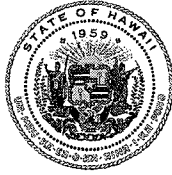


**HB2590**

**HD1**



**STATE OF HAWAII  
OFFICE OF ELECTIONS**

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PEARL CITY, HAWAII 96782  
[www.hawaii.gov/elections](http://www.hawaii.gov/elections)

SCOTT T. NAGO  
CHIEF ELECTION OFFICER

TESTIMONY OF THE  
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS  
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR  
ON HOUSE BILL NO. 2590, HD 1  
RELATING TO ELECTIONS

March 14, 2014

Chair Hee and members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to testify in support of House Bill No. 2590, HD 1. The purpose of this bill is to provide for opportunities to register and vote at an absentee polling place or on election day.

The Office of Elections is in support of this bill, as any qualified member of the public wishing to vote should be able to register and vote. Presently, if a citizen does not register by the voter registration deadline, which is the thirtieth day prior to the election, that person cannot vote in that election. House Bill No. 2590, HD 1 would allow a person to register and vote on election day or at an absentee polling place.

In previous discussions regarding election day registration, the issue of voter fraud has been raised. In response, it has been noted by election officials that our laws provide that any person rightfully in the polling place on election day, may challenge the right of a person to be, or to remain registered as a voter in any precinct, on the bases that: (1) the voter is not the person he/she claims to be; or (2) the voter is not a resident and therefore not entitled to vote in that precinct. HRS § 11-25(b).

The decision can then be appealed to the relevant Board of Registration, whose decision can subsequently be appealed to the Intermediate Court of Appeals. HRS §§ 11-26 & 11-51. Given this appeal process, the voter at the polling place is permitted to vote a challenged ballot, which is placed in a sealed envelope, to be subsequently counted or rejected depending on the resolution of the matter.

The implementation of election day registration varies significantly depending on the jurisdiction and the level of control that election officials wish to control over the integrity of the voter registration rolls. Additionally, it is impacted by the manner in which polling place operations and voter registration responsibilities are handled in a particular state.

In the State of Hawaii, the counties are statutorily responsible for voter registration and absentee voting. HRS §§ 11-11 & 15-5. As for the operations of polling places and the counting of ballots, the Office of Elections is responsible for those duties. This is different from other states in which the counties also operate the polling places. As for voter registration, the state is also centralized in that it has been utilizing a statewide voter registration system, since the 1980s, that ties all the county voter registration rolls together to ensure that the rolls are as accurate as possible (i.e. a voter is not able to appear registered in more than one county and there are statewide procedures for updating the voter registration rolls).

This ability to centralize operations is due, in part, to the straight forward organization of our state, in which there are four counties for election purposes, supporting 232 precincts, as compared to a mainland jurisdictions, such as Minnesota, an election day registration state, that has 87 counties and 856 precincts.

Any shift toward election day voter registration and absentee polling place registration, will require the ability to access the statewide voter registration system on a real time basis, in order to ensure the integrity of the voter registration rolls.

Currently there are eleven jurisdictions that have authorized election day registration. Of these eleven there are some jurisdictional differences in how they approach the matter. The main jurisdictional difference is that most of these jurisdictions philosophically permit individuals to register to vote and actually cast their ballot, before the voter registration information is updated to whatever voter registration system they have, as this typically cannot occur until after the election.

In those jurisdictions, they can only prosecute an individual on the back end, if it is determined that the person was not entitled to vote (i.e. voter was in the wrong polling place, the person consciously chose to vote at more than one polling place, in flagrant disregard of the law, or some other reason). Notice of such an issue can occur when a voter registration confirmation card, which is

typically sent to an election day registrant after the election, is returned as undeliverable to the address provided.

On the other side of the spectrum are the states of Montana and Colorado, which exercise tight control over their voter registration rolls, by limiting election day registration to the county election office, a location designated by the election administrator, or locations designated by statute. These locations have direct access to their statewide voter registration system.

The present bill would have the State of Hawaii allow individuals to register to vote and vote at all polling places across the state as opposed to a few select locations. Consistent with an election official's responsibility to ensure the integrity of the voter registration rolls, all counties have expressed that the statewide voter registration system must be accessed, checked, and updated before an individual can be registered and allowed to vote.

The result of this is essentially the difficult situation of trying to allow as much access as possible to register to vote, as occurs in nine mainland jurisdictions, while attempting to exercise the level of control that two jurisdictions can only accomplish by limiting voter registration to select locations that are available to register to vote, and that the rest of the country controls through having a voter registration deadline in advance of the election.

With that in mind, we recommend various changes to our election laws to help in ensuring the orderly administration of election day voter registration and absentee polling place registration. Related to those administrative changes, we recommend a significant ongoing commitment to provide the necessary funding to implement the program.

For ease of reference, our comments will track the various sections of the bill.

In Section 1 of the bill, as it relates to which polling places that an individual will be permitted to register to vote and vote and what documentation will be required, we have a few administrative comments.

This section makes reference to "proof of residence" being required as opposed to "proof of identity." We wish to clarify that while most of the items referenced in subsection (b)(2) are similar to what is required in the Help America Vote Act, for those who register to vote by mail, those items in that law are meant to help establish the identity of the applicant as opposed to their residence.

