



LATE TESTIMONY

SCOTT T. NAGO
CHIEF ELECTION OFFICER

**STATE OF HAWAII
OFFICE OF ELECTIONS**

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PEARL CITY, HAWAII 96782
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TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR
ON SENATE BILL NO. 854
RELATING TO ELECTIONS

February 8, 2013

Chair Hee and members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to testify on Senate Bill No. 854. The purpose of this bill is to require the Office of Elections to implement a program to generally require all registered voters to vote by mail or at limited polling places. Additionally, individuals would be allowed to register to vote on Election Day at these limited polling places.

The bill's provision to allow same day voter registration at limited polling places is consistent with our mission to encourage voter registration. We see no problems with implementing such a provision.

In regard to the all mail aspect of the bill, there are various administrative issues that would need to be addressed before an all mail system could be implemented by 2016. Advocates of all mail elections generally point to Oregon and Washington, in which a long process of implementing all mail elections county by county was conducted, whereby various issues could be discovered and addressed, as part of the fine tuning process.

In order to facilitate the discussion on a move to all mail elections, we felt it would be helpful if we laid out, from our perspective, the framework as to how an all mail system could operate, if the Legislature wished to move in that direction. As such, we would encourage the Senate Committee on Judiciary and Labor to consider Senate Bill No. 412, which our office drafted as a model for an all mail system under our current election laws.

The focus of Senate Bill No. 412 is on HRS § 11-91.5, which presently only authorizes the conducting of all mail elections for special elections, as opposed to regularly scheduled elections. The amendments to HRS § 11-91.5 would provide that

any election may be conducted in whole or in part by mail, including the designation of specific precincts or counties for elections conducted in whole or in part by mail.

The bill provides that the State, in lieu of its normal polling place responsibilities, will instead be responsible for the mailing, receipt, processing, and tabulation of ballots, while the counties will continue to be responsible for voter registration and traditional absentee voting, in addition to operating at least one absentee polling place on the day of the election for voters who choose not to vote by mail or who need to utilize a disability accessible voting machine.

Responsibility for the expenses related to an all mail election will be similar to our standard combined state and county election, involving polling places. Specifically, the counties would be responsible for expenses related to voter registration and absentee voting, while all other expenses would be split in half between the State and counties. The four counties, in determining their individual shares making up the counties' half of expenses, would utilize a proration formula, based on its proportion of the registered voters at the time of the General Election.

The statute, which currently authorizes all mail special elections, also provides that rules will be adopted to provide uniformity in the conduct of federal, state, and county elections by mail. Those administrative rules were promulgated in 2010. To the extent additional rules are deemed necessary, we would need to go through the standard rule making process.

Finally, the bill recognizes that making the move from our current system to an all mail system would require a significant expenditure of funds along with the need for an appropriate amount of time to research and plan a statewide conversion to an election by mail system. There is a substantive difference between how one conducts a typical all mail special election for a single contest, involving a smaller population, as opposed to a statewide all mail election involving state, federal, and county contests, and over 700,000 registered voters. The change in scale and scope will require election officials to identify and contract with the various services (mail packet preparation, mail processing) capable of meeting the system's needs. As such, the bill provides for an appropriation, to be determined, to be made in fiscal years 2013-2014 and 2014-2015 for said research and planning.

Thank you for the opportunity to testify on Senate Bill No. 854.

STEWART MAEDA
County Clerk



LATE TESTIMONY
MAILE DAVID
DEPUTY COUNTY CLERK

OFFICE OF THE COUNTY CLERK

Elections Division
County of Hawaii
Hawaii County Building
25 Aupuni Street
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TESTIMONY OF STEWART MAEDA

COUNTY CLERK, COUNTY OF HAWAII

TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

ON SENATE BILL NO. 854

RELATING TO ELECTIONS

February 8, 2013

Chair Hee and Committee Members:

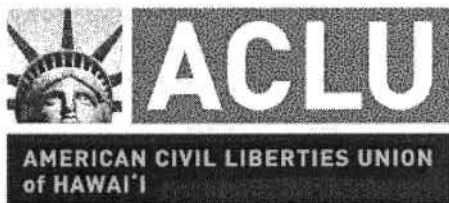
Thank you for the opportunity to offer comments on Senate Bill No. 854. This bill would require the Office of Elections to implement a program allowing voters to register to vote on Election Day and to vote by mail for all elections beginning in 2016.

