

From: [Douglas and Shana Kukila](#)
To: [OE.Elections.Commission](#)
Subject: [EXTERNAL] State of Hawaii Elections Commission Testimony: December 3, 2025
Date: Wednesday, December 3, 2025 10:45:22 AM
Attachments: [SKukila Testimony Election Commission Dec 3 2025.pdf](#)

Please see attached (late) testimony for today's Agenda, provided orally via Zoom.
Mahalo.

Shana W. Kukila
28 Manaolana Place
Hilo, HI 96720
(808) 494-9448

December 3, 2025

Testimony: December 3, 2025 Commission Meeting Agenda Item IV, Section
b) "Commissioner Adrion's PIG relating to Maui County chain of custody"

TO:

STATE OF HAWAII
ELECTIONS COMMISSION
Elections Commission
c/o Office of Elections
802 Lehua Avenue
Pearl City, Hawaii 96782
Phone: (808) 453-8683
Email: elections.commission@hawaii.gov

Aloha Chair Curtis and Commissioners,

My name is Shana Kukila. I am submitting personal testimony today on Agenda Item IV, Section b) "Commissioner Adrion's PIG relating to Maui County chain of custody" in regards to the recommendation "2) Return to in-person voting on paper ballots on Election Day." I am strongly opposed to this recommendation, and I am in strong support of voting by mail. My concern is that rightful voters will be disenfranchised.

As a wife, mother, and veteran caregiver, I live and vote in South Hilo, County Council District 2, House District 1, Senate District 1, and Congressional District 2. My testimony in strong support of voting by mail comes on behalf of myself, my family, and my community. I am a part of this community, and my ancestors are from here. I am not a paid activist here, nor am I paid to influence anyone. I come here with aloha and to provide my voice for those who cannot voice theirs. These are not "sob stories." They are the stories of real people with real concerns like myself.

Although I agree that there should be more accountability in the vote count process, reading from the Commission's report, it does not appear to be the fault of vote by mail. Rather, it is a question of accountability within the voting system itself between the counties and the state election office. The process of mail in voting must be addressed thoroughly so the right to vote and access to voting can be ensured for all. We must ensure election integrity. Absentee mail in ballots have been a part of our process for years, now.

Shana W. Kukila
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Today, I am a proud volunteer of the League of Women Voters of Hawai'i County because I believe that our vote is our voice. My testimony does not represent the League today, however, we do share the mission to provide broader pathways and greater access to voting, to protect voting rights for all citizens, and to advocate for the protection of liberty and justice for all.

Vote by mail is one of these broader pathways that must be more seriously protected, especially for those who live in rural areas outside of the main voting centers. In Hawai'i County, for example, there are only two voter service centers to vote in person at, one in Hilo and one in Kona, although our island is larger than the entire rest of the state in terms of land mass. It is a huge undertaking to get the vote out for an island this size stretching hundreds of miles from Ka'u to Kohala, which is reflected in our low voter turnout each year.

For this reason, vote by mail has been a crucial part of the voting process here in our county and provided a greater opportunity for citizens to vote. We rely on vote by mail, and our county would be uniquely and more widely impacted if it were to be taken away. Without it, hundreds of thousands of voters would be disenfranchised and their voices silenced because they could not access a voter service center to cast their ballot in person on one particular day.

There are common problems that we saw in the 2020 election, as well as elections of the past: those who cannot make it to an election site in person are often the disabled, working parents, and essential workers who have numerous barriers to voting. We should make it easier to vote, not harder. Also, the statistics cited in the report on page 11 are ambiguous, and I believe they cannot be attributed solely to in person voting versus mail in voting. There were various other factors that were at play, and it should not be construed as attributed to one factor alone in order to justify disenfranchising voters. Mail in voting could not have been the only one.

Again, I do agree that there should be greater protections and accountability, however, it should not be at the expense of those who are the most vulnerable and whose voices are often left out of the political process. Access to voting should be ensured and protected.

Therefore, I urge the Elections Commission not to disenfranchise voters by stopping mail-in voting altogether, but to provide greater accountability and protections for voters and more access to voting. Support the right to vote for all citizens, properly enforce election laws, address faulty processes while maintaining access to voting, and provide greater awareness and education to the general public - from keiki to kupuna, so that we are all fully informed and engaged. If you do all these things, then trust in the voting process will be restored and strengthened. We need a public who is fully informed and engaged so we can address these issues together and find solutions that work for us all, not just for some.

Shana W. Kukila
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Mahalo for your time and attention to this important matter,

Shana W. Kukila

Shana W. Kukila Hilo, HI

From: [Laakea Kamakawiwoole](#)
To: [OE.Elections.Commission](#)
Subject: [EXTERNAL] "Violation of Jurisdiction"
Date: Wednesday, December 3, 2025 11:12:33 AM

Aloha e Chair, Commissioners.

