

August 12, 2010

Michael Howden
P.O. Box 267
Kula, HI 96790

Scott Nago
Chief Elections Officer
Office of Elections
802 Lehua Avenue
Pearl City, HI 96782

Re: Section 12-8, Haw. Rev. Stat. Challenge to the Nomination Papers of Robert Bunda

Dear Mr. Nago,

My name is Michael Howden and I am a registered voter. I submit pursuant to Section 12-8, Haw. Rev. Stat., and Section 91-8, Haw. Rev. Stat., to you for a declaratory ruling that Mr. Robert Bunda's nomination papers for the office of the lieutenant governor, are invalid. This objection is made within the time limitations contemplated by Section 12-8, Haw. Rev. Stat.

Nature of an Objection to Nomination Papers; Chief Elections Officer's Role

The Chief Elections Officer is required to file a complaint with the circuit court if an objection filed under Section 12-8, Haw. Rev. Stat. may warrant disqualification. The Chief Elections Officer's role is not to make a legal decision but, after review, file the matter with the circuit court for proper legal decision unless there is not possibility of disqualification.

Objection and Challenge

Senator Robert Bunda was elected to the office of senator, Twenty-Second district in 2008. Under the plain language of the Hawai'i State Constitution, Senator Bunda's term ends in 2012. Senator Bunda intended to run for the office of lieutenant governor in the 2010. Article II, Section 7 of the Hawai'i State Constitution states: "Any elected public officer shall resign from that office before being eligible as a candidate for another public office, if the term of the office sought begins

before the end of the term of the office held.” For this reason, Senator Bunda is required to resign from the office of senator, Twenty Second district, before he is eligible to run for the office of lieutenant governor.

On July 14, 2010, Senator Bunda wrote a letter to Senator Colleen Hanabusa, the President of the Hawai'i State Senate, expressing an intention to resign from office at a future date. Black's Law Dictionary, 8th ed. defines “intention” as “The willingness to bring about something planned or foreseen; the state of being set to do something.” The letter did not express his resignation. Black's Law Dictionary, 8th ed. defines “resignation” as “1. The act or an instance of surrendering or relinquishing an office, right or claim. 2. A formal notification of relinquishing an office or position. 3. The surrender to the lord of the vassal's interest in land.” The letter was also not a resignation with a future effective date.

The records of the Hawai'i State Senate and the records of the Office of Elections lack any further documents evincing an act or instance subsequent to the expression of his intention to resign at a future date surrendering or relinquishing his office.

Therefore, his self-subscribing oath or affirmation, pursuant to Section 12-3(8), was not validly made and Senator Bunda remains the senator of the Twenty-second district and is therefore barred from running for the office of lieutenant governor.

For the foregoing reasons, I request that you determine that the objection may warrant the disqualification of the candidate and file a complaint in the circuit court for a determination of the objection pursuant to Section 12-8(e), Haw. Rev. Stat.

Very truly yours,


MICHAEL HOWDEN
REGISTERED VOTER

enclosures



July 14, 2010

The Colleen Hanabusa
President
Hawaii State Senate
State Capitol, room 409
Honolulu, Hawaii 96813

Dear Senator Hanabusa:

I am writing to inform you of my intent to resign my seat in the State Senate on July 16, 2010 and to file for the office of Lieutenant Governor.

It has been a pleasure to have served in the legislature for the past 28 years. Throughout my career, I have served in various capacities which include Chair of the House Committees on Health, Ocean Resources, and Consumer Protection & Commerce. I was the sole legislative member of the Governor's Task Force on Educational Governance and in the Senate, I served as Chair of the Committee on Housing and Co-Chair of the Committee on Government Operations and Housing. I was fortunate to have served as President of the Senate for six years, a seat which you yourself may be leaving in your own pursuit of higher office. I wish you all the best. I would like to also express my appreciation for the courtesies you have extended to me and my staff during your tenure as President.

I will definitely miss the people who I have served with over the years. However, and more importantly, I will miss all the people who serve the legislature as staff. They are truly the backbone of the legislative branch, who give of themselves selflessly and with passion to the cause of serving the people of Hawaii.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Bunda", is written over the word "Sincerely,".

Robert Bunda
Senate President Emeritus

c: Senate Clerk