

STAND. COM. REP. NO. 2450

Honolulu, Hawaii

MAR 01 2012

RE: H.B. No. 461
H.D. 1
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 461, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE UNIFORM MILITARY AND
OVERSEAS VOTERS ACT,"

begs leave to report as follows:

The purpose and intent of this measure is to ensure the
ability of members of the military and others eligible voters who
are overseas to participate in all elections for federal, state,
and local offices by adopting the Uniform Military and Overseas
Voters Act.

Your Committee received testimony in support of this measure
from the United States Department of Defense State Liaison Office,
the Federal Voting Assistance Program of the United States
Department of Defense, the Department of Defense, the Commission
to Promote Uniform Legislation, and the Oahu Veterans Center.
Testimony in opposition to this measure was submitted by the
Office of Elections, the Office of the County Clerk of the County
of Maui, and Office of the County Clerk of the County of Kauai.

Your Committee finds that military personnel and overseas
civilians face a variety of challenges when voting in United
States elections, such as difficulty in registering abroad,
frequent address changes, slow mail delivery, ballots or ballot
applications that never arrive, difficulty in obtaining
information about candidates or the issues, the inability to

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comply with notarization or verification procedures, or failure to properly comply with non-essential requirements for absentee materials. The federal Uniformed and Overseas Citizens Absentee Voting Act of 1986 and the Military and Overseas Voter Empowerment Act of 2009 have not been wholly effective in overcoming the difficulties overseas voters face. Furthermore, these federal laws do not apply to state or local elections, which results in states conducting elections under procedures that vary dramatically from state to state. The lack of uniformity between jurisdictions and the non-applicability of federal law complicate efforts to engage voters and represents a major impediment to the ability of military personnel and overseas civilians to vote.

By adopting the Uniform Military and Overseas Voters Act, this measure addresses these issues by extending the assistance and protections for military and overseas voters under existing federal law to state elections. This measure also uniformly applies the military and overseas voting process to all covered elections of which the State has primary administrative responsibility.

Your Committee has amended this measure by adopting the proposed language submitted by the Commission to Promote Uniform Legislation by:

- (1) Adding clarifying language regarding the role and authority of the chief elections officer and allowing the chief elections officer to use a system developed by the United States Department of Defense's Federal Voting Assistance Program in lieu of developing a new system in order to comply with the electronic transmission system requirement;
- (2) Deleting language regarding the methods of informing the election officials that the voter is a covered voter under the new chapter;
- (3) Adding language that aligns timeframes for overseas ballot applications with current timetables used by the chief elections officer;
- (4) Incorporating the "standing request for ballot transmission" concept, and clarifying that the standing request shall run only through December 31 of the year



of the request, instead of December 31 of the following year;

- (5) Requiring application ballots arriving after the forty-five day window be filled within two business days or as soon as allowable after the application arrives;
- (6) Adopting the "close of polls" standard for the casting and receipt of ballots to roughly have the same effect under existing Hawaii law and election procedures;
- (7) Changing the election notice publication requirement from one hundred days to as soon as practicable, and inserting language that bolsters the ability of election officials to satisfy this requirement electronically;
- (8) Prohibiting the award of attorney's fees in any private cause of action;
- (9) Making conforming amendments to the absentee voter laws;
- (10) Changing the effective date of this measure from July 1, 2020, to July 1, 2012; and
- (11) Making other 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 H.B. No. 461, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 461, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

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

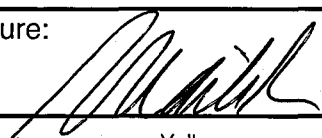


CLAYTON HEE, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* <i>HB461, HD1</i>	Committee Referral: <i>JDL</i>	Date: <i>2/2/12</i>		
<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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam				✓
TOTAL	<i>4</i>			<i>1</i>
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

Revised: 01/20/11