This email is issued under Exclusive Equity Jurisdiction by La'akea Kamakawiwoole, Kanaka Maoli. I'm testifying on Item [III(a) / VII(b)] to address a deeper issue than just one complaint or one set of minutes. This is about a **violation of jurisdiction** and your duty under State law.

Under **HRS §11-7.5**, the Elections Commission is required to "*investigate and hold hearings for receiving evidence of any violations and complaints*" related to elections. That is your jurisdiction. It is not optional and it cannot be voted away.

Under **HRS §92-9**, your minutes must be a "*true reflection of the matters discussed by the board and the views of the participants,*" and must include "*any other information that any member of the board requests be included or reflected in the minutes.*" That is a mandatory "shall," not a suggestion.

At your October 29, 2025 meeting, the Commission took votes that go beyond your lawful authority:

- First, a motion was made that this Commission "**follow the law and comply with HRS §92-9, including subsection (5)**". That motion was voted down.
- Second, a commissioner requested specific corrections to the October 1 minutes so the record would include motions and statements about HAVA violations, Attorney General opinions, and responses by the Chief Election Officer. That request was rejected, and the minutes were approved without those additions.

A board has **no jurisdiction** to vote on whether to obey a mandatory statute. You do not have legal authority to nullify a commissioner's right under §92-9(a)(5) by majority vote. When you refuse to include information a board member requests, and when you refuse to investigate properly submitted complaints, you are acting **ultra vires** — outside the jurisdiction the Legislature gave you.

Today's agenda itself proves this is not an isolated concern. Under **Item VI**, you list multiple **Sunshine Law appeals from the Office of Information Practices** — S APPEAL 26-07, 26-10, 26-12, and 26-13 — all showing that people are already challenging how this Commission is operating. Under **Item VII**, you have new formal complaints, including ECC-25-012 from Commissioner Cushnie. Those are not boxes to check off; they are evidence that this body is not following its own jurisdiction and duties.

My requests are specific:

1. Acknowledge on the record that this Commission is **bound** by HRS §§ 11-7.5 and 92-9 and **has no authority** to vote around those duties.
2. Commit to **amending prior minutes** to include any information a board member requested, especially where it relates to complaints and alleged

violations.

3. For ECC-25-011 and ECC-25-012, schedule a **full public hearing** to receive evidence and create a transparent record, instead of dismissing or minimizing them.
4. Direct your counsel to treat the OIP appeals listed in Item VI as serious findings, and to bring back a written plan for how this Commission will cure any Sunshine Law violations going forward.

I raise this without prejudice to my belief that Ko Hawai'i Pae 'Āina remains a sovereign nation and that the State of Hawai'i is operating in a foreign jurisdiction. Even under your own statutes, what is happening here is not pono and not lawful.

Mahalo nui for your time.

La'akea Kamakawiwoole

From: [Laakea Kamakawiwoole](#)
To: [OE.Elections.Commission](#)
Subject: [EXTERNAL] Public Statement on Violation of Item 4B
Date: Wednesday, December 3, 2025 11:15:47 AM

This email is issued under Exclusive Equity Jurisdiction by La'akea Kamakawiwoole, Kanaka Maoli, I'm testifying today specifically on **Item 4B – Status of the Commission's request for USPS business reply mail receipts for Hawai'i County's 2024 General Election.**

Item 4B sounds simple: the public should be told the status of the Commission's own request for postal records that could help explain the documented discrepancy in Hawai'i County's ballot envelopes. Instead, what we saw under this item was the Commission **shutting down every meaningful step** toward getting those records.

Under Item 4B, Commissioner Cushnie moved to have a non-partisan group of volunteers from different parties physically count the Hawai'i County envelopes, separated by USPS and drop box, so the number of envelopes could be compared to the official counts. That motion failed.

He then sought a subpoena to compel USPS receipts, and was told subpoenas are only available in an evidentiary hearing—yet the Commission did **not** schedule such a hearing.

Finally, he moved to do the most basic thing: direct your own Chief Election Officer to contact the U.S. Postal Service and request the records needed to clarify the discrepancy before the next meeting. That motion also failed.

So I want to be very clear:

The **violation of Item 4B** is not a technicality. The violation is that you placed “Status of the Commission's request for USPS receipts” on this agenda while using your votes to **block** volunteers, **block** subpoenas, and **block** even a simple records request from your own CEO. That is the opposite of giving the public a real “status” update, and it conflicts with your statutory duty under HRS §11-7.5 to investigate and hold hearings on election-related complaints and possible violations.