There are no proof of identity or residency requirements under HAVA for voters who register to vote in person. Such matters are left to the states to decide.

To the extent, as a matter of policy, the Legislature seeks to require some type of proof before allowing someone to register to vote on election day, other than a self-affirming affidavit, we would recommend that subsection (b)(2) be reworded to say "Proof of identity, which shall include:" and that the items be replaced with "a current and valid photo identification," "a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter," which are found in HAVA, Section 303(b)(2), for individuals who register to vote by mail.

Additionally, as there may be individuals such as the homeless or others, who may not have such identification, we would recommend language that says "a signed document on letterhead, verifying the identity of the individual by an administrator, or the administrator's designee of a nursing home, homeless shelter, or any other entity that is registered with, receives funds, or is otherwise formally associated with the federal, state, county, or city government." Further, we would recommend that "verification of the identity of the individual, by a registered voter properly in the polling place" also be included, as that procedure is recognized in certain states. Finally, language that provides that "any other verification of identity approved of by the county clerk or chief election officer," would cover any other matters that might arise, related to the implementation of legal decisions concerning identification at the polls, which is a controversial topic.

Consistent with the provisions of HAVA, which provide for the issuance of a provisional ballot to a voter who claims to be properly registered, but whose name cannot be found in the voter registration rolls, we would recommend that the bill be amended to clarify that all applicants whose registration application is denied, will be permitted to vote a provisional ballot, as that term is used under HAVA (i.e. "(f) All applicants whose application to register to vote on election day or at an absentee polling place is declined will be permitted to vote a provisional ballot, as that term is used under the Help America Vote Act, subject to the applicant providing the necessary proof of identity to the county clerk, or chief election officer in a state only or federal only special election, within 2 calendar days of the election."

We wish to explain why "proof of residency," as the bill refers to might have more issues in term of implementation as opposed to "proof of identity." Residency is determined by the broad rules stated in HRS § 11-13. Generally speaking, the statement of residency on the voter registration application is taken

as prima facie evidence of residency unless there is a challenge to the ability of the person to be a registered voter. HRS § 11-15(b). It is then litigated as a question of fact through the voter registration challenge process in HRS §§ 11-25, 11-26, and 11-51.

The documents stated in subsection (b)(2) do not necessarily resolve such disputes, as individuals can have their driver's license, state identification card, bank statement, utility bill, and so forth, display a post office box or similar non-resident address. Many individuals on the neighbor islands live in areas that have non-standard addresses and may use post office boxes to receive their mail. Additionally, even those with standard resident addresses may for their own reason choose a different mailing address. Finally, as some types of documents, such as a driver's license, do not have to be renewed for several years, there is a possibility that the address on the license is not current.

Under these circumstances, the previously stated items that help to establish identity may not resolve residency questions. It would be difficult to explain to a voter that despite their presentation of a driver license or state identification card with a post office box address that we cannot permit them to register to vote, even though if they had registered to vote by mail, under HAVA, they would have been permitted.

Specifically, election officials would have taken his application, as prima facie evidence that all statements in his registration application were correct, including residency. Only if his or her registration was challenged by another voter, could residency be disputed. Even then, the voter would have had the opportunity to vote a challenged ballot and the right to a formal process, through which the challenger would need to prove that the voter was not in fact residing at the place he claimed was his residence. In the situation of a voter with a non-standard residence address, who has a post office box address on their driver license, they would have time to get a copy of property records or similar documents that would have their actual physical address, such as a tax map key number.

If it is determined that "proof of residency" should remain in the bill, in its present form, then the bill should be amended, as previously mentioned, to clarify that all applicants whose registration application is denied, will be permitted to vote a provisional ballot, as that term is used under HAVA (i.e. "(f) all applicants whose application to register to vote on election day is declined will be permitted to vote a provisional ballot, as that term is used under the Help America Vote Act, subject to the applicant providing the necessary proof of residency

documentation to the county clerk, or chief election officer in a state only or federal only special election, within 2 calendar days of the election”).

We have no proposed changes to Section 2 of the bill.

In regard to Section 3 of the bill, related to absentee polling places, we would recommend that HRS § 15-7(b) be amended to state the following:

The absentee polling places established at the office of the respective clerks shall be open no later than ten working days before election day, [and all Saturdays falling within that time period], or as soon thereafter as ballots are available; provided that [all absentee polling places shall be open on the same date statewide, as determined by the chief election officer] the day immediately prior to an election, absentee polling places may not be open and that day will not be considered a working day. For purposes of this section, a working day includes Saturday. Absentee polling places established at other locations may follow a different schedule.

This would address the previously stated concern that there may be administrative or logistical issues why certain locations could not handle voter registration, in addition to absentee voting, or that there may be issues regarding the particularly availability of the site. As it relates to the day immediately prior to the election, staff is focused on preparations for election day and there needs to be an accounting of who has already voted by absentee ballot, so as to be able to update the election day poll books to reflect who has already voted and as such will not be permitted to vote on election day.

