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TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE HOUSE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 27
RELATING TO ELECTIONS

January 26, 2016

Chair Rhoads and members of the House Committee on Judiciary, thank you for the opportunity to provide comments on House Bill No. 27. This bill allows voters to exhibit their voted ballot.

Nationwide, with the prevalence of electronic mobile devices and social media, there has been an increase in people who wish to display their voted ballot on social media sites (i.e., a ballot selfie). In other states, there has been a debate whether laws can be enforced to specifically prohibit such photographs to address voter coercion or vote buying that could occur if one could readily prove to someone else how one voted.

We are not aware of any specific prohibition against a voter disseminating a photo of their ballot on a social media site. Specifically, there is nothing presently stopping a voter from taking a photo of their ballot at home, if they are voting on an absentee mail ballot, and then distributing it, so long as matters related to vote buying, voter coercion, or others prohibited by chapter 19, HRS are not involved.

However, we believe that HRS § 11-137, may not be the proper statute to amend if the Legislature wishes to explicitly make it clear that it is permissible to disseminate an image of one's voted ballot. Specifically, HRS § 11-137 is geared toward the operation of a polling place and ensuring that it is an apolitical environment in which voting can occur without campaigning or electioneering.

The language that this bill proposes to remove regarding willfully exhibiting one's ballot, is meant to stop people from essentially declaring in the polling place how they voted and encouraging others in the polling place to vote similarly.

In order to maintain an apolitical environment in the polling place, electronic mobile devices are strictly prohibited. Similar to other settings in which a distraction free and orderly environment is appropriate, HRS § 11-132 and its implementing rules, HAR §§ 3-172-63 and 3-172-64, provide that the polling place may be regulated to ensure the safe and orderly conduct of elections.

We believe the following language is more appropriate to allow a voter to display their ballot.

11-___ **Ballot images.** Notwithstanding how a voter came to acquire an image of their voted ballot, the voter shall not be prohibited from distributing or sharing the image via social media or by any other means. However, the ability to distribute or share the image shall not constitute a defense against any action for vote buying, voter coercion, or any other matter prohibited under chapter 19 or the Hawaii Penal Code.

Thank you for the opportunity to testify on House Bill No. 27.

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HB27

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Submitted By	Organization	Testifier Position	Present at Hearing
Jake J. Watkins	Individual	Support	No

Comments:

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