

This bill calls for a close votes recount for contests between individual candidates. Why not also provide mandatory recount for ballot measures?

Regarding the .5% trigger for a recount, this appears to compare favorably with an average of .4% used in other jurisdictions.¹

We fully support allowing candidates or their representatives or parties challenging a ballot question to witness the recount and to maintain voter confidence in the recount, we suggest that the rules for the recount be disclosed to the public. As called for in the bill, close elections cannot be certified until after results of mandatory recounts are known. As set out in Section 1, we also support a deadline of no later

¹ Halvorseon, Mark, Platten, Jane, Reed, Sam and Ritchie, Mark. *Recount Principles and Best Practices*, February 2014, page 3.



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than 13 days for completion of mandatory recounts. Voters and candidates do have the right to prompt certification of an election.

Thank you for the opportunity to submit testimony.

HB-428

Submitted on: 1/29/2019 4:58:50 PM

Testimony for JUD on 1/31/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Douglass Adams	Individual	Support	No

Comments:

Honorable Chair Lee and Vice Chair San Buenaventura and Members of the Committee on Judiciary,

I write in support of HB428. Automatic recounts of votes within an legislatively-established range provide a measure of stability that the state's current system does not have in one of the most important citizen-centered practices that we engage in. I urge the committee to support House Bill 428.

respectfully,

Doug Adams

Hilo, Hawaii

HB 428 Late

Common Cause Hawaii • 307A Kamani St. • Honolulu, HI 96813 • 808.275.6275

To: The House Committee on Judiciary
From: Brodie Lockard for the Common Cause Hawaii Board
Date: Thursday, January 31, 2019, 2:00 pm

In support of HB 428

Dear JUD Chair Lee, Vice Chair San Buenaventura and Committee Members—

Common Cause Hawaii supports HB 428.

The 2018 Honolulu City Council election makes it very clear that an automatic recount in a very close election should be mandatory. A recount would avoid

- Voters' loss of confidence in the electoral system
- Acrimony among candidates and their supporters
- Time wasted by the office in question
- Inefficiency and confusion in the body of which the office is a part, e.g., the City Council
- Time and money wasted in the court system
- Time and money wasted on a special election

Please pass HB 428 and save all of the trouble caused by a contested election.

Thank you for the opportunity to testify.

Brodie Lockard
Board Member, Common Cause Hawaii

JADE K. FOUNTAIN-TANIGAWA
County Clerk

Telephone: (808) 241-4800
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SCOTT K. SATO
Deputy County Clerk

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**ELECTIONS DIVISION
OFFICE OF THE COUNTY CLERK
4386 RICE STREET, SUITE 101
LIHU'E, KAUA'I, HAWAII 96766-1819**

LATE ONLY

January 31, 2019

**TESTIMONY OF JADE K. FOUNTAIN-TANIGAWA
COUNTY CLERK, COUNTY OF KAUA'I
TO THE HOUSE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 428
RELATING TO ELECTION**

Dear Chairperson Lee and Committee Members:

Thank you for the opportunity to provide comments on House Bill No. 428. This Bill would require an automatic recount of election votes when the difference between the two candidates with the highest number of votes is less than one-half of one percent of the votes cast.

While our office at this time takes no position on the Bill, we wish to note that the high number of total votes cast in at-large contests will inflate the number of votes required to trigger a recount and will likely increase the frequency of recounts for Kaua'i County Council races.

Applying the provisions of the Bill to four of the most recently completed elections indicate that recounts would have been required in two of the four at-large contests for Kaua'i County Council.

	2018 General	2018 Primary	2016 General	2016 Primary
Total Votes Cast ¹	126,065	91,590	130,792	NO recount. All 13 candidates moved on to the General Election.
Recount Trigger ²	630 votes	458 votes	654 votes	
Margin of Victory ³	352 votes	1,048 votes	497 votes	
	352 < 630 RECOUNT	1,048 > 458 NO Recount	497 < 654 RECOUNT	

Should you have any questions, or need additional information, please feel free to contact me at (808) 241-4188. Thank you for this opportunity to offer comments on House Bill No. 428.

JADE K. FOUNTAIN-TANIGAWA
County Clerk

¹ Kaua'i County Council contest only

² 0.005% of Total Votes Cast

³ Margin of Victory between 14th and 15th place candidates for the Primary Election and 7th and 8th place candidates for the General Election