

Honolulu, Hawaii

FEB 19 2015

RE: S.B. No. 287
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 287 entitled:

"A BILL FOR AN ACT RELATING TO ELECTIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Office of Elections to implement elections by mail in a county with a population of less than 100,000 beginning with the 2016 primary election, and by 2018, require all federal, state, and county primary, special primary, general, special general, and special elections to be conducted by mail;
- (2) Maintain absentee voting by clarifying that a registered voter may request an absentee ballot or permanent absentee ballot in lieu of receiving an election-by-mail ballot;
- (3) Establish an elections by mail program, including procedures and requirements for conducting elections by mail, ballots, and counting of ballots;
- (4) Make conforming amendments to existing laws relating to elections to reflect and implement an elections-by-mail program;



- (5) Enable absentee walk-in voting to continue prior to election day;
- (6) Ensure limited polling sites in each county remain open on election day for absentee walk-in voting and to receive mail-in ballots; and
- (7) Appropriate funds for the implementation and administration of the election-by-mail program.

Your Committee received testimony in support of this measure from the Office of Elections; Office of the County Clerk, County of Maui; Office of the County Clerk, County of Kauai; Office of the County Clerk, County of Hawaii; League of Women Voters of Hawaii; Common Cause Hawaii; and two individuals.

Your Committee finds that the trend in Hawaii has been toward increased mail-in voting and that shifting to elections-by-mail would significantly reduce the logistical issues related to conducting elections. This measure implements an election-by-mail voting system in increments to allow the State to gradually transition to conducting elections-by-mail through a phased-in approach.

Your Committee notes that S.B. No. 219 (Regular Session of 2015) also implements an elections-by-mail program. S.B. No. 219 establishes a limited number of voter service centers to provide a place of deposit for mail-in ballots and provide facilities and equipment that are compliant with the federal Americans with Disabilities Act (ADA). Your Committee believes that a limited number of voter service centers should be made available and open to registered voters, especially for registered voters with disabilities requiring ADA-compliant voting machines, prior to and on the day of election in place of traditional polling places and precincts.

Your Committee further notes the constitutional requirement to maintain an absentee voting system. As such, your Committee encourages further discussion as this measure moves through the legislative process regarding merging permanent absentee voting with an election-by-mail system while retaining a seasonal absentee voting system for persons temporarily away from their registered addresses.



Your Committee notes that Act 166, Session Laws of Hawaii 2014, codified under section 11-15.2, Hawaii Revised Statutes (HRS), allows for a person who is eligible to vote but not registered to vote to register by appearing in person prior to the day of election at an absentee polling place or on the day of election at the polling place in the precinct associated with the person's address. Establishing an election-by-mail system encourages voters to vote early, and your Committee believes that providing late voter registration may discourage early voting. Furthermore, voter service centers, which take the place of traditional polling places, are intended to be places of deposit for ballots and provide assistance for registered voters with disabilities to vote. Requiring voter service centers to also allow eligible voters to register to vote may result in increased costs and staffing needs. Your Committee further notes that section 11-15.3, HRS, authorizes the County Clerk to permit a person with a valid government-issued identification that is capable of electronic confirmation to submit a voter registration application electronically in lieu of a traditional, signed application by mail or in-person. The counties are expected to implement and make available to the public an electronic application process by the 2016 election season. Your Committee believes that this will encourage more people to register to vote in a timely manner. As such, repealing late voter registration is a prudent policy decision to facilitate mail-in voting.

Finally, your Committee notes the suggested language submitted by the Office of Elections that amends the cost apportionment formula between the counties and State for election expenses. Your Committee encourages the Committee on Ways and Means to examine the optimally feasible method of apportioning costs of elections by mail in the future.

Accordingly, your Committee has amended this measure by:

- (1) Adopting the language suggested by the Office of Elections to require the County Clerk to mail a ballot package to each registered voter between fourteen and eighteen days before the date of the election to the extent practicable;
- (2) Deleting language that requires the County Clerk to mail ballots to registered voters who do not receive daily mail, have mailing addresses outside of the State, or



request ballots to be delivered or made available for pick-up;

- (3) Requiring the Chief Election Officer to determine and provide places of deposit and voter service centers;
- (4) Clarifying that to cast a valid vote, voters may mail their ballots to the Office of the Clerk, personally deliver their ballots to any place of deposit preceding the date of election, or personally deliver their ballots to any voter service center on the date of election;
- (5) Allowing the counting of votes to begin prior to election day, but no sooner than seven days prior to election day, provided that no results are disclosed until after the voter service centers have closed on election day;
- (6) Adding a definition of "voter service center";
- (7) Requiring the Chief Election Officer to issue a proclamation listing all places of deposit and voter service centers;
- (8) Establishing that there shall be no minimum number of places of deposit in any county and authorizing the Chief Election Officer to provide places of deposit only if the locations and apparatuses can be securely maintained throughout the period of use for each election;
- (9) Requiring the Chief Election Officer to provide at least one voter service center on each inhabited island;
- (10) Providing for alternative places of deposit or voter service centers in the event of a natural disaster;
- (11) Deleting amendments to section 15-7, HRS;
- (12) Repealing late voter registration under Act 166, Session Laws of Hawaii 2014, codified under section 11-15.2, HRS;



- (13) Inserting an effective date of January 7, 2059, to encourage further discussion, and inserting staggered effective dates for counties with populations of less than 100,000 and counties with populations of more than 100,000; and
- (14) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 287, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 287, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,

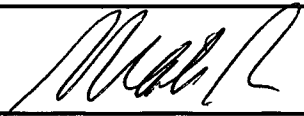


GILBERT S.C. KEITH-AGARAN, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 287	Committee Referral: JDL, WAM	Date: 2/10/15		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
ESPERO, Will	✓			
GABBARD, Mike				✓
IHARA, Jr., Les	✓			
THIELEN, Laura H.	✓			
SLOM, Sam			✓	
			Yes	
TOTAL	5		1	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes