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Charter Commission
County of Hawai'i

Aloha Commissioners:

My testimony today has to do with Section 3-17 (County Reapportionment Commission) of the County Charter. This section needs to be rewritten to be compliant with the opinions rendered by the U.S. Supreme Court on reapportionment and redistricting.

1. In Hawai'i County, we actually do redistricting not reapportionment so the name of this section needs to be changed to "Redistricting" and the Reapportionment Commission ("RC") would likewise change to the "Redistricting Commission".

Reapportionment is the assignment of U.S. Representatives based on the population of the United States during a particular census year (population divided by 435 Representatives). Some states gain or lose a Representative in any census year because of population movement and changes, but we always have 435 U.S. Representatives. As a state gains population, it gains more Representatives. As a state loses population, it loses Representatives.

Hawai'i County does redistricting because we always have nine (9) Council Members who do not move to or from a particular district as population changes. Only the council district boundaries are adjusted to have approximately equal populations in each district (+ or - 5% from an ideal district's population) with a maximum deviation for the county of 9.999%. This "10%" maximum deviation is set by multiple U.S. Supreme Court case precedent as a reasonable and maximum deviation.

2. The number of "reapportionment" criteria in the charter is four (4). Only 2.5 criteria were used by the RC in the last reapportionment. The other criteria were not observed. There are several more criteria as established by U.S. Supreme case precedent that need to be added to the charter. Additionally, the charter should require using the criteria in redistricting rather than just suggesting "consideration" of the criteria.

3. The RC needs to begin in the census year not the year following the census (the next census year is 2010 not 2011) as currently indicated in the charter. The learning curve is very steep for redistricting education. The past RC was trained on sunshine law, but not redistricting. I recommend "How to Draw Redistricting Plans That Will Stand Up in Court" by Peter S. Wattson, Senate Counsel, Minnesota. It is the best and quickest education in redistricting and reapportionment I ever read and will help you to quickly understand a complex subject. It is attached.

4. Due to many failures on the part of the previous RC who were repeatedly and publicly advised that what they were doing was illegal, two lawsuits were filed by taxpayers. Both lost in the circuit courts; Citizens for Equitable and Responsible Government (CERG) appealed to the HSSC. We lost in a split decision (3-2). In a dissenting opinion by Justice J. Nakayama and Justice C.J. Moon, they stated, "The right of equal representation is far too hard-won a liberty for its erosion to be justified so blithely. Accordingly, I must dissent." I took the CERG case to the U.S. State Supreme Court knowing that the case had a less than 1% chance of being heard. The U.S. Supreme court declined to hear the case.

5. There are some census blocks in Hawai'i County that need to be split. This is a time-consuming process that involves the U.S. Census Bureau. The process needs to start in 2010 to be completed before the census is completed. This requires a commission authorized to operate in the census year.

6. A final, written report by the RC needs to be submitted as part of a package of supporting documentation with justification why a particular decision was made and a particular criterion was used or not used.

7. As a Council Member, I submitted legislation for a charter amendment that did not pass the 2006-8 Council Term. I submit that legislation to you requesting that you create a charter amendment based on the legislation for the people to decide if they want fair and equal redistricting as the basis of fair elections.

Mahalo for your time.

A handwritten signature in cursive script that reads "Brenda Ford". The signature is written in black ink and is positioned below the text "Mahalo for your time."