As Section 3 of the bill, includes the same language regarding “proof of identity” found in Section 1 of the bill, we recommend the same previously mentioned changes.

For Section 4 of the bill, we recommend that the reference to the utilization of Help America Vote Act (HAVA) funds be removed, as it is inconsistent with federal law that provides the funds are to be used for limited purposes that comply with the mandates of HAVA and are consistent with the state’s HAVA plan. Additionally, the determination to expend funds, to the extent such expenditures could be authorized under HAVA, would need to be administratively made by the Chief Election Officer.

As the Office of Elections supports election day registration, it intends, to the extent permitted by HAVA, its state plan, and the availability of limited funds, to make specific expenditures that will support election day registration.

However, a preliminary review of HAVA, the state implementation plan, and audit decisions by the Inspector General of the U.S. Election Assistance Commission (EAC), reflect that it is not clear that significant funds can be earmarked, by the Chief Election Officer, for the proposed voter registration activities.

The state implementation plan, consistent with the grant of HAVA funds, allocated money primarily toward voting machines, voter education programs, precinct official recruitment campaigns, precinct official training, and the development and maintenance of a statewide voter registration system.

As it relates to the availability of HAVA funds, we would note that the EAC has reminded all states that there should not be the expectation of additional funds in the future, as any such appropriations would be subject to congressional approval. Over 90% of the HAVA funds received by the Office of Elections were received in 2003 and 2004, shortly after the enactment of HAVA in 2002. Since that time, Congress has appropriated significantly smaller amounts of funds in 2008, 2009, 2010, and 2011. The most recent appropriation in 2011 for Hawaii was \$6,454. With this in mind, we have no expectation of any significant funds, if any, coming from Congress in the near future.

The bulk of the money has been spent on the migration to the new voting systems required by HAVA, including the direct recording electronic voting machines (DREs) required for disability access under HAVA. What remains is a balance of approximately \$6,815,921. The majority of these funds have been earmarked for the development of a new statewide voter registration system, including an online voter registration system, to replace our current mainframe system, operated by the City and County of Honolulu, which has been in operation since the 1980s. We have issued an RFP for this and we expect to award a contract before the end of the fiscal year.

Having said that, we expect that within the requirements of HAVA, we will continue to make use of any remaining HAVA funds toward voter education programs, precinct official recruitment campaigns, and precinct official training. These programs, campaigns, and training, would be modified to include a component regarding election day voter registration.



Resolution over whether HAVA funds could be used for anything, beyond these categories of expenditures explicitly authorized by HAVA, would require a request to the EAC for an advisory opinion. However, the EAC has informed us that it cannot provide advisory opinions, as it currently lacks a quorum of its commission, due to vacancies in its membership not being filled.

However, the implementation of this bill will not rest on whether limited federal funds can be used for what will become an ongoing operational expense. Instead, an ongoing commitment in general funding will be necessary to allow election day registration and absentee polling place registration to exist.

With this in mind, we turn to Section 5 of the bill, which appropriates an unspecified amount of funds to be expended by the Office of Elections to permit the counties to implement this bill. As the implementation of election day registration will be an ongoing expense, we would note that the present appropriation should be an ongoing commitment to properly fund the successful implementation of election day registration.

Given that the bill only proposes an appropriation in fiscal year 2014-2015 and the implementation of absentee polling place registration does not begin until 2016 and election day registration does not start until 2018, it is difficult to state what funding would be required for fiscal year 2014-2015.

As it is our understanding that the Legislature wishes to know what the future fiscal impact would be on the State of Hawaii, if this bill were to pass, we have attempted to outline in the attached budget what is required for the implementation of absentee polling place registration in 2016 and the implementation of absentee polling place and election day registration in 2018.

The implementations costs are primarily driven by the need to ensure that election officials are able to access, check, and update the statewide voter registration system before individual can be registered and allowed to vote. This is different than other jurisdictions, as previously noted, who do not take such steps to ensure the integrity of the voter registration rolls.

There are two main ways to accomplish this interaction with the statewide voter registration system that has been expressed by the counties. The different approaches are based on the logistical issues that each county faces.

Given the amount of polling places in the City and County of Honolulu, it has previously stated its approach would be the following:

- Two (2) stipend voter registration officials assigned to each of the 132 polling locations
- An associated call center support operation (50 telephone operators, each with a computer terminal for access to the statewide voter registration system);
- An all-in-one printer/copier machines at polling sites; and
- Associated staffing for recruitment and training of these officials.

The County of Hawaii with 41 polling places, the County of Maui with 34 polling places, and the County of Kauai with 15 polling places, appear to desire to interact with the statewide voter registration system directly in the polling place. This would mean the following:

- A stipended election official who has received extensive training on voter registration issues will be assigned to each of the 90 polling places. This individual will be paid separate stipends for a day of training, a day of work on election day, and a day to debrief with the counties on voter registration applications that were submitted.
- Access to the statewide voter registration system through a computer at each polling place would be required, along with any setting up and testing of computer equipment prior to election day at every polling place, with relevant upgrades made to the polling place to permit internet access.
- An all-in-one printer/copier machines at polling sites; and
- Associated staffing for recruitment and training of these officials.

