

STAND. COM. REP. NO. 8

Honolulu, Hawaii

FEB 02 2023

RE: S.B. No. 52  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2023  
State of Hawaii

Sir:

Your Committee on Hawaiian Affairs, to which was referred  
S.B. No. 52 entitled:

"A BILL FOR AN ACT RELATING TO THE ELECTION OF MEMBERS TO THE  
BOARD OF TRUSTEES OF THE OFFICE OF HAWAIIAN AFFAIRS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the process for electing members to the Office of  
Hawaiian Affairs Board of Trustees; and
- (2) Require the Reapportionment Commission to establish a  
reapportionment plan for the members of the Board of  
Trustees of the Office of Hawaiian Affairs so that they  
are elected according to their respective districts,  
rather than through an at-large statewide election for  
each seat.

Your Committee received testimony in support of this measure  
from six individuals. Your Committee received testimony in  
opposition to this measure from one individual. Your Committee  
received comments on this measure from the Department of the  
Attorney General and the Office of Hawaiian Affairs.

Your Committee finds that under existing law, members of the  
Board of Trustees of the Office of Hawaiian Affairs are elected



during an at-large statewide election in which all registered voters are permitted to vote to elect all trustees. Your Committee further finds that due to the at-large nature of these elections, outer islands are often placed at a disadvantage to Oahu because of their smaller population bases. Your Committee further finds that at-large elections create cost burdens for outer island candidates who are forced to campaign statewide, and that the process itself can lead to voters being confused about why they are electing candidates who do not reside on their own island.

Your Committee finds that this measure, paired with a related measure S.B. No. 32, Regular Session of 2023, would address these problems by requiring the Reapportionment Commission to draw district lines for members of the Board of Trustees of the Office of Hawaiian Affairs based on the number of permanent residents in each of the four basic island units, transitioning the election for Board of Trustees from an at-large election to an election based on single-member districts, similar to the way congressional elections are held.

Your Committee notes the Department of the Attorney General's testimony and its concern that the reapportionment of the nine-member Board of Trustees among the four basic island units may fall short of the one-person, one-vote standard established by the United States Supreme Court in *Reynolds v. Sims*, 377 U.S. 533 (1964), which held that states must make honest and good faith efforts to construct districts with equal numbers of persons as practicable. Due to the significant disparities in population among the basic island units, especially the island of Kauai, deviations from population equality may be required under this measure and may result in a violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. The Office of Hawaiian Affairs also noted its concerns about the lack of representation for Molokai and Lanai and the cost of reapportionment.

Your Committee has amended this measure by:

- (1) Adding definitions for the terms "rural district" and "urban district";



- (2) Stipulating that five members of the Board of Trustees will be apportioned among the four basic island units and that, of the remaining four members, two shall reside in an urban district of the State and two shall reside in a rural district of the State;
- (3) Specifying that the election of the two urban and two rural district members of the Board of Trustees will be subject to an at-large vote;
- (4) Requiring that the two rural and two urban district members of the Board of Trustees be staggered, and that one urban district member and one rural member be elected every two years; and
- (5) 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 Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 52, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 52, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Hawaiian Affairs,



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MAILE S.L. SHIMABUKURO, Chair



The Senate  
 Thirty-Second Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Hawaiian Affairs**  
**HWN**

Bill / Resolution No.:* <b>SB 52</b>	Committee Referral: <b>HWN, JDC</b>	Date: <b>01/26/23</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SHIMABUKURO, Maile S.L. (C)	✓			
FEVELLA, Kurt (VC)	✓			
IHARA, Jr., Les	✓			
KEOHOKALOOLE, Jarrett	✓			
RICHARDS, III, Herbert M. "Tim"	✓			
<b>TOTAL</b>	<b>5</b>	-	-	-
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes