



DISABILITY AND COMMUNICATION ACCESS BOARD

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March 28, 2016

TESTIMONY TO THE SENATE COMMITTEE ON WAYS AND MEANS

House Bill 1653, HD1, SD1 – Relating to Elections

The Disability and Communication Access Board (DCAB) supports House Bill 1653, HD1, SD1 - Relating to Elections. The purpose of this bill is beginning with the primary election in 2018, it requires the Office of Elections to implement election by mail in a county with a population of fewer than 100,000. Beginning with the 2020 primary election, implement election by mail in each of the other counties for all elections. It also establishes an elections by mail system, including requirements for ballots, replacement ballots, deficient return of ballots, ballot counting, voter service centers, places of deposit, and election expenses and responsibilities; establishes procedures for postponed elections; makes conforming amendments to provide for an elections by mail system; allows for the electronic transmission of mail-in ballots; appropriates funds for the implementation and administration of the elections by mail program; and requires the Office of Elections to submit annual reports to the legislature from 2017 to 2023 regarding implementing the elections by mail program.

DCAB worked cooperatively with the Office of Elections when the Help America Vote Act (HAVA) of 2002 was initially passed. We housed the Election Specialist position for the first three (3) years of the HAVA grant by providing technical assistance related to disability and accessibility issues as they related to voting. DCAB assisted the Office of Elections with surveying polling places to ensure the facilities were accessible and in selecting accessible voting equipment to ensure individuals with disabilities could vote independently and privately. The Election Specialist position has since relocated to the Office of Elections to provide disability-related expertise as part of the elections staff.

DCAB continues to support efforts of the Office of Elections by providing technical assistance related to accessibility so that voters with disabilities can continue to exercise their right to vote independently and privately at polling places, similar to any other voter. We have no objection to phasing in all-mail elections or offering open voter service centers or places of deposit, as long as the site is accessible. We defer to the Office of Elections and county clerks' offices regarding the amount of funding necessary to transition to an all-mail voting process.

Thank you for the opportunity to testify.

Respectfully submitted,


BARBARA LEONG
Chairperson
Legislative Committee



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Executive Director

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HB1653

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Submitted By	Organization	Testifier Position	Present at Hearing
Office of Hawaiian Affairs	Office of Hawaiian Affairs	Support	No

Comments:

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**TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON HOUSE BILL NO. 1653, HD 1, SD 1
RELATING TO ELECTIONS**

March 28, 2016

Chair Tokuda and members of the Senate Committee on Ways and Means, thank you for the opportunity to testify and provide comments on House Bill No. 1643, HD 1, SD 1. The purpose of this bill is to revisit the implementation of same day voter registration and to eventually transition to all-mail elections.

As you are aware, the Senate Committee on Judiciary and Labor has stated in Stand. Com. Rep. No. 3088 that it replaced the contents of House Bill No. 1653, HD 1 with the contents of a similar measure, Senate Bill No. 2496, SD 2. Additionally, it adopted the language proposed by the City Clerk to amend Act, 166, SLH 2014 to provide that the county clerk shall no longer provide a registration clerk at each polling place and instead will apparently designate an election day volunteer to perform this critical function. Further, apparently, the election day volunteer would only accept the application for subsequent processing by the county clerk, as the language about the registration clerk processing the application has been removed. Specifically, Section 17 of the bill now provides that "[a]t each of the polling places in the county on the day of the election an election official shall be designated to serve as a registration clerk" and "[t]he registration clerk shall accept applications for any person not registered to vote" as opposed to the current law that provides that "the registration clerk shall process applications for any person not register to vote."

This would appear to mean that instead of people being able to register on election day and vote they will be only be able to submit an application and utilize a provisional ballot that will only be counted days later after the county clerk . Specifically, the registration clerk at the polling place would only accept as opposed to process the application, which could only be done later by the county clerk. In such a situation, as these individuals will not have formally been registered to vote by the county clerks on the day of the election, the most that precinct officials can do is provide them a provisional ballot, as authorized under the Help America Vote Act, for those claiming to be registered to vote. This provisional ballot could not be counted until such time as the county clerk processes the application and determines that the applicant should be registered.

This would result in a lack of finality in terms of election day results, as a significant amount of provisional ballots will remain for the county clerks to determine whether they will in fact be counted. With the short time frame between the Primary Election and the deadline to file an election contest challenging the results of the election, this will put an additional burden on the county clerks to process these voter registration application accepted at the polling places and determine if in fact the person is qualified to be be registered and their provisional ballot counted. As such, the public and candidates in close contests will not know the results of the election until this process is completed.

This is clearly a policy decision for the Legislature to make. Specifically, whether voter registration and associated voting should be processed at the polling place or whether applications and provisional ballots should be merely accepted on election day, to be processed at later time. The former requires significant expense and subject matter expertise by those provided by the county clerks at the polling places, while the latter is simpler and less expensive in terms of what occurs at the polls, but requires more work on the back end by the county clerks to process these applications, for election officials to count the provisional ballots, and finally to release the results in a timely manner to ensure closure on the election.