The attached budget outlines the cost of implementing these models for election day registration, based on our understanding of the models that the counties have been discussing. However, we defer to the specific budget estimates and models that the counties may submit to the committee in their testimony.

As it relates to absentee walk voter registration, it is our understanding that the City and County of Honolulu has indicated approximately \$35,000 per election cycle and the County of Kauai has stated \$20,000. While no specific dollar amounts are stated by the County of Hawaii and County of Maui, we

assume a similar amount might be requested. As such, one would envision approximately \$100,000 per election cycle being necessary for the counties to implement absentee walk voter registration.

We have no comments on Section 6 of the bill.

As for Section 7 of the bill regarding the effective date, we would recommend that the sunset language relating to HRS § 15-7 be removed, as the changes envisioned by the bill in HRS § 15-7 need to remain in place after December 31, 2017.

However, given that the successful ongoing implementation of absentee polling place and election day registration is contingent on appropriate funding and staffing, we would recommend that the bill sunset on December 31, 2018, in order to permit further discussion about the program moving forward.

This would permit the counties to have the necessary discussion with the Legislature as to whether it will fund this expansion of voter registration and the Legislature can review the implementation of the program in 2016 and 2018, to determine how it wishes to proceed.

While it is our expectation that the program will be successful, if properly funded and staffed, we do not wish to create a situation in which, the counties due to a lack of funding have to restrict how many polling places can be opened that have a registration clerk.

Specifically, if the counties cannot provide a registration clerk and statewide voter registration access at a polling place, due to budgetary constraints, then the polling place will not be permitted to open, and polling place consolidations will need to occur.

A reduction in polling places would create an unnecessary burden on voters who will have to travel longer distances and deal with longer lines. However, this would need to be balanced against the remaining polling places being able to provide the opportunity to vote to individuals who were not able to register by the current voter registration deadline of thirty days prior to the election.

Thank you for the opportunity to testify in support of House Bill No. 2590, HD 1.

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# A BILL FOR AN ACT

RELATING TO ELECTIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4           " §11- Late Registration. (a) Notwithstanding the  
5 closing of the general county register pursuant to section 11-24,  
6 an individual who is eligible to vote but is not registered to  
7 vote may register by appearing in person:

8           (1) Prior to the day of the election, at any absentee  
9           polling place established pursuant to section 15-7 in  
10           the county associated with the person's residence.

11           (2) On the day of the election, at the polling place  
12           associated with the individual's legal residence.

13           (b) The county clerk shall designate a registration clerk,  
14 who may be an election official, at each of the absentee polling  
15 places in the county, established pursuant to section 15-7, prior  
16 to the day of the election and at each of the polling places in  
17 the county on the day of the election. The registration clerk

# H.B. NO.

1 shall process registration applications for individuals not  
2 registered to vote and shall require each individual to submit:

3 (1) A signed affidavit in accordance with section 11-15,  
4 which shall include an affirmation of qualification to vote and a  
5 statement acknowledging that the individual:

6 (A) Has not voted and will not vote at any other  
7 polling place for that election; and

8 (B) Has not cast or will not cast any absentee ballot  
9 pursuant to chapter 15 for that election; and

10 (2) Proof of identity, which shall include:

11 (A) A current and valid photo identification;

12 (B) A copy of a current utility bill, bank statement,  
13 government check, paycheck, or other government  
14 document that shows the name and address of the  
15 voter;

16 (C) A signed document on letterhead, verifying the  
17 identity of the individual by an administrator, or  
18 the administrator's designee, of a nursing home,  
19 homeless shelter, or any other entity that is  
20 registered with, receives funds, or is otherwise  
21 formally associated with the federal, state, county  
22 or city government;

# H.B. NO.

1           (D) Verification of the identity of the individual, by  
2           a registered voter properly in the polling place;

3           or

4           (E) Any other verification of identity approved of by  
5           the county clerk or Chief Election Officer.

6           (c) Registration may be challenged in accordance with  
7           section 11-25.

8           (d) Notwithstanding subsection (a), late registration  
9           pursuant to this section may also be used by an individual who is  
10           registered to vote but whose name cannot be found on the precinct  
11           list for the polling place corresponding to the individual's  
12           address.

13           (e) The clerk of each county shall add individuals who  
14           properly register under this section to the respective general  
15           county register. Within thirty days of registration at the  
16           polling place, the county clerk shall mail to the individual a  
17           notice that shall include the individual's name, address,  
18           district and precinct, and date of registration. A notice mailed  
19           pursuant to this subsection shall serve as prima facie evidence  
20           that the individual is a registered voter as of the date of  
21           registration.

# H.B. NO.

1        (f) All applicants whose application to register to vote on  
2 election day or at an absentee polling place is declined will be  
3 permitted to vote a provisional ballot, as that term is used  
4 under the Help America Vote Act, subject to the applicant  
5 providing the necessary proof of identity to the county clerk, or  
6 chief election officer, in a state only or federal only special  
7 election, within 2 calendar days of the date of the election."

