



State to seek stay of Con Con ruling

Attorney General Bronster cites practical and legal reasons for the action

By Mike Yuen
Star-Bulletin



State officials fear it will be a logistical nightmare to hold a new election within 60 days on whether to convene a Constitutional Convention.

That is the practical reason why Attorney General Margery Bronster will seek a stay while she appeals U.S. District Judge David Ezra's ruling that the Con Con vote last year was fundamentally flawed.

The legal grounds for her appeal, Bronster said yesterday, will be that Ezra's decision "essentially overrules" a Hawaii Supreme Court decision and that is a federal intrusion on states' rights.

"George Wallace cried that, too," countered state House Republican leader Gene Ward, invoking the name of the Alabama governor who used states' rights to fight integration.

Like scores of other Con Con advocates, Ward was elated that Ezra's decision resurrects the possibility of a convention.

But Randy Obata, Gov. Ben Cayetano's communications director, said Ezra's 60-day deadline is unrealistic.

"Federal law requires absentee ballots to be mailed out 35 days before an election. That doesn't give enough time to print the ballots," said Obata, who was heavily involved in running elections when Cayetano was lieutenant governor.

Obata and Bronster said there are concerns on how quickly the state can print ballots, set up polling places and find volunteers to help run the election.

For a primary election, there are between 4,000 to 5,000 volunteers who have to be recruited and trained, Obata said.

Voter registration and voter education issues also have to be addressed, Obata added.

One voter educational issue: Ezra's ruling means that in a new election, blank and spoiled votes will be counted as votes against a Con Con. There will be no dispute over that.

Then there's the testing of election computers, "which can be time-consuming," Obata added.

"When you have (a regularly scheduled) election, you can gear up for it. This one is on short notice. And the clock is ticking right now."

Hawaii County Clerk Donald Ikeda said he doubted that a special election could be put together in 60 days.

"We're waiting for Dwayne (Yoshina, state chief election officer) to tell us (what to do)," Ikeda said.

Yoshina declined to comment since he has yet not read Ezra's ruling.

George Akahane, president of Citizens for a Constitutional Convention, said despite the concerns expressed by Bronster and others, he believes a Con Con vote can be held within 60 days.

"It is a carryover from the general election," he said. "There will be some new (voter) registrants. But I don't think it is going to cause that much of a problem. It'll be a much more simple election. There will be only one question asked."

State officials estimate that it will cost roughly \$2 million to have a special election. Estimates for convening a Con Con are as high as the League of Women Voters' \$12 million.

Gary Rodrigues, president of the state AFL-CIO, which filed the lawsuit that led to the Hawaii Supreme Court invalidating the November vote in favor of convening a Con Con, said Ezra's ruling will not -- because of practical considerations -- serve democracy.

Turnout would be perhaps as much as 50 percent less than the 369,357 who voted on the measure in November, Rodrigues predicted. His assessment:

- This will be a single-issue ballot measure -- the first in state history -- without the lure of an electoral race with candidates.
- The election would probably be scheduled for a Saturday, which would be another key factor in reducing voter turnout.

James Hochberg, an attorney for Citizens for a Constitutional Convention, said Ezra's decision did not overturn the Hawaii Supreme Court's ruling that blank and spoiled ballots count as no votes.

Ezra simply ruled that the state high court's decision in March could not be applied retroactively to the November election, Hochberg said.

The state, he said, should not waste taxpayers' money with an appeal.

Herb Takahashi, attorney for the AFL-CIO and interveners, disagreed with Ezra's reasoning that the election was unfair because voters didn't know how blank votes would be counted. "I don't feel there's a fundamental constitutional right to be informed on how the votes will be calculated."

Text Site Directory:

[\[News\]](#) [\[Business\]](#) [\[Features\]](#) [\[Sports\]](#) [\[Editorial\]](#) [\[Community\]](#)
[\[Info\]](#) [\[Letter to Editor\]](#) [\[Stylebook\]](#) [\[Feedback\]](#)

© 1997 Honolulu Star-Bulletin
<http://starbulletin.com>