If a Commission can refuse to obtain basic chain-of-custody records, then public oversight of mail-in ballots becomes an illusion. The community sees a 19-thousand-plus envelope discrepancy being discussed, and at the same time sees every tool for resolving it being voted down. That destroys public trust.

My requests are simple:

1. Publicly affirm that the Commission's request for Hawai'i County USPS receipts is **still in effect** and has not been abandoned.
2. Direct, in writing, the Chief Election Officer to request those records from Hawai'i County and USPS and report back at your next meeting.
3. Schedule an evidentiary hearing where, if necessary, subpoenas can legally issue so this discrepancy can be resolved on the record.

4. Ensure that future minutes fully and fairly reflect all motions and dissenting views related to Item 4B.

Anything less sends the message that Item 4B was window dressing, not real oversight.

Mahalo for your time.

La'akea Kamakawiwoole

From: [Laakea Kamakawiwoole](#)
To: [OE.Elections.Commission](#)
Subject: [EXTERNAL] Formal legal investigation into Section 19 of the Admission Act
Date: Wednesday, December 3, 2025 11:56:35 AM

This email is issued under Exclusive Equity Jurisdiction by La'akea Kamakawiwoole, Kanaka Maoli. I'm asking this Commission to request a **formal legal investigation** into **Section 19 of the Admission Act** and what it means for **who is truly allowed to vote in Hawai'i**.

Section 19 of the Admission Act says that nothing in that Act itself **confers U.S. nationality, takes nationality away, or restores nationality**. In other words, Congress explicitly stated that statehood did not, by itself, change anyone's nationality status; nationality is governed by other U.S. laws and any applicable treaties.

At the same time, **8 U.S.C. § 1405** declares that people born in Hawai'i after April 30, 1900, and those who were citizens of the Republic of Hawai'i on August 12, 1898, are U.S. citizens. The United States also admits in Public Law 103-150 that the Hawaiian Kingdom was illegally overthrown and that the Native Hawaiian people **never directly relinquished their claims to sovereignty or their national lands**.

There is still **no ratified treaty of annexation** transferring Ko Hawai'i Pae 'Āina to the United States. That means there is a deep conflict between:

1. Section 19 saying the Admission Act does **not** itself change nationality;
2. U.S. statutes that unilaterally redefine the nationality of Hawaiian Kingdom subjects; and
3. The fact that your voter registration system requires every Kanaka Maoli to **swear U.S. citizenship** in order to participate in elections conducted on their own 'āina.

I want to be clear: I am **not** asking you to take away anybody's right to vote. I am asking you to acknowledge that, under Section 19 and in the absence of a treaty, Kanaka Maoli and other Hawaiian Kingdom nationals are being forced into a citizenship box they did not consent to, just to exercise any political voice. That raises serious questions about **jurisdiction** and **political rights**.

I respectfully request that this Commission:

1. Formally **request a written opinion** from the Attorney General on the meaning of Section 19 and its interaction with 8 U.S.C. § 1405;
2. Place on a future agenda a **public hearing** on "Nationality, Section 19 of the Admission Act, and Voter Eligibility in Hawai'i"; and
3. Forward this question to the **U.S. Department of Justice** for clarification of how federal nationality law, the Admission Act, and the lack of a treaty are reconciled with the State's requirement that voters swear U.S. citizenship.

I appear here **under protest and without prejudice** to the continuing existence of the Hawaiian Kingdom. Even within your own legal framework, Section 19 makes it clear that

nationality did not automatically change by statehood, and that question deserves a serious legal investigation.

Mahalo nui.

La'akea Kamakawiwoole

From: [Laakea Kamakawiwoole](#)
To: [OE.Elections.Commission](#)
Cc: [OE.Elections](#); [hawaiiag](#); [OIP](#)
Subject: [EXTERNAL] Proposed PIG Motion re: Jurisdiction and No Treaty (HRS §§ 92-2.5 & 11-7.5)
Date: Wednesday, December 3, 2025 1:09:22 PM

Aloha Chair Curtis and Elections Commissioners,

Please accept the following as a **proposed motion** for consideration and for inclusion in the public record at your next meeting. I submit this in light of continuing concerns about the jurisdiction and legal authority under which elections are conducted in Ko Hawai‘i Pae ‘Āina.

Proposed Motion:

“I move that the Elections Commission, pursuant to HRS §92-2.5(b) and in furtherance of its duty under HRS §11-7.5(2) to investigate and hold hearings for receiving evidence of violations and complaints, establish a Permitted Interaction Group (PIG) to investigate the jurisdiction and legal authority under which elections are conducted in Hawai‘i in the absence of any ratified treaty of annexation with the Hawaiian Kingdom.