The Office of the County Clerk, County of Hawai'i, takes no position but offers some comments on the bill.

Election Day Registration although well intended poses serious concerns. The responsibility of voter registration and absentee voting are statutory responsibilities of the counties. Completing the Affidavit on Application for Voter Registration is a simple process for the voter. The responsibility of ascertaining whether the information provided is acceptable for voter registration will be the burden of the precinct officials. The official will be required to determine what an acceptable form of voter identification is, what an acceptable residence address is, and most importantly assigning the vote to their correct district/precinct. These functions are currently the responsibility of permanent staff in the County Elections office. In the Election office these employees have access to all of the necessary information needed to determine that voters are registered correctly before voting on Election Day.

We believe maximizing voter registration is one of the most important functions of our office as well as maintaining the integrity of the voter registration list.

Thank you for the opportunity to testify on Senate Bill No. 854.



LATE TESTIMONY

Committee: Committee on Judiciary and Labor
Hearing Date/Time: Friday, February 8, 2013, 10:00 a.m.
Place: Conference Room 016
Re: Testimony of the ACLU of Hawaii in Support of S.B. 854,
Relating to Elections

Dear Chair Hee and Members of the Committee on Judiciary and Labor:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of S.B. 854, Relating to Voting, which will allow voters to vote by mail for all elections.

S.B. 854 will ensure that all people in Hawaii have an equal opportunity to vote by mail in elections. Voting by mail will encourage active participation in the electoral process and will allow those who find it difficult or even impossible to get to the polls because of family, work or other obligations to exercise their right to vote.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney and Legislative Program Director
ACLU of Hawaii

About the American Civil Liberties Union of Hawaii

The American Civil Liberties Union of Hawaii (“ACLU”) has been the state’s guardian of liberty for 47 years, working daily in the courts, legislatures and communities to defend and preserve the individual rights and liberties equally guaranteed to all by the Constitutions and laws of the United States and Hawaii.

The ACLU works to ensure that the government does not violate our constitutional rights, including, but not limited to, freedom of speech, association and assembly, freedom of the press, freedom of religion, fair and equal treatment, and privacy.

The ACLU network of volunteers and staff works throughout the islands to defend these rights, often advocating on behalf of minority groups that are the target of government discrimination. If the rights of society’s most vulnerable members are denied, everyone’s rights are imperiled.

American Civil Liberties Union of Hawaii
P.O. Box 3410
Honolulu, Hawaii 96801
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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 07, 2013 5:19 PM
To: JDLTestimony
Cc: peggygeddis@msn.com
Subject: Submitted testimony for SB854 on Feb 8, 2013 10:00AM

SB854

Submitted on: 2/7/2013

Testimony for JDL on Feb 8, 2013 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Peggy Geddis	Individual	Oppose	No

Comments: Absolutely not. We must keep the integrity of our election process.

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: Thursday, February 07, 2013 10:20 AM
To: JDLTestimony
Cc: kathleenLcampbell@gmail.com
Subject: *Submitted testimony for SB854 on Feb 8, 2013 10:00AM*

SB854

Submitted on: 2/7/2013

Testimony for JDL on Feb 8, 2013 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
kathleen campbell	Individual	Oppose	No

Comments:

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hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 07, 2013 10:34 AM
To: JDLTestimony
Cc: ndavlantes@aol.com
Subject: *Submitted testimony for SB854 on Feb 8, 2013 10:00AM*

SB854

Submitted on: 2/7/2013

Testimony for JDL on Feb 8, 2013 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	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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SENATE JUDICIARY AND LABOR COMMITTEE

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

February 8, 2013, 10:00 a.m. conference room 016

TESTIMONY **S.B. 854 ELECTIONS**

Marian Wilkins, Legislative Committee Member, League of Women Voters of Hawaii

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

The League of Women Voters of Hawaii supports the intent of S.B. 854, Elections. We note that several related bills have been introduced this session which seems to mean that there is growing support for the effort, including from the Governor.

The League of Women Voters has been actively studying vote-by-mail in Hawaii since 1997. In 1999, our members adopted an official position supporting vote by mail, together with adequate safeguards to preserve the integrity of the ballot used in absentee voting and elections by mail, to insure fairness to all voters, and to minimize the opportunity for fraud.