We believe the present changes to the bill proposed by the Office of the City Clerk and adopted by the Senate Committee on Judiciary and Labor were an attempt to address the concerns raised by the City as to the financial impacts of implementing same day voter registration and the concerns of the other counties as to the subject matter expertise required to perform the duties of a registration clerk, which were raised in regard to Act 166 SLH 2014.

The testimony before this committee on March 28, 2014 essentially noted that a significant amount of subject matter expertise in registration matters would be required for each registration clerk to process these application and that it would not be reasonable to expect that election day volunteers who only perform these duties every two years could take on these duties without threatening the integrity of our elections, as this truly something within the subject matter

expertise of the county clerks. With that in mind, it was expressed that significant county expense would need to be made to appropriately staff the polling places with registration clerks trained and supervised by the county clerks.

The Office of Elections summarized the county expenses as apparently amounting to \$407,400. However, we ultimately deferred “to the specific budget estimates and models that the counties may submit to the committee in their testimony. Testimony of Office of Election to Senate Committee on Ways and Means on House Bill No. 2590, HD 1, SD 1 (March 28, 2014).

As the City Clerk noted in his testimony before this committee on March 28, 2014, its “main comment with this bill concerns the “registration clerks (noted in Section 1) that would be recruited, trained, and assigned to polling places by the Offices of the County Clerks.”

The other county clerks, as noted below in excerpts of their testimony to this committee, bolstered this understanding of the bill by noting the expertise required by the registration clerks that they would need to provide, the need for a connection to the statewide voter registration system, and the related expense to the counties.

Election Day Registration although well intended poses serious concerns for the County of Hawaii. The responsibility of voter registration and absentee voting are statutory responsibilities of the Counties. These functions are currently the responsibility of the permanent staff in the County Elections Office. This Bill will require the Counties to provide an experienced Registration Clerk at all (4) Absentee and (43) Election Day Polling Place. Many of the addresses in the County of Hawaii are non-standard addresses and require follow up work with the Real Property Tax Office and/or the Planning Department. Currently, the permanent elections staff assigned to this duty has had years of extensive training and access to this information. The registration clerk at the Absentee and Election Day Polling Places must be an experienced election clerk who has the knowledge and expertise in assigning voters to their correct district/precinct. Placing this responsibility on a volunteer could be overwhelming.

The Statewide Voter Registration System (SVRS) contains confidential information for all registered voters statewide. Election Clerks who work with voter registration information are under the constant supervision of permanent Elections Staff. This Bill would require the Counties to have the SVRS placed at all Absentee and Election Day Polling Places which could result in a voters confidential information begin breached if accessed by volunteer officials.

To execute this Bill, additional election year funding will be crucial. The funds will be needed for staffing, training, and computer equipment (example: installation, upgrades, software).

Maximizing voter registration is one of the most important functions of our office. It is equally important that we maintain the integrity of the voter registration list.

Testimony of County of Hawaii Clerk Stewart Maeda (March 28, 2014)

The Office of the County Clerk (Clerk's Office), County of Maui, would like to express the following concerns. This Bill make it mandatory for the counties to provide a "registration clerk" at every absentee and election day polling place in the respective counties on election day to review and process voter registration affidavits and proof of residence documents. This type of position will require extensive training and knowledge on voter registration issues prior to election day.

If a person is allowed to register and vote on election day, and if that person was erroneously assigned a polling place and issued a ballot, once a ballot is cast it cannot be retrieved.

In addition to staff, computers and computer connections will need to be established at each of our polling places in order to complete the registration process on election day. This requires setting up and testing computer equipment prior to election day at every polling place.

Testimony of County of Maui Clerk Danny A. Mateo (March 28, 2014).

We are particularly concerned with the additional burden being placed on poll workers or the "registration clerk" as noted in the Bill. Though the late registration process for most voters should be fairly straightforward, situations involving questionable voter residency and related issues frequently occur, and are often quite difficult to resolve.

If the Bill is approved as initial drafted, each registration clerk would need fairly extensive training on voter registration laws and administrative rules. Additionally, we would prefer that each polling place be connected to the Statewide Voter Registration System (SVRS) so each registration clerk would also need to be trained to use the SVRS. We understand that equipping each polling place with SVRS access will be costly and logistically difficult but prefer

this approach because it will greatly improve a registration clerk's ability to: 1) accurately determine the voting status of each late registrant, and 2) correctly place the individual in the proper voting district and precinct.

Testimony of County Clerk Ricky R. Watanabe (March 28, 2014)

In regard to portions of the bill regarding elections by mail, we would note that, currently our election model consists of two parts, absentee and election day. No excuse absentee voting was implemented to supplement election day polling places and modernize voting. In the past, absentee voting accounted for less than 20 percent of voter turnout, with the vast majority of voters continuing to vote at their polling place. However, in recent years, more voters are choosing to cast their ballot prior to election day. As such, we believe it would be more efficient to focus our resources on absentee voting, with a significantly smaller election day presence limited to voters obtaining a replacement mail ballot package, or voting on a direct recording electronic voting machine.