8        SECTION 2. Section 11-25, Hawaii Revised Statutes, is  
9 amended by amended subsections (a) and (b) to read as follows:

10        "(a) [~~Challenging prior to election day.~~] Any registered  
11 voter may challenge the right of a person to be or to remain  
12 registered as a voter in any precinct for any cause not  
13 previously decided by the board of registration or the supreme  
14 court in respect to the same person; provided that in an election  
15 of members of the board of trustees of the office of Hawaiian  
16 affairs the voter making the challenge must be registered to vote  
17 in that election. The challenge shall be in writing, setting  
18 forth the grounds upon which it is based, and be signed by the  
19 person making the challenge. The challenge shall be delivered to  
20 the clerk who shall forthwith serve notice thereof on the person  
21 challenged. The clerk shall, as soon as possible, investigate  
22 and rule on the challenge.

## H.B. NO.

1           (b) [~~Challenging on election day.~~] Any voter rightfully in  
2 the polling place, including absentee polling places established  
3 pursuant to section 15-7, may challenge the right to vote of any  
4 person who comes to the precinct officials for voting purposes.  
5 The challenge shall be on the grounds that the voter is not the  
6 person the voter alleges to be, or that the voter is not entitled  
7 to vote in that precinct; provided that only in an election of  
8 members of the board of trustees of the office of Hawaiian  
9 affairs, a person registered to vote in that election may also  
10 challenge on the grounds that the voter is not Hawaiian. No  
11 other or further challenge shall be allowed. Any person thus  
12 challenged shall first be given the opportunity to make the  
13 relevant correction pursuant to section 11-21. The challenge  
14 shall be considered and decided immediately by the precinct  
15 officials and the ruling shall be announced. "

16           SECTION 3. Section 15-7, Hawaii Revised Statutes, is  
17 amended to read as follows:

18           "**§15-7 Absentee polling place[.]; registration at absentee**  
19 **polling place.** (a) Absentee polling places shall be established  
20 at the office of the respective clerks, and may be established at  
21 such other sites as may be designated by the clerk under the  
22 provisions prescribed in the rules adopted by the chief election



## H.B. NO.

1 officer. Section 11-21 relating to changes and transfers of  
2 registration shall apply to the absentee polling place as though  
3 it were the precinct at which a person's name properly appears on  
4 the list of registered voters.

5 (b) The absentee polling places established at the office  
6 of the respective county clerks shall be open no later than ten  
7 working days before election day~~[, and all Saturdays falling~~  
8 ~~within that time period]~~, or as soon thereafter as ballots are  
9 available; provided that ~~[all absentee polling places shall be~~  
10 ~~open on the same date statewide, as determined by the chief~~  
11 ~~election officer.]~~the day immediately prior to an election,  
12 absentee polling places may not be open and that day will not be  
13 considered a working day. For purposes of this section, a  
14 working day includes Saturday. Absentee polling places  
15 established at other locations may follow a different schedule.

16 (c) An individual who is eligible to vote but is not  
17 registered to vote may register by appearing in person at the  
18 absentee polling place for the county in which the individual  
19 maintains residence.

20 (d) The county clerk shall designate a registration clerk,  
21 who may be an election official, at each of the absentee polling  
22 places established in the county. The registration clerk shall

# H.B. NO.

1 process registration applications for individuals not registered  
2 to vote and shall require each individual to submit:

3 (1) A signed affidavit in accordance with section 11-15,  
4 which shall include an affirmation of qualification to vote and a  
5 statement acknowledging that the individual:

6 (A) Has not voted and will not vote at any other  
7 polling place for that election; and

8 (B) Has not cast or will not cast any absentee ballot  
9 pursuant to chapter 15 for that election; and

10 (2) Proof of identity, which shall include:

11 (A) A current and valid photo identification;

12 (B) A copy of a current utility bill, bank statement,  
13 government check, paycheck, or other government  
14 document that shows the name and address of the  
15 voter;

16 (C) A signed document on letterhead, verifying the  
17 identity of the individual by an administrator, or  
18 the administrator's designee, of a nursing home,  
19 homeless shelter, or any other entity that is  
20 registered with, receives funds, or is otherwise  
21 formally associated with the federal, state, county  
22 or city government;

# H.B. NO.

1           (D) Verification of the identity of the individual, by  
2           a registered voter properly in the polling place;

3           or

4           (E) Any other verification of identity approved of by  
5           the county clerk or Chief Election Officer.

6           (e) Registration may be challenged in accordance with  
7           section 11-25.

8           (f) Notwithstanding subsection (c), late registration  
9           pursuant to this section may also be used by an individual who is  
10           registered to vote but whose name cannot be found on the precinct  
11           list for the polling place corresponding to the individual's  
12           address.

13           (g) The clerk of each county shall add individuals who  
14           properly register under this section to the respective general  
15           county register. Within thirty days of registration at the  
16           polling place, the county clerk shall mail to the individual a  
17           notice that shall include the individual's name, address,  
18           district and precinct, and date of registration. A notice mailed  
19           pursuant to this subsection shall serve as prima facie evidence  
20           that the individual is a registered voter as of the date of  
21           registration.

