

**STATE OF HAWAII
OFFICE OF ELECTIONS**

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SCOTT T. NAGO
CHIEF ELECTION OFFICER

TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE HOUSE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 2019
RELATING TO ELECTIONS

February 12, 2016

Chair Rhoads and members of the House Committee on Judiciary, thank you for the opportunity to provide comments on House Bill No. 2019. The purpose of this bill is to provide for instant runoff voting.

We do not believe this bill is necessary because our current two-round system accomplishes the intent of instant runoff voting without the complexities. All regularly scheduled elections are conducted in conjunction with the primary, including nonpartisan contests such as Office of Hawaii Affairs trustee and county offices, followed by the general election. Additionally, we offer the following technical comments.

Given that we do not have traditional runoff elections, we understand the term "runoff" in the bill to refer to any situation in which a candidate could win outright by obtaining a majority of the votes cast, and if they don't then the two top candidates for the seat move on to another election. In our state, the only situation that would apply to would be nonpartisan contests such as certain county or Office of Hawaii Affairs contests, in which the candidates move on to the election held in conjunction with the general election to have a final determination made as to who will win. Similarly, given that the bill references elections, in which there is no primary election, we understand that "instant runoff" could apply to special elections or elections held solely in conjunction with the general election.

As the bill is written, it appears that it would remove the ability of some counties to utilize elections in conjunction with both the primary election and general election, and instead require that they utilize instant runoff for their offices as part of the primary election. It also may have the same result for the Office of Hawaiian Affairs. Finally, the way the bill is currently drafted, it could be argued that this would apply to presidential elections.

Specifically, the bill indicates in proposed Section 11-C(a) that it would apply to the following types of elections:

- (1) In which no primary election was held; and
- (2) In majority election contests for a special election that would normally require a runoff election if no candidate receives a majority of the votes cast in the special election. If the instant runoff voting method is used in a special election, the special election shall only consist of one election contest and no subsequent separate runoff election shall be held.

In reference to proposed HRS § 11-C(a)(1), which uses the term “primary election,” the term is defined in HRS § 11-1 (Definitions) as a “preliminary election in which the voters nominate candidates for office as provided for in chapter 12.” We understand the reference to “no primary election” to mean that any special election to fill a vacancy in the office of U.S. Representative would be subject to instant runoff as it is a single winner take all election in which a candidate could win with a plurality of the votes. HRS § 17-2. Similarly, a special election to fill a state senate seat can occur if the vacancy occurs after the 60th day prior to the primary but before the 50th day to the General Election HRS 17-3(b)(3). We would note, though, that if the vacancy were to occur prior to the 60th day prior to the primary election, then there would be both a primary election and a general election, and presumably instant runoff voting would not be applicable. HRS § 17-3(b)(1) & (2).

While the above situations are straightforward, we believe the bill should clarify whether all county elections are considered to not have “primary elections” for purposes of requiring instant runoff voting. For example, while the initial county election held in conjunction with the primary election for the County of Kauai and the County of Maui result in the field of candidates being narrowed for the second election held in conjunction with the general election, the elections are nonpartisan and do not directly follow the nomination process in chapter 12, which is geared toward political parties. Additionally, the Charter of the County of Kauai refers to its elections as a primary and a general election, while the Charter of the County of Maui refers to its elections as special elections. If the intent of the bill is to require that instant runoff voting be used for the special election held in conjunction with the primary election to determine who has been elected to that position, then the bill should clarify that. If instead, the purpose of the bill is to remove the primary election and require the counties to hold their

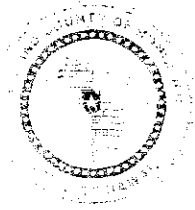
elections solely in connection with the general election utilizing instant runoff, then it should similarly be clarified.

In regard to proposed HRS § 11-C(a)(2), it appears that it envisions requiring instant runoff for elections in which a candidate could win outright, without the need to proceed to a second election. As it relates to county elections in the County of Hawaii and the City and County of Honolulu, it is our understanding that a candidate could in fact win outright in the first election held in conjunction with the state primary election, if a candidate receives more than 50 percent of the votes cast, excluding blank and over votes. This would appear to mean that these election would need to be held by instant runoff. The Charter of the County of Hawaii and the City Charter refers to these elections as the “first special election” and the “second special election.” The same need for clarification is required for these elections.