Transitioning to elections by mail will increase the amount of ballots that the counties will receive and preprocess beyond their current capacity. As such, we propose a capital investment of \$350,000 for scanner/sorters to be purchased for the counties to process the mail ballot envelopes. Given the timeline for implementing all-mail elections, no funding is necessary for this fiscal year. Instead, \$50,000 will be necessary in fiscal year 2018 to purchase a scanner/sorter for the County of Kauai, and then \$300,000 in fiscal year 2020 to purchases scanners for the remaining counties.

In reviewing the bill, given its broad scope touching on almost every aspect of elections, we naturally found a variety of technical concerns that we would ask you to consider. We believe these technical concerns are easily addressable and will help strengthen the resulting election by mail process that will guide the conduct of our elections going forward.

Proposed Section 11-A

We believe this proposed section does not clearly address how counties are to address the provisions of section 15-4 regarding voting by absentee ballot, if they are not initially an election by mail county and what occurs when the county does transition to be an election by mail county. Specifically, we propose the following changes:

§11-A Elections eligible to be conducted by mail. Beginning with the 2018 primary election, the office of elections shall implement elections by mail in a county with a population of less than 100,000. Beginning with the 2020 primary election, the office of elections shall implement elections by mail for all federal, state,

and county primary, special primary, general, special general, and special elections throughout the State in accordance with this part[;]. ~~[provided further that any]~~ Any person registered to vote in a county that has not yet implemented elections by mail under this part may continue to request an absentee ballot or permanent absentee ballot in accordance with section 15-4(e)[, in lieu of receiving an election by mail ballot package pursuant to this part, and absentee ballot-only elections may continue to be conducted pursuant to section 15-4(b)]. Additionally, counties that have not yet implemented elections by mail under this part shall continue to have the authority to conduct an absentee ballot-only election under section 15-4(b), for each registered voter who resides in the county of Kalawao or on any island of a county with a population of less than one hundred eighty thousand, except for the island where the county seat of government is located. Further, in counties that have not yet implemented election by mail under this part, pursuant to section 15-4(c), in the event there are fewer than five hundred registered voters as of the preceding general election in an area covered by a unique ballot type, the clerk shall mail an absentee ballot to each registered voter who resides in such an area, if the chief election officer, or the clerk in a county only election, determines that an election day polling place will not be established for such voters. However, upon a county implementing elections by mail, any permanent absentee ballot requests shall be canceled and the provisions of section 15-4(b), (c), and (e) shall no longer be applicable. Voters in any election by mail county will continue to have the ability to apply each election cycle for an absentee ballot to be temporarily mailed to a different address than the one associated with their voter registration record, pursuant to section 15-4(a).

Proposed Section 11-B

This proposed section touches on two important issues of when ballots are available to the public and who is authorized to establish voter service centers and places of deposit.

Our law currently provides that ballots will be distributed “no earlier than thirty days before an election.” HRS § 15-5(a). However, there is an exception under state and federal law for voters and overseas voters who must be transmitted ballots at least forty-five days prior to an election. HRS § 15D-9 & 52 USC § 20302(a)(8). The proposed section would reduce the permitted time frame from thirty days to a set period of time “no earlier than eighteen days and not later than fourteen days before the date of an election,” while specifically permitting election officials to comply with laws related to military and overseas voters.

We would prefer that proposed section 11-B be amended to provide that ballots be mailed “no earlier than the date that ballots are mailed to voters covered by HRS § 15D-9.” In the alternative, we would ask that the current provision of HRS § 15-5(a) of “no earlier than thirty days before the election” be utilized instead of the restrictive reference to “no earlier than eighteen days and not later than fourteen days before the date of an election” in the bill.

Among the benefits of allowing ballots to be mailed out at an earlier time are the following: (1) given that ballots may be mailed from the mainland, due to the capacity of printing and mailing houses on the mainland to accommodate the increased volume of ballots being mailed, an earlier mailing date helps address any possible delays in receiving mail from the mainland that may occur; (2) voters would have more time to review their ballots and determine how they want to vote; and (3) election officials would have more time to work with voters who have returned unsigned ballots or whose signatures do not match what is on file, to get it corrected prior to election day, and to ensure the voter the best opportunity to get their ballot counted.

In regard to the establishment of voter service centers and places of deposit, proposed section 11-B(c) refers to the chief election officer determining and providing for voter service centers and places of deposit. However, this is inconsistent with proposed section 11-I(a) and (d), which provide that “the respective clerk, after consultation with the chief election officer shall designate at least one location in the county to serve as a voter service center,” which would generally be the county clerk’s office, and “[t]he county clerks may also designate and provide for places of deposit.” As such, we would recommend that proposed section 11-B(c) refer to the county clerks instead of the chief election officer.