# H.B. NO.

1        (h) All applicants whose application to register to vote on  
2 at an absentee polling place is declined will be permitted to  
3 vote a provisional ballot, as that term is used under the Help  
4 America Vote Act, subject to the applicant providing the  
5 necessary proof of identity to the county clerk, or chief  
6 election officer, in a state only or federal only special  
7 election, within 2 calendar days of the date of the election."

8        SECTION 4. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$\_\_\_\_\_ to implement  
10 this act.

11        The sums appropriate shall be expended by the office of  
12 elections for the purposes of this Act.

13        SECTION 5. Statutory material to be repealed is bracketed  
14 and stricken. New statutory materials is underscored.

15        SECTION 6. This Act shall take effect on July 1, 2014;  
16 provided that:

17        (1) Section 3 of this Act shall take effect on January 1,  
18                2016; and

19        (2) Section 1 of this Act shall take effect on January 1,  
20                2018; and

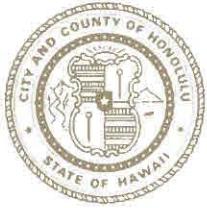
21        (3) Sections 1 and 3 of this Act shall be repealed on  
22                December 31, 2018, and sections 11-25 and 15-7, Hawaii

# H.B. NO.

1 Revised Statutes, shall be reenacted in the form in  
2 which they read on the day immediately prior to the  
3 effective date of this Act.

4  
5 INTRODUCED BY: \_\_\_\_\_

<b>Item</b>	<b>Cost</b>
284 Election Officials (City & County of Honolulu)	\$99,400
50 Telephone Operators (City and County of Honolulu)	\$17,500
90 Election Officials (Neighbor Island Counties)	\$94,500
140 Computers	\$56,000
140 Software Licenses	\$35,000
140 Cable/DSL Modem	\$7,000
Technical Support to Install, Monitor, and Troubleshoot SVRS Connection	\$70,000
140 Copiers/Printers	\$28,000
<b>TOTAL</b>	<b>\$407,400</b>



**BERNICE K.N. MAU**  
CITY CLERK

# **ELECTIONS**

OFFICE OF THE CITY CLERK  
530 SOUTH KING STREET, ROOM 100  
HONOLULU, HAWAII 96813-3077  
TELEPHONE: (808) 768-3800

**Committee on Judiciary and Labor**  
**10:00 a.m. March 14, 2014**  
**HB2590 HD1 Relating to Elections**  
**Written Comments Only**

Chair Hee and members of the Committee:

The Office of the City Clerk opposes the above measure. Although we took no position as it was deliberated in the House, our present reason for the opposition is because no provisions were included to address the ongoing fiscal mandate to the Counties for implementing the program.

Our operational comments below are limited to an Oahu implementation and we defer to the neighbor island counties on matters that specifically impact them.

We have previously expressed our concerns with "same day" voter registration schemes and our belief that despite the best planning, procedures, and training, servicing an additional unknown quantity of voters will undoubtedly have an impact upon the voting experience for the remainder of voters. Additionally, pollworkers are tasked with the added responsibility of servicing a new category of registrants that could have otherwise registered to vote by deadlines that are clearly publicized each election (and exist for the purpose of promoting order and the expeditious servicing of voters).

Our 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.

Statutorily, the Office of Elections is responsible for election day polling place operations and pollworkers. On Oahu, the effort occurs directly, on neighbor islands, it may occur with the assistance of the County Clerks.<sup>1</sup>

While the County Clerks are responsible for voter registration processing, we believe that recruiting, training, and assigning a dedicated volunteer official for each polling

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<sup>1</sup> In 2012, the State Office of Elections rescinded delegation of general election polling place operations from the County of Hawaii, Office of the County Clerk.

place (that reports directly to Office of the County Clerk) runs counter to existing jurisdictional responsibilities and the chain of command on election day. If this measure moves forward, we would recommend removing references to assigning registration clerks “*at each of the polling places...*” on page 1, lines 16-17.

This requirement for a registration clerk program would also be a significant fiscal mandate for the counties for recurring expenses such as equipment, payment of volunteer stipends, phone support center costs, and for a full time staff member that would be hired to coordinate the effort.

At this time, we do not have a firm cost estimate for this ‘voter registration official’ operational component, but believe it would run in excess of \$190,000 each election cycle. This estimate does not include providing networked access to the voter registration system at polling places. Networked access to the voter registration system for 132 Oahu polling sites would significantly increase the cost, but also create a serious privacy concern if accessed by volunteer officials. For this reason, we believe that any same day registration scheme is best implemented under a control center model.

Finally, please note that regardless of the approach, implementing an election day registration system would also be challenging as polling places routinely run at less than the full complement of staff on election day. We defer to the Office of Elections for their specific comment and assessment of their staffing levels and the associated risk to the integrity of the election.

Finally, the bill also creates an expense of roughly \$35,000 for administering the same day registration early voting activities. If the ‘sunset’ provision for the amendments to HRS Chapter 15 are not intended as a repeal of “same day registration” in early voting after the 2016 elections, then this new mandate should be made a reimbursable expense under HRS §11-184 to address the recurring costs to the Counties.