The PIG’s scope shall include, but not be limited to:

- (1) reviewing Section 19 of the Hawai‘i Admission Act, 8 U.S.C. §1405, and Public Law 103-150;
- (2) identifying the legal sources currently relied upon to justify State of Hawai‘i election authority on the territory of the Hawaiian Kingdom; and
- (3) recommending whether the Commission should request formal legal opinions from the Attorney General and/or the U.S. Department of Justice on these jurisdictional questions.

The PIG shall gather information and receive evidence and shall report its written findings and recommendations to the full Commission at a duly noticed public meeting no later than January 1st, 2026.

I submit this under protest and without prejudice to the continuing existence of the Hawaiian Kingdom and the rights of Kanaka Maoli as nationals of Ko Hawai‘i Pae ‘Āina.

Mahalo nui,

La'akea Kamakawiwoole

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Cc: [OE.Elections](#); [hawaiiag](#); [OIP](#)
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Mahalo nui,

La'akea Kamakawiwoole

From: [Laakea Kamakawiwoole](#)
To: [OE.Elections.Commission](#)
Subject: [EXTERNAL] Testimony on Item V – Bernegger v. Nago & Jurisdiction
Date: Wednesday, December 3, 2025 2:15:57 PM

This email is issued under Exclusive Equity Jurisdiction by La'akea Kamakawiwoole, Kanaka Maoli, testifying on **Item V – Bernegger v. Nago** and your plan to go into executive session to discuss your powers, duties, privileges, immunities, and liabilities.

When you go into executive session on this lawsuit, you are asking your attorney to defend the **powers and jurisdiction** of this Commission and of the State of Hawai‘i over our elections. I am here to remind you that the **foundation of that claimed jurisdiction has never been lawfully resolved**, especially in light of **no treaty** and **Section 19 of the Hawai‘i Admission Act**.

We are standing in **Ko Hawai‘i Pae ‘Āina**, the national territory of the Hawaiian Kingdom. The United States itself admitted, in **Public Law 103-150**, that the Hawaiian Kingdom was **illegally overthrown** in 1893 with the active participation of U.S. agents and that the Native Hawaiian people **never directly relinquished their claims to sovereignty or their national lands**. There is still **no ratified treaty of annexation** transferring this ‘āina to the United States.

In the **Hawai‘i Admission Act**, **Section 19** expressly states that nothing in that Act **confers U.S. nationality, takes nationality away, or restores nationality**. In other words, Congress knew that statehood did **not**, by itself, lawfully change the nationality status of the people of this country. Nationality is handled by other U.S. statutes and by treaties – but there is **no treaty** with the Hawaiian Kingdom to legitimize the underlying transfer of sovereignty.

Despite that, the State of Hawai‘i and this Commission act as if jurisdiction is settled, as if you unquestionably have authority to run elections here, certify results, and now defend that authority in **federal court** in *Bernegger v. Nago*. You are being advised about your “powers, duties, privileges, immunities, and liabilities” without ever squarely addressing the **jurisdiction of place**:

- What is the lawful source of your authority on the territory of the Hawaiian Kingdom?
- How do you reconcile Section 19’s savings clause with the lack of any annexation treaty?
- Under what lawful framework are Kanaka Maoli and other Hawaiian Kingdom nationals forced into a U.S. citizenship category in order to even interact with this election system?

I am not here to argue Mr. Bernegger’s case. I am here to say that **any defense of your powers in federal court is incomplete and misleading** if it ignores the unresolved jurisdiction question based on **no treaty** and **Section 19**.

For **Item V**, I respectfully request:

1. When you go into executive session, instruct your attorney to address **jurisdiction of place and nationality**, not just technical defenses. Ask for a written analysis of how

your claimed authority is justified in the absence of a ratified treaty of annexation.

2. Commit, in open session, to place on a future agenda a public item titled:

“Discussion of Section 19 of the Admission Act, lack of annexation treaty, and the jurisdictional basis for State of Hawai‘i elections in Ko Hawai‘i Pae ‘Āina.”

3. Make that jurisdiction analysis public, so the people of this land – especially Kanaka Maoli – can see how you claim to stand in law on our ‘āina.

I appear here **under protest and without prejudice** to the continuing existence of the Hawaiian Kingdom and the rights of Kanaka Maoli as nationals of Ko Hawai‘i Pae ‘Āina. If you are going to defend your powers in **Bernegger v. Nago**, you have a kuleana to confront the truth about the **source** of those powers, not just rely on layers of internal U.S. statutes.

Mahalo nui for your time and consideration.

Me ka ha‘aha‘a,

La'akea Kamakawiwoole