Proposed Section 11-C

The bill appears to require that public notice be provided after the mailing of ballots has actually occurred as opposed to in close proximity either before or after the mailing. Given the need to ensure that the ballots have been actually mailed under the bill, we cannot coordinate with the newspapers in advance of the expected mailing to have the notice come out on the day or the day after the mailing occurs, as there is always the possibility the mailing may be delayed for some reason. Instead, we would have to wait until after the mailing occurs. Given the lead time that newspapers require before printing notices, it is likely voters would receive their ballot in the mail before the notice is even printed.

As a result of this, we would recommend that the language of the bill be amended to provide as follows:

§11-C Public notice of mailing. Public notice of the date or dates that ballot packages are expected to be mailed or have been mailed shall be given by the chief election officer and all county election officers in the manner prescribed in section 1-28.5 ~~when all the packages have been mailed or made available to voters.~~

Proposed Section 11-D

Proposed section 11-D(c) makes the following reference to returning a ballot:

(c) To cast a valid ballot, the voter shall return the marked ballot in the return identification envelope containing the secrecy envelope with the marked ballot:

(1) By mail so that the return identification envelope is received at the office of the clerk no later than the time provided in section 11-131 on the date of the election;

(2) By personal delivery to any place of deposit no later than 6:00 p.m. on the day preceding the date of the election; or

(3) By personal delivery to any voter service center no later than the time provided in section 11-131 on the date of the election.

We would note that proposed section 11-D(c)(1) restricts returning ballots to the county clerk to mail only. While one could add the term “personal delivery” to this subsection, consistent with the language of proposed section 11-D(c)(2) & (3), we believe the term “personal delivery” can be interpreted by some as meaning delivery by the actual voter, as opposed to hand delivery by the voter or their agent, such as a friend or family member. As such, it may be better to say “hand delivery” or “hand delivery by the voter or their agent” for all of proposed section 11-D(c). In the alternative, one could define in HRS § 11-1 “personal delivery” as hand delivery by the voter or their agent. If instead the intent of the section is that only the voter can deliver the ballot then specific accommodations should be made for voters who are not able to make it to the county clerk’s office, a voter service center, or a place of deposit due to a disability, hospitalization, or similar reason.

In regard to deadlines, the proposed section refers to delivery to places of deposit no later than 6:00 p.m. on the day preceding the date of the election. Clarification is necessary to determine if this means that places of deposit cannot operate after 6:00 p.m. or close prior to 6:00 p.m. It would be difficult to ensure that all places of deposit will remain open until 6:00 p.m. for the depositing of ballots and that all places of deposits will be secured at 6:00 p.m. to prevent people from submitting ballots. Given this, we would recommend that the

language be changed to “delivery to any place of deposit before the last retrieval of return identification envelopes associated with the place of deposit.” This would permit us to post signs at places of deposit that would essentially say the following: “The last scheduled pick up of ballots from this location is _____. After this time, we recommend that you go to your local voter service center or your county clerk’s office to drop off your ballot, obtain a replacement ballot, or vote on a voting machine.”

Proposed Section 11-E

We have similar concerns regarding the use of the term “personal delivery” that were mentioned in regard to proposed section 11-D. Consistent with that, we would believe the proposed section should clarify that an agent of the voter is authorized to pick up a replacement ballot for a voter. This would address situations in which a voter is not physically able to pick up the ballot. Finally, as it relates to a written request, we believe the section should be revised to be flexible enough to permit the county clerks to accept a replacement ballot request by email, over the telephone, or by the presentation of a replacement ballot request form in person or by mail, as the county clerk deems appropriate.

§11-E Replacement ballots. (a) A voter may ~~[obtain]~~ request a replacement ballot if the ballot was destroyed, spoiled, or lost. ~~[Replacement ballots shall be provided to a voter who completes and signs a replacement ballot request form. The replacement ballot request form shall include information that allows the clerk to verify the registration of the voter and ensure that another ballot has not been returned by the voter.]~~

(b) Upon receipt of the replacement ballot request ~~[form]~~, the clerk shall:

- (1) Verify the registration of the voter and ensure that another ballot has not been returned by the voter;
- (2) Note on the list of registered voters that the voter has requested a replacement ballot and the manner in which it was requested;
- (3) Mark the return identification envelope as containing a replacement ballot; and
- (4) Issue the replacement ballot package by mail or by making the ballot package available for pick-up by the voter.

(c) Voters requesting a replacement ballot shall return the return identification envelope containing the secrecy envelope with the marked replacement ballot by mail or by ~~[personal]~~ hand delivery by the voter or their agent to a place of deposit no later than 6:00 p.m. on the day preceding the date of the election or by ~~[personal]~~ hand delivery by the voter or their agent to a voter

service center or the office of the county clerk no later than the time provided in section 11-131 on the date of the election.

