



**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 SENATE COMMITTEE ON JUDICIARY  
ON HOUSE BILL NO. 129  
RELATING TO RECOUNTS

January 25, 2024

Chair Rhoads and members of the Senate Committee on Judiciary, thank you for the opportunity to testify in support of House Bill No. 129. This bill provides that a mandatory recount shall occur when the difference in votes cast is equal to or less than 100 votes or one-quarter of 1% of the total number of votes cast for the contest, whichever is lesser; and establishes that the filing deadline for a complaint for a contest for cause that arises from a mandatory recount shall be the same as the filing deadline for complaints for contests in which no mandatory recount was held.

This bill modifies the threshold for determining an automatic recount to address the margin of votes between candidates in small races. This bill also updates the statute to reflect the implementation of elections by mail by extending the timeline to complete a recount from 72 hours following the close of voting to five business days following the election. This extension provides election staff and volunteers additional time to recount the impacted contest which could range from about four precincts to all ballots statewide.

We would note that since the implementation of automatic recounts beginning with the 2020 Elections, we have had eleven automatic recounts. The vast majority of these recounts were triggered in conjunction with the Primary Election. This was due in part to the size of some single-party primary contest being so small that the 100 vote provision triggered a recount even though the vote difference came nowhere close to meeting the alternate trigger of a vote difference of one-quarter of 1% of the total number of votes cast for the contest or less. For example, during the 2022 Primary Election, we recounted State

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Representative District 20 because the vote differential was 87, although the percentage difference was 6.3% of votes cast.

Thank you for the opportunity to testify in support of House Bill No. 129.



**Committee on JUDICIARY AND HAWAIIAN AFFAIRS**

**Rep. David Tarnas, Chair**

**Rep. Gregg Takayama, Vice Chair**

**Thursday, January 25, 2024 – 10:00 a.m.**

**Conference Room 016 and VIA VIDEOCONFERENCE**

**HB129 – RELATING TO RECOUNTS**

**TESTIMONY**

**Holly Plackett, Legislative Committee, League of Women Voters**

Chair Tarnas, Vice Chair Takayama, and Committee Members:

**The League of Women Voters of Hawaii supports HB129 that clarifies the threshold for a mandatory recount in close elections, extends the time allowed for completion of such a recount, and makes the deadline for filing a complaint to the State Supreme Court for filing a recount the same as other election complaints where no recount occurred.**

**As in our previous testimony shared with this committee in 2023, let me restate:**

The recount threshold should be strict so that it correctly identifies races that are genuinely close, allowing for both a percentage difference and a “number of votes” difference. It appears that inadvertently the word “larger” than one-quarter of one percent instead of “lesser” than one-quarter of one percent found its way into our current law, and this measure corrects this oversight.

Likewise, since introduction of Hawaii’s mandatory recount law, it has become apparent that it would not be possible to announce the results of every recount within seventy-two hours under many circumstances such as recounting a Governor’s race, or recounting Mayoral races in two counties. Allowing five business days after an election to complete a recount is reasonable. This gives the public relatively prompt results for a recount, but also gives the Office of Elections (or the County Clerk in the case of “County only” elections) more adequate time to complete a recount.

Likewise, those who wish to contest the results of a recount should have as much time as those filing complaints for cause as people who file election complaints for other reasons.

Thank you for the opportunity to submit testimony.

**HB-129**

Submitted on: 1/21/2024 11:06:49 PM

Testimony for JDC on 1/25/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Brett Kulbis	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB 129. Allowing recounts to be completed in 5 business days as opposed to calendar days would automatically extend the recount to 7 calendar days in a General election.

While recounts normally don't take that long and having witnessed several in the 2022 elections, 5 calendar days is more than sufficient to conduct a recount.

**HB-129**

Submitted on: 1/23/2024 10:57:21 AM

Testimony for JDC on 1/25/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
julie schaus	Individual	Oppose	Written Testimony Only

Comments:

I oppose hb129

this goes against our constitution

**HB-129**

Submitted on: 1/23/2024 11:02:10 AM

Testimony for JDC on 1/25/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Greg	Individual	Oppose	Written Testimony Only

Comments:

I oppose hb129

this is against our constitution.

**HB-129**

Submitted on: 1/23/2024 12:07:02 PM

Testimony for JDC on 1/25/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sam schaus	Individual	Oppose	Written Testimony Only

Comments:

I oppose hb129

this goes against our constitution

**HB-129**

Submitted on: 1/23/2024 5:46:30 PM

Testimony for JDC on 1/25/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Corinne Solomon	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB129.



**HB-129**

Submitted on: 1/24/2024 7:25:12 AM

Testimony for JDC on 1/25/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Andrew Crossland	Individual	Oppose	Written Testimony Only

Comments:

I **oppose** this Bill.