



LATE TESTIMONY

49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwvhawaii.com

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

Thursday, February 6, 2014, 3:00 p.m., Conference Room 224
SB 2380 RELATING TO VOTING
TESTIMONY

Susan Irvine, Legislative Committee, League of Women Voters of Hawaii

Chair Senator Will Espero, Vice-Chair Senator Rosalyn H. Baker, and Committee Members:

The League of Women Voters of Hawaii would like to comment on SB 2380 relating to automatic voter registration.

The League of Women Voters strongly supports efforts to register potential voters. However, SB 2380 requires any eligible citizen obtaining or updating a driver's license or state identification card, be automatically registered to vote. As it stands, this bill is coercive and may not comply with the National Voter Registration act that requires state agencies to offer voter registration as an option.

The League strongly supports the intent of this bill, but potential voters must have the option of declining to register to vote when they come to a state agency for other business. Rather than mandating that potential voters be registered in this manner, it would be better to ensure that the voter registration process at our department of motor vehicle offices is encouraged and easily accomplished.

We urge you to consider our comments on this bill. Thank you for the opportunity to submit testimony.

LATE TESTIMONY

SB2380

Submitted on: 2/5/2014

Testimony for PSM on Feb 6, 2014 15:00PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Mizusawa	Individual	Support	No

Comments: I support the passage of SB 2380. Unfortunately I cannot be in attendance, but I believe that having this in effect would increase the likelihood of those obtaining these licenses to vote because they didn't have to go through an extra process. As a young citizen in Hawaii, I want to see more youth participation in our government and this is a stepping stone to ensuring this is possible. Thank you for your time and I appreciate the leadership you all give to serve the people of Hawaii.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 9:03 AM
To: PSMTestimony
Cc: shirley.magarifuji@mauicounty.us
Subject: Submitted testimony for SB2380 on Feb 6, 2014 15:00PM

SB2380

Submitted on: 2/6/2014

Testimony for PSM on Feb 6, 2014 15:00PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Shirley Magarifuji	Office of the County Clerk - Maui	Support	No

Comments: testimony submitted for Danny A. Mateo, County Clerk

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

LATE TESTIMONY



TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-SEVENTH LEGISLATURE, 2014

ON THE FOLLOWING MEASURE:
S.B. NO. 2380, RELATING TO VOTING.

BEFORE THE:

**SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND
MILITARY AFFAIRS**

DATE: Thursday, February 6, 2014 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): David M. Louie, Attorney General, or
Valri Lei Kunimoto, Deputy Attorney General

Chair Espero and Members of the Committee:

The Department of the Attorney General has serious concerns regarding this bill's provisions requiring the automatic voter registration of driver's license and state identification card applicants and provides the following comments.

The purpose of this bill is to increase the number of qualified registered voters in Hawaii. That purpose is accomplished by requiring all qualified applicants for driver's licenses, provisional licenses, instructional permits, or state identification cards be automatically registered to vote upon completion of the application. The bill provides for county drivers' examiners to treat driver's license and identification card application forms as voter registration applications and to transmit the information to the county clerk. If the clerk determines that the applicant is qualified, i.e., the applicant is not currently registered, is at least eighteen years of age or older, and a citizen of the United States, the clerk shall register the voter in the county register. The bill also provides that every qualified applicant is required to authorize the examiner of drivers to collect and transmit the necessary personal information required to register to vote to the county clerk and requires the examiner to notify all qualified applicants that by submitting an application for a driver's license or state identification card, the applicant consents to automatic voter registration. The bill further deletes existing statutory provisions requiring an application for voter registration by mail be made available to every driver's license applicant and deletes provisions requiring the examiner to make a voter registration application available to every identification card applicant who is eligible to vote.

The Department has serious concerns that provisions of this bill are inconsistent with the National Voter Registration Act (NVRA), 42 U.S.C.A. §§ 1973gg – 1973gg-10. The NVRA provides voter registration requirements with respect to elections for federal office and Section 5 requires states to offer voter registration opportunities at state motor vehicle agencies, and provides in part as follows:

(a) In general

Except as provided in subsection (b) of this section, notwithstanding any other Federal or State law, in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office--

(1) by application made simultaneously with an application for a motor vehicle driver's license pursuant to section 1973gg-3 of this title;

42 U.S.C.A. § 1973gg-2.

The NVRA defines "motor vehicle driver's license" as follows:

As used in this subchapter -

(3) the term "motor vehicle driver's license" includes any personal identification document issued by a State motor vehicle authority;

42 U.S.C.A. § 1973gg-1.

Thus, NVRA provisions also apply to applications for a state identification card.

In Hawaii, the examiner of drivers in each county issues driver's licenses and state identification cards, pursuant to sections 286-10I and 286-301, Hawaii Revised Statutes, respectively, and are subject to the NVRA.

The NVRA, addressing the simultaneous application for voter registration and application for motor vehicle driver's license, recognizes applicants have the right not to register to vote and provides in part:

(a) In general

(1) Each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law

shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application.

....

- (c) Forms and procedures.
 - (1) Each State shall include a voter registration application form for elections for Federal office as part of an application for a State motor vehicle driver's license.
 - (2) The voter registration application portion of an application for a State motor vehicle driver's license –

....

- (C) shall include a statement that –
 - (i) states each eligibility requirement (including citizenship);
 - (ii) contains an attestation that the applicant meets each such requirement; and
 - (iii) requires the signature of the applicant, under penalty of perjury;
- (D) shall include, in print that is identical to that used in the attestation portion of the application –
 - (i) the information required in section 1973gg-6(a)(5)(A) and (B) of this title;
 - (ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and
 - (iii) a statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and
[Emphasis added.]

42 U.S.C.A. § 1973gg-3.

The Department has concerns that this bill does not permit applicants to decline to register to vote. The foregoing NVRA provision clearly provides the driver's license application will serve as a voter registration application unless the applicant fails to sign the voter registration application. In addition, the NVRA provides that a voter registration application must include the statement, "if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential" Insofar as this bill does not provide an applicant the opportunity to decline to register to vote, the bill is inconsistent with the provisions of the NVRA and is therefore preempted under the Article I, Section 4, Clause 1, Elections Clause, of the U.S. Constitution and superseded by the federal law. (See Arizona v. Inter Tribal Council of Arizona, Inc., 570 U.S. ___, 133 S. Ct. 2247, 186 L. Ed. 2d 239 (2013), where the U.S. Supreme Court held that the Arizona law requiring proof of citizenship when the applicant registered to vote was preempted or superseded by the NVRA's mandate that States "accept and use" a uniform federal form to register voters for federal elections; and Ex Parte Siebold, 100 U.S. 371, 384, 25 L. Ed. 717 (1879), when Congress' power under the Elections Clause is "exercised, the action of Congress, so far as it extends and conflicts with the regulations of the State, necessarily supersedes them".) Thus, the Department respectfully suggests that the bill be held or amended accordingly to conform to NVRA requirements.

Thank you for the opportunity to provide our testimony.