Proposed Section 11-F

We are concerned with proposed section 11-F which provides an additional five business days after an election for a voter to sign their ballot or otherwise cure a deficiency in their ballot. We would note that five business days after the Primary Election works out to nine calendar days, due to the subsequent non-business days of Sunday, Statehood Day, Saturday, and Sunday. Additionally, the proposed section provides that results may be released during this time frame. Given the interest that the public and candidates may have in the names of the voters who still have the ability to change the election results, the bill should clarify if this will be considered public information or not. Ultimately, the regular extension of elections for up to nine days, to allow people to vote by correcting deficient return envelopes, in situations where results have already been released, is inconsistent with the concept of prompt finality and closure when it comes to our elections.

Proposed Section 11-H

Given the significant volume of ballots that would be centrally counted by election officials, as opposed to the current model in which approximately half of the ballots are counted separately by voting machines at over two hundred polling places, we believe that beginning the counting of ballots up to fifteen days prior to an election would be appropriate.

To the extent proposed section 11-H continues to refer to counting beginning no sooner than the tenth day prior to an election and the tenth day prior to the General Election is a Saturday, we believe the language of the section may need to be clarified. Specifically, it is typical for a statute to say whether a deadline falling on a Saturday, Sunday, or a holiday is moved to the preceding or succeeding day which is not a Saturday, Sunday, or holiday (i.e. Typically when a deadline is ten days prior to an event and lands on a Saturday it will either be moved to the “succeeding” day going forward, which is Monday, or the “preceding” day, which would be interpreted as Friday.)

Given that the statute makes no reference to the preceding or succeeding day, we would need to rely on HRS § 1-29 Computation of Time to resolve the matter. The law provides, in part, that “[t]he time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a Sunday or holiday and then it is also excluded.” Given that the law makes no reference to excluding Saturday and the tenth day is Saturday, we will in all likelihood simply start on that day. Assuming HRS § 1-29 had specifically excluded Saturday, as it does for Sundays and holidays from the

computing of days, then the tenth day prior to the General Election for purposes of that statute would have been Friday.

Proposed Section 11-I

Our comments relating to the calculation of deadlines would similarly apply to determining the tenth day prior to the election for the opening of voter service centers. Having said that, we are also concerned that the present language requires all voter service centers to be open at the same time. It may be better to provide more flexibility to the counties in terms of what the days and hours of operations should be. As such, we propose the following version of section 11-I(b) for your consideration:

(b) The voter service center at the office of the county clerk, or a site designated by the county clerk to serve that purpose, shall be open no later than the fifteenth day prior to election day, or as soon thereafter as ballots are available. The days and hours of operation of this voter service center will be determined by the county clerk. However, the designated voter service center will be open on the day of the election and will be open on that day until 6:00 p.m., the closing hour of voting. The opening time on election day will be determined by the county clerk. If at 6:00 p.m. on election day, any voter desiring to vote is standing in line outside the entrance of the designated voter service center with the desire of entering and voting, but due to the designated voter service center being overcrowded has been unable to do so, the voter shall be allowed to vote irrespective of the closing hour of voting. No voter shall be permitted to enter or join the line after the prescribed hour for closing of voting. Additional voter service centers may be established by the county clerk at other locations and may follow a different schedule of times and dates of operation. To the extent one of these additional voter service center is open on election day, it may have a closing time earlier than 6:00 p.m., but in no event will it be permitted to have a closing time later than 6:00 p.m. Any voter desiring to vote standing in line outside the entrance of one of these additional voter service center with the desire of entering and voting, but due to the additional voter service center being overcrowded has been unable to do so, the voter shall be allowed to vote irrespective of the stated closing time of the additional voter service center. No voter shall be permitted to enter or join the line after the prescribed closing time for the additional voter service center, unless the county clerk decides to extend the closing time, but in now event may the county clerk extend the closing time beyond 6:00 p.m.

In regard to places of deposit, we believe the bill should be amended to further reflect that places of deposit may be designated by the county clerk to have different days and hours of operation. Our comments are similar to the ones made for proposed subsection 11-D(c)(2). Specifically, we indicated that the deadline of 6:00 p.m. on the day prior to the election should be changed to “delivery to any place of deposit before the last retrieval of return identification envelopes associated with the place of deposit,” in recognition of the fact that unlike voter service centers, one cannot guarantee that at exactly 6:00 p.m. that all return identification envelopes are picked up at that time or that steps could be taken to prevent additional return identification envelopes from being deposited after that time before election officials are able to retrieve return identification envelopes from the place of deposit. Given this, we would propose the following language:

(d) The county clerks may also designate and provide for places of deposit if locations and apparatus for the purposes specified in this part can be securely maintained [~~throughout the period of use for each election~~]. This may involve different places of deposits having different dates and hours of operation. The county clerk may amend the dates and hours of operation of individual places of deposit, but in no event shall the hours of operation be amended beyond 6:00 p.m. on election day. All places of deposit shall be secured no later than by 6:00 p.m. on election day to ensure that no additional return identification envelopes may be deposited after that time. To the extent the county clerk designates a place of deposit to be open until 6:00 p.m. on election day, any voter desiring to vote standing in line outside the entrance of the place of deposit with the desire of entering and depositing their return identification envelope, but due to the designated place of deposit being overcrowded has been unable to do so, the voter shall be allowed to deposit their return identification envelope irrespective of the closing hour of voting. No voter shall be permitted to enter or join the line after the prescribed hour for closing of voting. Such places of deposit will not be considered voter service centers as they may not have voting machines or replacement ballots that are required for a voter service center. The deadline for voting will not be extended for such voters requiring a replacement ballot or a voting machine, as places of deposit do not serve that purpose.

