

TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2015

ON THE FOLLOWING MEASURE:

S.B. NO. 440, RELATING TO VACANCIES.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Wednesday, February 4, 2015 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Valri Lei Kunimoto, Deputy Attorney General

Chair Keith-Agaran and Members of the Committee:

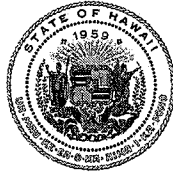
The purpose of this bill is to amend the procedure for nominating and electing a U.S. Senator to complete the unexpired term after a vacancy occurs. Presently, when a vacancy occurs in the office of the U.S. Senate, the vacancy will be filled for the unexpired term at the following state general election, provided that the vacancy occurs no later than the sixtieth day prior to the primary election. The bill seeks to change the date of the vacancy to no later than the fifteenth working day prior to the closing date for the filing of nomination papers in section 12-6, Hawaii Revised Statutes (HRS), which is 4:30 p.m. on the first Tuesday in June. The purpose of the bill is to ensure compliance with the deadline for mailing the overseas and military ballots in accordance with section 15D-9, HRS, and 42 U.S.C. § 1973ff-1(a)(8). The Department has the following concerns and requests that the bill be clarified.

The bill seeks to require the vacancy to have occurred no later than the “fifteenth working day” prior to the close of the filing of nomination papers to be included in the following general election. As the definition of “fifteenth working day” may be ambiguous, the Department recommends that the date be changed to “twenty-one days” prior to the close of the filing deadline for nomination papers. It is very important that there be no ambiguity about when the vacancy occurs, because the date of the vacancy determines when the election governing the remaining Senate term is held.

In addition, as the bill is being proposed to comply with the mailing of the military and overseas ballots deadline, we ask that the intent be clearly set forth in the committee reports

because presently, parts of section 17-1, HRS, which are not affected by this bill are being challenged in a federal district court lawsuit, Hamamoto v. Ige, Civil No. 14-00491.

Thank you for the opportunity to provide our testimony.



**STATE OF HAWAII
OFFICE OF ELECTIONS**

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
www.hawaii.gov/elections

SCOTT T. NAGO
CHIEF ELECTION OFFICER

**TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR
ON SENATE BILL NO. 440
RELATING TO VACANCIES**

February 4, 2015

Chair Keith-Agaran and members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to testify in support on Senate Bill No. 440. The purpose of this bill is to amend the timing for vacancy elections associated with the office of U.S. Senator, to ensure compliance with state and federal laws regarding the timely transmission of ballots.

Currently, if a vacancy occurs on the sixtieth day prior to a Primary Election, the printing of ballots containing the names of these candidates could not be completed for a statewide contest prior to the 45 day deadline for overseas and military voters in accordance with HRS § 15D-9 and 42 USC § 1973ff-1(a)(8).

This bill makes the deadline for the vacancy “the fifteenth working day prior to the date specified in section 12-6 for the close of filing nomination papers for regularly scheduled elections.” This ensures that the candidate filing deadline for a vacancy is the same as regularly scheduled offices.

Thank you for the opportunity to testify in support of Senate Bill No. 440.