Additionally, we would note that for the Office of Hawaiian Affairs, there are certain seats that can be won outright if a candidate receives a majority of all votes cast in the primary election. HRS § 13D-4(e)(3). The election is nonpartisan but is referred to as a “primary election,” even though it is not the same as the traditional political party “primary election” defined in HRS § 11-1. As such, the bill should clarify whether instant runoff is meant to apply to this type of election.

Further, while it is not the intent of the bill to impact the presidential election, we would note that there is no primary election for president. As such, it could be argued that proposed HRS § 11-C(a)(1) authorizes instant voting for president. Given that, language should be included to clarify that instant runoff does not apply to presidential elections.

Thank you for the opportunity to testify on House Bill No. 2019.



OFFICE OF THE CITY CLERK

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CITY CLERK

LATE TESTIMONY

KIMBERLY L. RIBELLIA
DEPUTY CITY CLERK

TESTIMONY OF GLEN TAKAHASHI
CITY CLERK, CITY AND COUNTY OF HONOLULU
TO THE HOUSE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 2019
RELATING TO ELECTIONS

February 12, 2016

Chair Rhoads and Committee members:

Thank you for the opportunity to comment on House Bill 2019. The Office of the City Clerk respectfully opposes this measure.

The purpose of this bill is to establish a ranked choice voting system for non-partisan elections that require a majority to elect an outright winner. This measure would apply to City and County of Honolulu election contests (Mayor, Prosecutor, Councilmember) except during special vacancy elections where no runoff is required). The measure would likely apply to Hawaii county contests but exclude the counties of Maui and Kauai.

In 1992, Honolulu voters ratified its election scheme via amendments to the Revised Charter of Honolulu. Enactment of this measure would subvert those Charter provisions that have governed the conduct of Honolulu elections for twenty four (24) years. Since ratification, neither the Honolulu City Council nor the 1996 and 2006 Charter Commissions have determined it necessary to propose modifying the majority/runoff election procedure.

From a vote tabulation perspective, Hawaii Administrative Rules require the use of a voting system certified by an independent testing authority. The certified version of the voting system used in Hawaii does not support ranked choice voting and the vote reallocation prescribed by this measure would require the manual sorting of ballots and subsequent calculations to obtain a final election result. The limitations within the voting system would also necessitate the production of a ballot layout that features the same contest multiple times to allow voting for the first through final candidate preferences.

When applied to a mayoral election in Honolulu, wherein upwards of 250,000 to 300,000 votes may be cast, the sorting/reallocation would be performed manually by dozens of volunteers in a time consuming and likely inaccurate process. That



House Judiciary Committee
Chair Karl Rhoads, Vice Chair Joy San Buenaventura

Friday 02/12/2016 at 2:00 PM in Room 325
HB 2019 – Relating to Elections

TESTIMONY
Carmille Lim, Executive Director, Common Cause Hawaii

Dear Chair Rhoads, Vice Chair San Buenaventura, and members of the House Judiciary Committee:

Common Cause Hawaii supports the intent of HB 2019 which would establish Instant Runoff Voting (“IRV”, also known as “Ranked Choice Voting”) for elections in which no primary elections is held and for special elections. While we are supportive of HB2019, **we ask the Committee to expand the IRV program to apply to all partisan primary elections, special elections, and nonpartisan general elections held in this State.**

Under the current system, the majority does not always rule in our elections. Our existing plurality system of voting (in which the candidate with the highest number of votes wins) breaks down when there are more than two candidates on the ballot. In several recent elections with many candidates on the ballot, we saw winners emerge with far less than 50% of the vote.

With instant runoff voting, voters rank their preferences of candidates on the ballot (first choice, second choice, etc.). If one candidate receives more than 50% of the first-choice votes, then that candidate wins. But if nobody receives a majority of the first-choice votes, the instant runoff tabulations begin. The last place candidate is eliminated and those ballots are revisited, so that those voters' second-choice rankings are added to the totals. Eliminations and re-counting continues until a winner emerges with a true majority of the vote.