Proposed Section 11-J

In regard to the sharing of expenses, the goal of this bill should be to divide expenses between the State and counties for regularly scheduled elections, specifically the Primary Election and the General Election, with special election not held in conjunction with these elections being handled consistent with whether such elections are primarily state, county, or federal elections.

A review of proposed section 11-J indicates that it may unintentionally result in this not occurring in situations in which a county either does not appear on the Primary Election ballot or General Election ballot, due to specific provisions of their charter that might come into play if there are only two candidates for particular offices, resulting in not needing to appear on the Primary Election ballot, or in situations in which a charter permits a candidate to win outright during the Primary Election and not needing to appear on the General Election ballot. Ultimately, it may be a rare situation in which all of a county's contests would not appear on a particular ballot, but it could occur. The planning and budgeting for the Primary Election and General Election for the State and counties cannot be held in limbo until the close of candidate filing or the results of the Primary Election are known (e.g. voting system contract, voter service centers, places of deposit, counting centers, staffing, etc.).

We propose the following language in Section 11-J(a)(1) and (b)(1) to clarify that for regularly scheduled elections all counties and the State are to be involved in sharing the expenses and responsibilities associated with conducting these elections.

(a)(1) Expenses related to elections by mail for a regularly scheduled primary election or general election, unrelated to voter registration, shall be divided in half between the state and all counties, regardless of whether an individual county has any county contests or questions on a particular ballot. In regard to non-regularly scheduled elections by mail, involving both state and county offices, or involving both federal and county offices, expenses, unrelated to voter registration, shall be divided in half between the State and the county or counties whose contests or ballot questions appear on the ballot. Each county shall pay a proration of the expenses as a proportion of the registered voters at the time of the previous general election. The counties shall be separately responsible for expenses associated with voter registration.

Proposed Section 11-J(a)(1).

(b)(1) For elections by mail involving ~~[both state and county offices, or involving both federal and county offices]~~ a regularly scheduled primary election or general election, or an election involving both federal and county offices, regardless of whether an individual county has any county contests or questions on a particular ballot the election:

- (A) The counties shall be responsible for voter registration, absentee voting, and the mailing and receipt of ballots;
- (B) The State shall be responsible for the printing and counting of ballots;
- (C) The State and counties may otherwise agree to the delegation of these responsibilities to each other; and
- (D) Any responsibilities not specified in this paragraph may be assigned to the counties or the State by the chief election officer;

Proposed Section 11-J(b)(1).

Section 7 – Election proclamation; places of deposit; voter service centers.

As we noted in regard to proposed section 11-B, places of deposit and voter service centers are determined by the county clerks in proposed section 11-I. Given this, the proposed changes by Section 7 of the bill to HRS § 11-92.3(a) should acknowledge this. As such, we propose the following:

§11-92.1 Election proclamation; ~~[establishment of a new precinct.]~~ places of deposit; voter service centers. (a) The chief election officer shall issue a proclamation ~~[whenever a new precinct is established in any representative district.]~~ listing all polling places and, in counties where elections by mail have been implemented pursuant to part , places of deposit, and voter service centers. Places of deposit may be open as soon as election by mail ballot packets are made available to voters. The chief election officer shall provide a suitable polling place for each precinct~~[-]~~ in counties where elections by mail have not been implemented. Beginning on January 1, 2018, voter service centers shall be made available by the county clerk pursuant to section 11-I in a county where elections by mail have been implemented. Schools, recreational halls, park facilities, and other publicly owned or controlled buildings, whenever possible and convenient, shall be used as polling places~~[-]~~ or, in the case of elections by mail pursuant to part , as voter service centers. The chief election officer ~~in the case of polling places or the county clerk in the case of voter service centers~~ shall make arrangements for the rental or erection of suitable shelter for ~~[this purpose]~~ these purposes whenever public buildings are not available and shall cause these polling places ~~or voter service centers~~ to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for election on any island. This proclamation may be issued jointly with the proclamation required in section 11-91.

Section 9 – HRS § 11-173.5 Contests for cause in primary, special primary elections, and county elections held concurrently with a regularly scheduled primary or special primary election

Section 9 of the bill amends the deadline to file an election contests in a primary election from the sixth day after the election to the thirteenth day. This appears to be an attempt to address the changes in proposed section 11-F that involve allowing voters up to nine days after a primary election to correct deficient return identification envelopes, such as forgetting to sign the envelope or the signature not matching what is on file for the voter.