THERE ARE SUPPORTERS AND OPPONENTS OF VOTE BY MAIL

Some Reasons to Vote-by-Mail

There are many good reasons to implement statewide voting-by-mail, including ease and convenience for the voter, more time for thoughtful and informed study of the ballot, production of a good paper trail for manual auditing purposes, and reduced expenses at polling places (with fewer staff and less equipment required for the precincts). The polls are not open long enough for many working people, especially those who have long commutes to and from work, so for these voters being able to vote by mail has the advantage of not having to miss work or stand in lines in the rain or hot sun to vote.

Hawaii's current hybrid voting system, with a combination of voting at polling sites while also allowing unlimited absentee balloting is certainly more complicated and probably more expensive than vote-by-mail only .¹

¹ This is one of the important questions that should be investigated between now and 2016.



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When Hawaii registered voters do vote, they like and increasingly use absentee ballots, with some 25.4% of voters casting absentee ballots in the 2008 general election, and 28.4% in the 2012 general election.

Some Issues with Vote by Mail

Privacy and Intimidation-

It is true that with vote-by-mail a household member could look over one's shoulder to see how you voted. The secrecy of *how* one votes is not guaranteed when voting by mail. But once the ballot is completed and the voter puts the ballot in a "secrecy" envelope that contains no identification of the voter, this risk is greatly reduced. Then the secrecy envelope is put into an outer envelope which the voter must sign. When voting by mail or voting absentee, we do not believe there is a problem in guaranteeing the secrecy of the ballot after it arrives at the counting center or elections office, where the signature on the outside envelope is compared to the signature that appears on the voter registration form. After verification, the privacy envelope containing the ballot is removed from the outer envelope, and then opened in a separate process. Once the privacy envelope is separated from the outer envelope, there is no way to reestablish which ballot goes with which name.

Another threat is that a voter will be enticed or coerced into casting a vote that's different from his or her true preference. This kind of corruption is very hard for voting officials to detect. And more insidious, some voters themselves may not even realize that it's unethical.

Fraud –

Election officials need to be able to effectively track the number of ballots sent or returned under a vote-by-mail system. Bar codes on envelopes are widely available to help with this tracking, and these can also enable a voter to check the status of their individual ballot.

Compared with verifying signatures at poll sites (which is no longer required in Hawaii), no ballot can be accepted without signature verification. Signature verification technology is now available to enhance this labor intensive process.



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A Last Word about Voter Turnout

We must consider vote-by-mail knowing there are no guarantees such an approach will result in robust (or even increased) voter turnout. In a 2008 study of Oregon's voting system results suggested that Oregon's voter turnout increased by about 10% of registered voters in both presidential and mid-term elections due to the vote-by-mail reform there.² The latest research of what happened in Washington State shows modest two to four point effect increase in voter turnout from all-mail elections, but that the effect begins to decay as time passes.³

But other previous research drawing on data from a large sample of California counties in two general elections found that voting by mail does not deliver on the promise of greater participation in general elections. In fact, voters who were assigned to vote by mail turned out at lower rates than those who were sent to a polling place. Analysis of a sample of local California special elections, by contrast, indicates that voting by mail can increase⁴ turnout in these otherwise low-participation contests.⁵

WHAT WE LIKE ABOUT SB854

A More Realistic Target Date

S.B. 854 authorizes the Office of Elections to develop a statewide system mandating vote by mail elections by 2016. This is actually an ambitious target date; a shorter time span would not allow for adequate development of the system. The respective responsibilities of the State and Counties must be sorted out before proceeding, and more analysis must be done to quantify the long-term cost-benefit of a change. The State Office of Elections and the County Clerks need sufficient time to prepare any new policies and procedures for this change, to analyze what resources are needed to carry out their responsibilities.

² Richey, S. (2008), Voting by Mail: Turnout and Institutional Reform in Oregon. *Social Science Quarterly*, 89: 902–915. doi: 10.1111/j.1540-6237.2008.00590.x

³ Gerber, Alan S., Huber, Gregory A. and Hill, Seth J. "Identifying the Effects of Elections Held All-Mail Turnout: Staggered Reform in the Evergreen State," June 29, 2012. Center for the Study of American Politics.

⁴ Kousser, Thad and Megan Mullin, "Does Voting by Mail Increase Participation? Using Matching to Analyze a Natural Experiment," *Political Analysis*, *Political Analysis* (2007) 15:428–445 doi:10.1093/pan/mpm014



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Our understanding of a key factor in Oregon's successful vote-by-mail system is that Oregon planned this change over the course of ten years, gradually investing in vote-by-mail infrastructure and systematically preparing voters for this modernization.