Instant runoff voting more accurately express voters' preferences, allows many candidates to run without fear of distorting the outcome, helps prevent the “spoiler” effect, and may even help bridge the partisan divide and reduce negative campaigning, because a candidate hoping to be a voter's second choice would hold back from mudslinging against a voter's first choice. Most importantly, it ensures that the winner was elected by a clear majority of the voters.

We believe that a robust democracy is one in which voters can participate in meaningful ways, and each citizen's vote is counted. Instant Runoff Voting has been administered by elections officials in cities across the United States and worldwide, and will give each voter a greater voice in our City elections.

Thank you for the opportunity to offer testimony **supporting HB 2019.**

Enclosed on following pages: Instant Runoff Voting Fact Sheet

Introduction to Instant Runoff Voting

(Based on an information brochure from FairVote -The Center for Voting and Democracy, January 2016)

Instant Runoff Voting (IRV), sometimes known as Ranked Choice Voting, describes a voting method that allows voters to rank candidates in order of preference and then uses those rankings to elect a candidate who combines strong support with broad support by simulating a series of runoff elections in the event that no candidate receives a majority of the votes in the initial count.

IRV helps to elect a candidate more reflective of a majority of voters in a single election even when several viable candidates are in the race. It does this by counting the votes in rounds. First, all votes are tabulated with every ballot counting for its first choice. If a candidate has a majority of the vote based on first choices, that candidate wins. If no candidate has a majority of those votes, then the candidate with the fewest first choices is eliminated. The voters who selected the defeated candidate as a first choice then have their votes added to the totals of their next choice. This process continues until a candidate has more than half of the active votes, or only two candidates remain. The candidate with a majority among the active candidates is declared the winner. In each round, each voter's ballot counts only once.

IRV is straightforward for voters: rank candidates in order of choice. Voters can rank as few or as many candidates as they want, without fear that ranking others will hurt the chances of their favorite candidate. Exit polls and ballot analyses from ranked choice voting elections demonstrate that voters overwhelmingly understood how to rank candidates.

Benefits of RCV

(excerpted from <http://www.fairvote.org/rcv#rcvbenefits>)

Encourages More Civil Campaigning

In non-ranked choice voting elections, candidates benefit from “mud-slinging” by attacking an opponent’s character instead of sharing their positive vision with voters. With Instant Runoff Voting, candidates do best when they find common ground with as many voters as possible, including those supporting their opponents. Candidates who have run and won in ranked choice voting elections have been successful because they built grassroots outreach networks. Those more positive and inclusive campaign tactics cost less than polarizing negative radio and television elections, helping to explain why candidates are sometimes able to win IRV elections even when outspent.

[A comprehensive Rutgers University poll](#) of voters in seven cities with ranked choice voting and 14 control cities found that voters in RCV cities reported friendlier campaigns and more direct engagement with candidates.

Provides More Choice for Voters

Democracy is strongest when more voices are heard. Potential candidates are often reluctant to run, or discouraged from running, to avoid “vote splitting” in which candidates can and do win with very little support. That often means a low turnout election. IRV allows more than two candidates to compete without fear of splitting the vote.

Minimizes Strategic Voting

Voters should be able to vote for candidates they support, not just against candidates they oppose most. Yet in elections without IRV, voters may feel that they need to vote for the “lesser of two evils,” because their favorite candidate is less likely to win. With instant runoff voting, a voter can honestly rank candidates in order of choice without having to worry about how others will vote and who is more or less likely to win.

Jurisdictions Using Instant Runoff Voting

Instant runoff voting is used or has been passed in the following U.S. cities:

- Berkeley, CA
- Oakland, CA
- San Francisco, CA
- San Leandro, CA
- Telluride, CO
- Basalt, CO*
- Cambridge, MA
- Takoma Park, MD
- Portland, ME
- Minneapolis, MN
- St. Paul, MN
- Sarasota, FL*
- Memphis, TN*

For a complete list of institutions using IRV, which include multiple international jurisdictions, over 50 U.S. colleges and universities, hundreds of private associations and prominent international uses, see:

http://www.fairvote.org/rcv#rcv_in_action.

**Passed but yet to be implemented* ■