We incorporate by reference our concerns regarding extending the deadline as inconsistent with the concept of prompt finality and closure when it comes to our elections. Additionally, any desire to give voters more time to correct deficiencies with their ballot could be addressed by mailing the ballots nine days prior to the current date the bill envisions for mailing ballots, and encouraging voters to return their ballots in a timely manner, so election officials can discover any problems sufficiently in advance to permit a voter to correct their ballot before the close of polls.

Ensuring Current Mailing Addresses for Ballots

The linchpin for elections by mail is ensuring that all registered voters receive their ballot by mail. Having said that, we live in a mobile society where people frequently move and one of the last things they do is to update their voter registration mailing address. As such, we propose that this bill incorporate a means by which changes to currently registered voters' mailing addresses can be updated in a timely manner in the statewide voter registration system, along with ensuring that new registered voters are able to be included in the system to permit them to receive a ballot by mail.

Specifically, we propose the following:

SECTION ____ Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriated designated and to reads as follows:

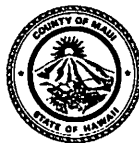
"§11-A Updating of statewide voter registration system with driver license and civil identification card information. (a) If an applicant for a civil identification card or driver's license is already a registered voter, the application shall serve to automatically update the applicant's voter registration residence address, mailing address, or name, as may be applicable. A notice to this effect shall be stated on any application or change of address or name form utilized by the examiner of drivers.

(b) The examiner of drivers shall electronically transmit to the office of elections, any changes of name or address or any new voter registration applications for utilization by the statewide voter registration system.

(c) Databases maintained or operated by the counties or the department of transportation containing driver's license or civil identification card information, including any documents or images, shall be electronically accessible by election officials and the statewide voter registration system to allow for the timely processing of voter registration applications and address and name changes; facilitate verification of information provided by online voter registration applicants under section 11-15.3, ensure the integrity of the voter registration rolls, or for any other election purpose."

Thank you for the opportunity to provide comments on House Bill No. 1653, HD 1, SD 1.

DANNY A. MATEO
County Clerk



JOSIAH K. NISHITA
Deputy County Clerk

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

TESTIMONY OF DANNY A. MATEO

COUNTY CLERK, COUNTY OF MAUI

TO THE SENATE COMMITTEE ON WAYS AND MEANS

ON HOUSE BILL NO. 1653, HD 1, SD 1

RELATING TO ELECTIONS

MARCH 28, 2016

Chair Tokuda and members of the Senate Committee on Ways and Means, thank you for the opportunity to offer testimony in support for House Bill No. 1653, HD 1, SD 1. The purpose of this bill is to phase in statewide elections by mail by the 2020 primary election.

An all-mail election is an effort to make the voting process convenient for our voters and an effort to boost our voter turnout. With more voters choosing to vote by mail, we feel it is time to transition to an all-mail election. We believe it would be more efficient to focus our resources on absentee mail rather than our current process of three systems: absentee mail, absentee walk, and election day polling places.

Thank you for the opportunity to testify in support of House Bill No. 1653, HD 1, SD 1.



49 South Hotel Street, Room 314 | Honolulu, HI 96813
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COMMITTEE ON WAYS AND MEANS
Monday, March 28, 2016, 3:00 p.m., Room 211
HB 1653, HD1 SD1 RELATING TO ELECTIONS

TESTIMONY

Janet Mason, Co-Chair, Legislative Committee, League of Women Voters of Hawaii

Chair Tokuda, Vice-Chair Dela Cruz, and Committee Members:

The League of Women Voters of Hawaii strongly supports HB1653 HD1, SD1 which would incrementally phase in voting by mail by the 2020 primary election. Hawaii has been diligently moving to make it easier for citizens to exercise their fundamental right to cast a ballot; our established policies like early voting and permanent absentee voting make the franchise widely available. This bill calls for starting voting by mail in 2018 with full implementation by 2020. However, we do think it would be prudent to start with counties of fewer than 100,000 people in 2018, counties with less than 500,000 people in 2020, delaying full implementation until 2022, just to give voting officials and the public sufficient time to adjust to reforms already underway. Online voter registration (2015), late voter registration (2016) and same day voter registration (2018) are all compatible with voting by mail.

Under this measure, for most elections the counties will continue to be responsible for mailing and receipt of ballots and the State will continue to be responsible for printing and counting ballots. This well-established division of labor makes sense, and we are gratified that all County Clerks endorse moving to voting by mail instead of our current complex approach (polling places, absentee voting, permanent absentee voting). We support the prior amendment to this bill made by the Judiciary and Labor Committee which would require the County Clerk to designate a registration clerk at each voter service center. This should go a long way toward expedited voter registration on election day beginning in 2018.

HB 1653 HD1 SD1 integrates voting by mail with our existing absentee and permanent absentee methods; Avoiding legal and operational confusion about this is important, because absentee voting by mail has



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become increasingly popular in Hawai'i. In our last general election, absentee ballots already accounted for the majority of the votes cast¹.