Everyone Receives a Mailed Ballot, but Voting in Person is Still Possible

Importantly, this bill does not propose to **force** people to vote-by-mail. Rather, voters could still vote at a precinct if they prefer, by turning in their mailed ballot and envelope and voting a regular ballot. While supporting voting by mail, the bill provides that a limited number of polling places be made available for voters with special circumstances, such as no mailing address, or someone who does not want to receive a ballot at home. The State has already identified early voting polling locations, and these could receive drop-off ballots from those who do not want to mail them in.

Voters would be Prepared for Conversion to Vote-by-Mail

S.B. 854 has a provision to educate the public about the new system of voting so that there will be no surprises come Election Day. It also mandates that the Office of Elections provide updates to the legislature on the progress of implementing voting by mail starting in 2014.

The League would like to see a more robust voter education program, sponsored by the Office of Elections. This would include instructions about the mechanics of voting. Prospects for better use technology such as videos and web broadcasts are good, and League supports moving forward so that voters are better informed about vote-by-mail.

Election Day Registration

Last year the legislature passed a bill permitting online registration effective in 2016. With this online system in place, people who want to go to walk-in voting centers on Election Day should be able to vote that day, after completing all requirements for registering to vote, and after Office of Elections officials have used the online voter registration database to verify they have not already registered and are otherwise eligible to vote.

Polling places would also be able to register new voters or those that must reregister because of name change, new address or just updating their signature, which may have changed over the years. Those that have registered people to vote know that many do not realize they must reregister when any of the above changes take place.

Hawaii election law already allows same day registration but it is cumbersome and time consuming at this time. The ballots are provisional. This was understandable because there was



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so easy way to check the information in a timely manner. With the new data base mechanism available it will be possible to register voters and count that ballot on Election Day.

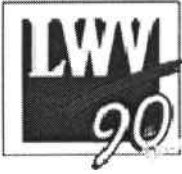
A MORE COMPREHENSIVE APPROACH IS REQUIRED

Now, having said what we like in SB854, we point out that individual election bills before you in the 2013 session address many important issues, but no bill includes everything that should be in vote-by-mail legislation.

The League of Women Voters has been studying SB854 and other bills from the 2013 session, and we believe key bills should be combined into a more comprehensive vote-by-mail package. In our previous studies, we found that jurisdictions that tried voting by mail without adequate laws and rules did not fare well. There were irregularities which caused mistrust and that was the end of voting by mail. But the state of Oregon has worked with voting by mail for years now, having permanently installed vote-by-mail in 1999 by an initiative of the people. This means if the people didn't like it, they could have voted it out. So Oregon provides a model for workable legislation and rules.

We do not support all features of the bills mentioned below, but now point out features of the measures we do like.

- 1) First things first. A formula for allotting costs and responsibilities between the state and counties is essential. (See S.B. 412)
- 2) While we do not agree that there should be a walk-in voting center in every precinct as required in SB 720 and SB579, these two bills contain many other good provisions, permitting the Chief Election Officer, with the advice from the county clerks and election administrators, to establish rules and procedures for signature verification of returned ballots.
- 3) We should strengthen precautions against voter intimidation. A short statement printed on the ballots about the secrecy of the absentee ballot and a warning about penalties for voter fraud and unduly influencing or trying to influence a person on how to vote or not to vote is a good idea. (HRS 19-3 (6), SB 720 or the more inclusive proposal in HB 1027 all suggest this.
- 4) Make secure drop-off ballot deposit boxes available at convenient locations such as fire or police stations, libraries, or if manned, in parking lots, etc., as called for in SB 579.
- 5) We do not recommend pre-paying postage for the returned ballots, as recommended in SB579. The expense would be enormous. With all the opportunities available for dropping off



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ballots, anyone choosing not to mail the ballot using their own postage should have no problem getting it in on time.

Finally, we respectfully suggest that everyone check the Multnomah County (Oregon) website to watch the video on how a partly mechanized vote by mail election is operated. It's quite a system and very suitable for large metropolitan areas (Portland and surroundings are in Multnomah County and about the size as Honolulu). As someone once said, a picture is worth a thousand words and this video is worth a lot more.

Thank you very much for your time and consideration of the issue of voting by mail. It is not an easy topic but, with care, it will work very well.