



**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 SENATE COMMITTEE ON JUDICIARY AND LABOR
ON SENATE BILL NO. 827
RELATING TO ELECTION OFFENSES

February 20, 2013

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

We understand the term "voter ballot" in the bill to refer to the ballot that the voter utilizes on election day at the polling place, as distinguished from the absentee ballot used at an absentee polling place or the absentee ballot used to vote by mail. Also, we understand the term "voter registration form" to refer to the application in the form of an affidavit to register to vote referred to in HRS § 11-15. If the intent of the bill is to also cover requests for absentee ballots, covered under HRS § 15-4, we would recommend that the language "request for absentee ballot" be included in the bill.

Given the criminal penalties involved in this bill, the Office of Elections expect that candidates and their committees along with political parties, political action committees or similar entities will have questions about the nuances of what constitutes a violation of this provision.

For example, is it correct to say the following: (1) the physical handling or possession of voter registration forms or absentee ballots, would include simply dropping it in the mail or at the county clerk's office on behalf of the voter; (2) the criminal penalties envisioned by this bill only apply to candidates and not to a candidate's campaign workers, supporters, political party, or other organizations that may support the candidate; and (3) the conduct of such supporters, such as voter registration drives, collecting forms, and dropping them in the mail or at the county clerk's office, will not result in criminal consequences for the candidate under this bill?

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As there may be a lot of questions and or confusion regarding this change in law from candidates and the public, it may be beneficial to clarify in the legislative history of this bill, through the committee reports, as to how it is envisioned that the law will be interpreted and enforced, so as to avoid any unintentional violations.

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



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WOMEN VOTERS®

League of Women Voters of Hawaii

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COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair and Senator Maile S.L. Shimabukuro, Vice Chair

Wednesday, 20th February 2013, 10:00 a.m. Conference Room 016

SB 827, Relating to Election Offenses

TESTIMONY

(Your Name), Legislative Committee Member, League of Women Voters of Hawaii

Chair Name/Names, Vice-Chair Name or Names, and Committee Members:

The League of Women Voters of Hawaii strongly supports the intent of SB827, which is to protect voters while registering to vote, or while voting (using either an in-person ballot or by an 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. Last week the League testified in support of HB1027, which would provide protection to voters requiring assistance to complete their ballot. HB1027 would prohibit candidates for office from improperly assisting voters in the completion of the voter's ballot. HB1027, HD1 would add voter fraud penalties (not misdemeanors) for candidates who improperly assist voters in completing their ballot. To us, such improper "assistance" verges on intimidation and should be against the law. HB1027, HD1 did not speak to individuals requiring assistance with voter registration, and in retrospect we wish we had suggested this additional precaution.

Should a candidate merely handling or possessing another person's voter registration 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. We also recognize enforcing these prohibitions may be difficult. But out of an abundance of caution, the League of Women Voters does not think a candidate should handle or possess anyone else's registration material or ballot. If asked for assistance handling registration material or a ballot, the



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candidate should contact the County Clerk or State Office of Elections to arrange assistance for the person.

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



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

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

**Senate Committee on Judiciary and Labor
Hon. Clayton Hee Chair
Hon. Maile S.L. Shimabukuro, Vice Chair**

**Wednesday, February 20, 2013, 10:00 PM
State Capitol, Conference Room 016**

Honorable Chair Hee 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.

Sometimes, elections foster unintended consequences, highlighting discrepancies in our electoral law that we may not know exist. Such was the case in 2012, when a hotly contested race for the District 30 House seat, waged between Nicole Velasco and Romy Cachola, became the subject of post-election controversy amidst concerns of voter intimidation. Cachola, who won the race by 120 votes (51 percent to 46 percent), relied more heavily on nail-in absentee voting than any other primary candidate running for public office, earning over 70 percent of his vote total through mail-in votes (mostly from one precinct, 30-02). According to at least one family living in the district, Cachola pressured an elderly woman to cast her ballot in his favor. In a Civil Beat story entitled "Concerns of voter intimidation raised in Cachola victory, published on August 16, 2012, reporter Chad Blair wrote:

The grandmother said she received her ballot on July 28. The next afternoon, Cachola visited the home when the grandmother was with the friend of a family member who did not speak Ilokano, and didn't understand what Cachola and the grandmother were talking about.

The grandmother said Cachola just kind of barged in.

"He was already in the house, saying, 'Nana, did you receive the ballot?'" she told Civil Beat in English. "I was getting ready to leave to go to a party, but he would not leave. 'No, Nana, two minutes, sit down with me.'"

"He forced me to sit down," she said. "He said, 'Did you receive your ballot?' Yes. 'Where is it?' So I took it and opened it. He then said, 'Two minutes, you can do it now.' He would not go until I finished."

The woman handed the ballot to Cachola, who opened it.

"And he just like forced me to do the voting in front of him, and I did not want to. I told him, 'I have to go, I know what to do.' So I stopped what I did, then he looked at his name. I scratched it, and he watched me do it all the way until I finished."

The woman said Cachola then told her to put the ballot in the state Elections Office envelope, to seal it and then give it to him to mail. He then left the house with the ballot in hand.

We don't wish to cast aspersions on any representative or their campaign for public office. To be clear, Cachola has never been found guilty of election fraud and we are not accusing him of that in our testimony, suggestive as Civil Beat's story may be. Instead, we feel that the questions raised with regard to District 30 electioneering evince a need to clarify state law about what constitutes mishandling of ballots as it pertains to commissions of an election offense, thereby preventing these activities from tainting future campaigns and empowering election and law enforcement officials with the legal tools necessary to prosecute those who would corrupt our system of governance.

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 the election of which the candidate seeks election to office, physically handles or possesses the voter registration form, voter 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

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 17, 2013 8:27 AM
To: JDLTestimony
Cc: tabraham08@gmail.com
Subject: *Submitted testimony for SB827 on Feb 20, 2013 10:00AM*

SB827

Submitted on: 2/17/2013

Testimony for JDL on Feb 20, 2013 10:00AM in Conference Room 016

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

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 16, 2013 9:07 PM
To: JDLTestimony
Cc: jeannine@hawaii.rr.com
Subject: *Submitted testimony for SB827 on Feb 20, 2013 10:00AM*

SB827

Submitted on: 2/16/2013

Testimony for JDL on Feb 20, 2013 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jeannine Johnson	Individual	Support	No

Comments:

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