We are very pleased this bill contains improved procedures for postponed elections, electronic transmission of ballots and replacement of ballots. We note the bill does not specify how soon before election day ballots would be mailed to voters nor when ballots could be opened after return receipt at counting centers. Mailing ballots to voters about 21 days before elections would allow sufficient delivery time for Hawaii locations, and we have long supported being able to count ballots (without releasing results) several days before election day. Early counting would provide for more prompt announcement of election results and spread out the workload of counting center staff.

Voting by mail has been promoted by the League of Women Voters of Hawaii since 1999. The League calls upon the Legislature to resolve the few remaining differences between HB1653 HD1 SD1 and SB 2496 SD2 HD1 and make the \$375,000 one-time appropriation requested by the Office of Elections. The estimated savings is \$800,000 each election cycle. Please secure this important opportunity for Hawaii voters and save money by doing so!

Thank you for the opportunity to submit testimony.

¹ For statewide primary elections mail-in ballots accounted for 42.4% of total ballots cast in 2010, 45.9% of primary ballots in 2012 and 51.2% of primary ballots in 2014. For Hawai'i General Elections, mail-in absentee ballots accounted for 42.4% in 2010, 45.9% of the vote on 2012 and 51.2% of the vote in 2014. Source: Hawai'i State Office of Elections: <http://elections.hawaii.gov/election-results>.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: mgolojuch@hotmail.com
Subject: *Submitted testimony for HB1653 on Mar 28, 2016 09:00AM*
Date: Thursday, March 24, 2016 10:56:15 PM

HB1653

Submitted on: 3/24/2016

Testimony for WAM on Mar 28, 2016 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: Chinooker@gmail.com
Subject: *Submitted testimony for HB1653 on Mar 28, 2016 09:00AM*
Date: Saturday, March 26, 2016 7:51:55 PM

HB1653

Submitted on: 3/26/2016

Testimony for WAM on Mar 28, 2016 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Alvarez	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: tabraham08@gmail.com
Subject: *Submitted testimony for HB1653 on Mar 28, 2016 09:00AM*
Date: Friday, March 25, 2016 9:35:10 AM

HB1653

Submitted on: 3/25/2016

Testimony for WAM on Mar 28, 2016 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

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To SENATE COMMITTEE ON WAYS AND MEANS

for hearing on Monday, March 28, 2016

RE: HB 1653, HD1, SD1 RELATING TO ELECTIONS.

Beginning with the primary election in 2018, requires the office of elections to implement election by mail in a county with a population of fewer than 100,000 and beginning with the 2020 primary election, implement election by mail in each of the other counties for all elections. Establishes an elections by mail system, including requirements for ballots, replacement ballots, deficient return of ballots, ballot counting, voter service centers, places of deposit, and election expenses and responsibilities. Establishes procedures for postponed elections. Makes conforming amendments to provide for an elections by mail system. Allows permanent absentee voters to request that their ballots be temporarily forwarded to another address in or outside of the State for a single election or a primary or special primary election and the election immediately following it. Allows for the electronic transmission of mail-in ballots. Appropriates funds for the implementation and administration of the elections by mail program. Requires the office of elections to submit annual reports to the legislature from 2017 to 2023 regarding implementing the elections by mail program

From

Kenneth R. Conklin, Ph.D.

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TESTIMONY IN OPPOSITION

Legislators and newspaper editors are pushing the public to accept a near banning of in-person voting. The first step is that voting will be conducted entirely by mail (except for a few places where handicapped people can go) and the next step is that voting will be done entirely by internet (with a few places with computers and helpers for people who have no computers or are frightened of them).

My dear legislators, let me ask you: Are you willing to change the rules of the legislature to allow members to cast a committee or floor vote without being physically present? Why not allow a legislator to vote by proxy, or send in a vote

on a piece of paper while sitting in a hospital after a heart attack? Senator Slom, who sits on every committee because he's the sole Republican, misses most committee votes because he can't be in four places at the same time. Why not let him vote by proxy or absentee ballot? Why can't he vote on his computer while sitting in his office? The same issue applies to Congress. Why should a Senator be required to fly 2,000 miles to cast a vote? Why should he need to be wheeled in on a hospital gurney for a vote expected to be close, when it would be so much better to accommodate his disability and let him vote from home or from a hospital bed? I think you know why.

With voting by mail or internet, the possibilities are endless for fraud and abuse. Politicians, corporate bosses, or union leaders can hold rallies with chili/rice where they watch everyone fill in the ballot and sign it, and put the stamp on it and mail it for them. Politicians can go to the home of a frail elder, or to the meeting room of a nursing home, and offer to "help" fill in that confusing ballot which is so hard for someone with alzheimers to figure out and hard for people with arthritis to fill in those little ovals. Backroom elections office workers can easily stuff the ballot box, out of sight, out of mind. Hackers can reprogram the counting machine so a vote for "A" will be counted as a vote for "B."

Your unwillingness to allow proxy voting, absentee voting, or internet voting for legislators or members of Congress speaks volumes about why voting by mail or (eventually) internet should not become mandatory or even normal. I believe my vote is as valuable as yours. My vote should have the same protections against fraud or abuse as your vote in committee or on the floor. Don't deny me the precinct polling place.