



**STATE OF HAWAII
OFFICE OF ELECTIONS**

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SCOTT T. NAGO
CHIEF ELECTION OFFICER

**TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE HOUSE COMMITTEE ON JUDICIARY
ON SENATE BILL NO. 827, SD 1
RELATING TO ELECTION OFFENSES**

March 14, 2013

Chair Rhoads and members of the House Committee on Judiciary, thank you for the opportunity to testify on Senate Bill No. 827, SD 1. The purpose of this bill is to prohibit any candidate from physically handling or possessing the voter registration form, request for absentee ballot form, polling place ballot, or absentee ballot of another voter. The Office of Elections supports the intent of the bill and offers the following comments.

The Voter Assistance Provision of the Voting Rights Act provides that “[a]ny voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” 42 USC § 1973aa-6. We interpret this statute to apply to the act of voting, including voting an absentee mail ballot.

We would defer to the Department of the Attorney General as to whether prohibiting a candidate from handling a voter’s ballot, to the extent such handling was related to providing assistance requested by a voter, conflicts with federal law allowing voters to receive assistance from anyone except their employer or agent of that employer or officer or agent of the voter’s union.

Thank you for the opportunity to testify in support of Senate Bill No. 827, SD 1.



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Legislative Director

**TESTIMONY FOR SENATE BILL 827, SENATE DRAFT 1, RELATING TO
ELECTION OFFENSES**

**House Committee on Judiciary
Hon. Karl Rhoads, Chair
Hon. Sharon E. Har, Vice Chair**

**Thursday, March 14, 2013, 2:00 PM
State Capitol, Conference Room 325**

Honorable Chair Rhoads and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 150 local members. On behalf of our members, we offer this testimony in support of, with proposed amendments for HB 827, relating to election offenses.

Lapses in election law produce unforeseen consequences. This bill seeks to rectify problems that may stem from inappropriate handling of ballots by candidates, professional employers, agents of such employers, and agents of unions. Hypothetically, an eager or unscrupulous candidate could resort to mishandling a ballot in order to ensure his or her electoral success, offering to assist in the completion of ballots or, in the case of absentee votes, confiscating completed ballots and mailing them in on his or her own. While we believe that such incidents, if occurring, are extremely rare, we nonetheless feel that safeguarding against such abuses is one of the primary functions of the State Legislature, which must be vigilant in protecting the integrity of our state's system of representative government. We note that elderly or disabled voters would be particularly susceptible to manipulation or intimidation and, in turn, inappropriate or illegitimate ballot assistance. Thus, this measure can be said to protect the enfranchisement of the state's most vulnerable voters, guaranteeing that their perspectives, experiences, and interests are accurately voiced in electoral processes.

That said, we encourage the committee to consider adding agents of candidate committees, noncandidate committees, and ballot issue committees to the

list of organizations prohibited from handling a voter ballot or absentee ballot of another person, while eliminating voter registration forms from the list of prohibited items. Noncandidate committees include so-called “independent expenditure committees,” more commonly known as “Super PACs,” which are gaining undue influence on elections at both the local and national levels, thanks to recent Supreme Court decisions like *Citizens United*. Ballot issue committees include electioneering groups formed to target specific ballot questions, such as constitutional amendments. We believe that these groups should be prevented from inappropriately handling ballots in a manner that may intimidate voters or fraudulently influence elections to protect against a candidate potentially using a third party to commit illicit acts. At the same time, we are concerned that prohibiting these groups from handling voter registration forms might inhibit voter registration drives at a time when Hawaii's voter turnout remains low. Accordingly, we urge you to amend proposed subsection (10) to read: “Any candidate, employee or agent of a candidate committee, employee or agent of a ballot issue committee, or employee or agent of a noncandidate committee, who, before or during an election, physically handles or possesses the voter registration form, request for absentee ballot form, polling place ballot, or absentee ballot of another person; and.”

Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance



League of Women Voters of Hawaii

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COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair and Rep. Sharon E. Har, Vice-Chair

Thursday, March 14, 2013 2:00 p.m. Conference Room 325

SB 827, SD1 Relating to Election Offenses

TESTIMONY

Janet Mason, Vice-President, League of Women Voters of Hawaii

Chair Hee, Vice-Chair Shimabukuro, and Committee Members:

The League of Women Voters of Hawaii strongly supports the intent of SB827, SD1 which is to protect voters while registering to vote, or while voting (using either an in-person ballot or by absentee ballot). This measure would make it a misdemeanor for a candidate to physically handle or possess the voter registration form, voter ballot, or absentee ballot of another person.

The League of Women Voters supports adequate safeguards to preserve the integrity of the ballot to insure fairness to all voters, and to minimize the opportunity for fraud. Should a candidate merely handling or possessing another person's voter registration form or ballot be prohibited? In our opinion, yes. We say this knowing that there may be occasions when a candidate's immediate family or friends may ask them for assistance because they are physically disabled, for example. But such situations would not be routine for a candidate, so if asked for assistance handling registration material or a ballot, the candidate should contact the County Clerk or State Office of Elections to arrange assistance for the person.

We note that in its Committee Report on this measure the Senate Judiciary Committee clarified that this bill would only apply to candidates and should not be interpreted to include campaign workers, political parties, or other organizations or individuals who may support a candidate. Such a broad interpretation would unnecessarily inhibit individuals or groups from providing assistance to voters and could serve as an unintended barrier for voters from obtaining the assistance they require to participate in the electoral system. The League believes additional precautions such as those outlined in HB 1027, HD2 are necessary for those who wish to "assist" voters. But out of an abundance of caution, we do not think a candidate should handle or possess anyone else's registration material or ballot.

We concur with the misdemeanor penalties proposed in this bill. Thank you for the opportunity to submit testimony.

THE LIBERTARIAN PARTY OF HAWAII
C/O 1658 LIHOLIHO ST #205
HONOLULU, HI 96822

TESTIMONY

To The House Committee on Judiciary

RE: SB827, SD1

To be heard Thursday, March 14, 2013 at 2PM in Room 325

Dear Sirs:

We oppose this bill. It is unconstitutionally vague and the penalties are not in accord with the level of the offence.

This bill does not clearly define the period prior to the election in which the acts outlined are to be illegal. A person may become a candidate when they set up a campaign with the campaign spending commission, take out papers to run for office, file papers to run for office, are nominated in a primary, or make a public announcement that they are running for office. All of these constitute different dates.

The bill is also very severe in describing the offense and penalty. For example a candidate may hand someone a voter registration form and they may hand it back to ask questions or assuming they are doing the expected thing. Many other minor acts could become technical violations subject to thirty days in jail if this bill becomes law. The best thing to do is simply hold it in committee so that a more thorough review of these matters can be undertaken between now and the 2014 session.

Very Truly Yours:



Tracy Ryan
Vice Chair, The Libertarian Party of Hawaii