Finally, while we appreciate the author’s effort to seek a funding source for the counties to meet the requirements of this measure, to our knowledge, Help America Vote Act funds may not be utilized for this purpose and an ongoing source of general funds would likely be required.

Thank you for the opportunity to comment.



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](http://www.mauicounty.gov/county/clerk)

TESTIMONY OF DANNY A. MATEO  
COUNTY CLERK, COUNTY OF MAUI  
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR  
ON HOUSE BILL NO. 2590, HD 1  
RELATING TO ELECTIONS

MARCH 14, 2014

Chair Hee and members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to offer comments on House Bill No. 2590, HD 1. The purpose of this bill is to allow voters to register at absentee polling places beginning in 2016 and late voter registration on election day at polling places beginning in 2018.

The Office of the County Clerk (Clerk's Office), County of Maui, would like to express the following concerns. This Bill makes 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 to 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.

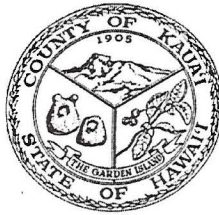
Our Statewide Voter Registration System is a real-time system that contains confidential information (names, residence addresses, social security numbers, dates of birth) of all registered voters. In the offices of the City/County Clerks, election clerks who deal with voter registration information are under the constant supervision of seasoned election administrators.

To implement this Bill each election year funding will be essential, not only for the initial fiscal year, but every year. The funds will be necessary for staffing, training, computer equipment (maintenance, upgrades, and installation), and software license renewals.

Thank you for the opportunity to offer comments on House Bill 2590, HD 1.

**RICKY R. WATANABE**  
County Clerk

Telephone: (808) 241-4800  
TTY: (808) 241-5116



**JADE K. FOUNTAIN-TANIGAWA**  
Deputy County Clerk

Facsimile: (808) 241-6207  
E-mail: elections@kauai.gov

**ELECTIONS DIVISION**  
**OFFICE OF THE COUNTY CLERK**  
4386 RICE STREET, SUITE 101  
LIHU'E, KAUA'I, HAWAI'I 96766-1819

**TESTIMONY OF RICKY R. WATANABE**  
**COUNTY CLERK, COUNTY OF KAUA'I**  
**TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR**  
**ON HOUSE BILL NO. 2590, H.D. 1**  
**RELATING TO ELECTIONS**  
**March 14, 2014**

Chair Hee and Committee Members:

Thank you for the opportunity to testify on House Bill No. 2590, H.D. 1. This Bill would allow late voter registration at absentee polling places beginning in 2016 and late voter registration on Election Day at both absentee polling and precinct polling places beginning in 2018.

We support the intent of the Bill but have concerns regarding some of its provisions and offer some thoughts on its impact to our office and operations, and to voters and other election stakeholders.

Implementing a late registration process is much more complicated than it appears. To simply allow someone to register and vote on the same day is easy, the real issue is to ensure that the established process is not overly burdensome for voters and poll workers, yet is sound enough to ensure the overall integrity of the voting process.

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 initially 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 H.B. 2590, H.D. 1  
Relating to Elections  
March 14, 2014  
Page 2

Given our proposal for implementing provisions of this Bill in the County of Kaua'i, we anticipate the initial election to cost approximately \$40,000. This amount is for procuring computers, software, and related ancillary equipment; to establish and test network connections to the SVRS at each polling place; for Election Day network support; and for expenses related to registration clerks.

For subsequent election years, we project approximately \$20,000 in recurring expenses to reestablish and test network connections at each polling place; for Election Day network support; and for expenses related to registration clerks.

Offering late registration during early voting could be somewhat simpler since the Counties already have SVRS access and can directly oversee the operations. However, late registrants will generate additional work and require our office to hire two (2) additional temporary staff at a cost of approximately \$20,000.

In closing we wish to note that regardless of where late registration is implemented, there will be additional costs for both the State and Counties which require a sustained funding commitment. Anything less would eventually result in a reallocation of resources to late registration and a corresponding reduction in services elsewhere.

Thank you for this opportunity to testify on House Bill No. 2590, H.D. 1



RICKY R. WATANABE  
County Clerk



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

OFFICERS

John Bickel, President  
Barbara Polk, Vice-President  
Fritz Fritschel, Treasurer  
Chuck Huxel, Secretary

DIRECTORS

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Karin Gill

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George Simson  
Bart Dame (Alt)  
Marsha Schweitzer (Alt)

MAILING ADDRESS

PO. Box23404  
Honolulu  
Hawai'i 96823

March 11, 2014

TO: Chair Hee, Vice Chair Shimabukuro  
Members of the Senate Committee on Judiciary and Labor

FROM: John Bickel, President  
Americans for Democratic Action/Hawai'i

RE: Support and Comments on HB 2590 HD 1 Relating to Elections

Americans for Democratic Action/Hawaii supports HB 2533 HD1. Every school student in a civics class knows that democracy is about citizen participation. The more we can get citizens to participate in the voting process, the better our democracy. HB 2590 helps to encourage voting. Ray Wolfinger in the book, Who Votes, identifies people who move often as the least likely to vote as they have difficulty registering in time. Late registration would go far to helping these people participate. Please give it your most favorable consideration.



Senate Judiciary and Labor Committee  
Chair Clayton Hee, Vice Chair Maile Shimabukuro

Thursday 03/14/2014 at 10:00AM in Room 016  
HB2590 HD1- Relating to Elections  
Late Voter Registration

TESTIMONY OF SUPPORT  
Carmille Lim, Executive Director, Common Cause Hawaii

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Dear Chair Hee, Vice Chair Shimabukuro, and members of the Committee:

**Common Cause Hawaii supports HB2590 HD1.** This bill would establish a process that would enable eligible voters to register to vote at absentee polling places in 2016, and allow for late voter registration on election day at absentee polling places and precincts in 2018.

Our current voter registration method is archaic and burdensome for citizens, and excludes many eligible voters from participating in our democracy. The current registration system favors those who are highly motivated, very interested in politics early on in the election/campaign season, plan far in advance to ensure that they are registered to vote, and does not allow residents who have moved to vote unless they have re-registered to vote. For others, the voter registration system is a major hurdle. The 30-day registration deadline makes it more difficult for those who are less involved in politics, unfamiliar with the voter registration process and its associated deadlines, or have recently moved residences. We need to stake strides in voting modernization, and create a system that empowers all eligible citizens to vote -- enacting late voter registration, including Election Day Registration, is one step we can take to modernize our voting system.

As a state with the lowest voter turnout in the nation, we must take action to encourage citizen participation in the voting process. Late Registration would help to diffuse confrontations three scenarios that many voter precinct workers and eligible voters have expressed to us:

- 1) When voters' names are missing from registration lists for that particular precinct, they are instructed to commute to a different precinct.
- 2) When eligible voters have moved and did not renew their "voting address" (i.e., re-register to vote), they are not allowed to cast a ballot. Often, they did not know that they had to re-register to vote "just because" they've moved.
- 3) When eligible voters -- and many times would-be-first-time-voters—who have not had a history of participating in politics and government, show up to the polls not realizing that: 1) they need to register to vote prior to voting 2) not knowing what the voting registration deadlines were

In all three scenarios, eligible voters have expressed frustration, a loss of confidence in our voting systems, and a disinterest in attempting to participate in future elections.

We urge the Committee to pass this HB2590 HD1 and ask all the Committee members to champion this and other efforts for improving voter participation in Hawaii.

**Thank you for the opportunity to testify in support of HB2590.**

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [JDLTestimony](#)  
**Cc:** [babyjean@hotmail.com](mailto:babyjean@hotmail.com)  
**Subject:** \*Submitted testimony for HB2590 on Mar 14, 2014 10:00AM\*  
**Date:** Tuesday, March 11, 2014 7:47:10 PM

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**HB2590**

Submitted on: 3/11/2014

Testimony for JDL on Mar 14, 2014 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ronnie Perry	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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**To:** [JDLTestimony](#)  
**Cc:** [ndavlantes@aol.com](mailto:ndavlantes@aol.com)  
**Subject:** \*Submitted testimony for HB2590 on Mar 14, 2014 10:00AM\*  
**Date:** Wednesday, March 12, 2014 1:22:06 PM

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**HB2590**

Submitted on: 3/12/2014

Testimony for JDL on Mar 14, 2014 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nancy Davlantes	Individual	Support	No

Comments:

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**To:** [JDLTestimony](#)  
**Cc:** [lee@leemcintosh.org](mailto:lee@leemcintosh.org)  
**Subject:** Submitted testimony for HB2590 on Mar 14, 2014 10:00AM  
**Date:** Thursday, March 13, 2014 8:42:14 AM

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**HB2590**

Submitted on: 3/13/2014

Testimony for JDL on Mar 14, 2014 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lee McIntosh	Individual	Oppose	No

Comments: Mr. Chair and Members of the Committee on Judiciary and Labor: Aloha, my name is Lee McIntosh and I live on the Big Island. I oppose HB2590 HD1, which establishes same day voter registration. Same day registration facilitates voter fraud which creates uncertainty about election results. There is no excuse for voters to be unprepared due to the media exposure during the election season. Same day registration does not allow the Counties time to process voter registration and check for accuracy, except after the election. Even now the Counties do not thoroughly clean up the voter rolls efficiently. Looking over the database, I have noticed double registrations and inaccurate voter information. Rather than establish same day registration, the Counties should be instructed to clean up the voter rolls and establish marketing plans to educate voters, especially those who do not have internet access or are unable to get out very often. Please do not create additional havoc on election day by passing HB2590 HD1. Thank you for the opportunity to testify regarding HB2590 HD1.

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**Cc:** [joseph.heaukulani@gmail.com](mailto:joseph.heaukulani@gmail.com)  
**Subject:** \*Submitted testimony for HB2590 on Mar 14, 2014 10:00AM\*  
**Date:** Thursday, March 13, 2014 9:49:18 AM

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**HB2590**

Submitted on: 3/13/2014

Testimony for JDL on Mar 14, 2014 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joseph Heaukulani	Individual	Support	No

Comments:

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