

DANNY A. MATEO
County Clerk



JOSIAH K. NISHITA
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TESTIMONY OF DANNY A. MATEO
COUNTY CLERK, COUNTY OF MAUI
TO THE HOUSE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 376
RELATING TO THE CHIEF ELECTION OFFICER
JANUARY 30, 2015

Chair Rhoads and members of the House Committee on Judiciary, thank you for the opportunity to offer testimony on House Bill No. 376. The purpose of this bill is to change the term of the chief election officer from 4 to 2 years. Also, this bill requires the elections commission to conduct a performance evaluation of the chief election officer within 2 months of certifying election results, and hold a public hearing relating to the performance evaluation.

The Office of the County Clerk, County of Maui, opposes House Bill No. 376.

The term of the chief election officer should remain at four (4) years because of the learning curve due to all of the intricate details involved in elections. Elections needs to have continuity and stability and it could be very disruptive if there is a new chief election officer for each election.

Thank you for the opportunity to testify on House Bill No. 376.



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

Friday 01/30/2015 at 2:00 PM in Room 325
HB376 Relating to the Chief Election Officer

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

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

Common Cause Hawaii offers comments on HB376.

HB376 changes the term of the chief election officer to 2 years. It requires the elections commission to conduct a performance evaluation of the chief election officer within 2 months of certifying election results, and hold a public hearing relating to the performance evaluation.

TWO YEAR TERM

Common Cause Hawaii believes that a Chief Elections Officer (CEO) needs to be held accountable for performance shortcomings. At the same time, we are mindful that if the CEO's term is shortened, we may inadvertently put ourselves in a position where we: 1) cannot find someone who has enough experience and knowledge to run a statewide election, 2) have someone new running an election, every election.

In Hawaii, elections are held every two years. Many jobs typically have a probation and learning period, and we are concerned that a shorter term may negatively impact a CEO's orientation. Ideally, a CEO would serve in a previous election cycle, and Common Cause believes that 4-year terms are an ideal time frame for a chief elections officer to build experience.

Instead of shortening the Chief Election Officer's term, we ask the Committee to amend this bill to give the Elections Commission explicit authority to remove the Chief Election Officer (CEO) if the CEO does not perform satisfactorily.

If the Legislature decides to shorten the CEO's term, we suggest:

- The effective start and end time be in a non-election year so a new CEO may have some time to get acclimated in between elections.
- The CEO may be able to succeed herself/himself if the performance evaluation made by the Elections Commission is satisfactory.
- Requiring the Commission to develop a succession plan or appoint a Deputy Election Officer who may serve as an interim director in the event a CEO cannot be named.

PERFORMANCE EVALUATION + PUBLIC HEARING

Common Cause Hawaii supports a performance evaluation for the CEO within two months of certifying election results, and also holding a public hearing relating to the performance evaluation.

Due to the fast pace of elections, **we recommend clarifying that the timing of the performance evaluation be two months after certifying general election results.** The performance evaluation should include evaluation of the CEO's performance for the primary and general election.

Thank you for the opportunity to offer comments on HB376.

The State's Chief Elections Officer MUST be honest and competent. If not, the entire electoral process becomes a sham. To ensure that the officer meets these qualifications it is needful and wise to require a performance review - and one in which the public has input. That input will inform the Elections Commission about how the actions of the officer played out to enhance transparency and legality - or not. The commission has no way of knowing of the situation at the individual polling sites without this public input, and has no way of knowing how efficient and capable the officer is without it. If the officer is discovered to be lacking in the qualities we want, a two year term will ensure that he or she will not be available to mess us future elections. I am from Puna and Mr. Nago's failure to adequately investigate the manner in which Iselle prevented voters from accessing the polls, has possibly put some of the wrong people into office. But even if that were not so, there is no doubt that many registered voters in Puna were denied their right to cast a ballot, and this situation should never happen in a democracy. A performance review would go a long way to making sure this doesn't happen again. Mahalo.

Janet Mason	League of Women Voters of Hawaii	Oppose	Yes
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League will oppose the two-year term for the Chief Elections Officer, but support the performance appraisal section of the bill, offering amendments for this second part of the bill.

Please support HB376. Right now the Chief Elections Officer is accountable to no one. Hawaii should not forget the travesty which occurred in Puna during elections where people were denied their constitutional right to vote. As has been seen many times in both state and national elections even a few votes from a rural area can make all the difference. Please clean up this mess by supporting HB376.

Sincerely,

Steven Jacquier

Hello legislators, please support HB 376. It provides much needed safeguards following the recent election problems in Puna that drew litigation from Collen Hanabusa and the ACLU, and cast a shadow of doubt over the declared winners. mahalo, Cory Harden, Hilo

January 28, 2015

The Honorable Karl Rhoads
Chair, House Committee on Judiciary
State Capitol
Honolulu, HI 96813

Dear Rep. Rhoads:

SUBJECT: HOUSE BILL 376
Relating to the Chief Election Officer

This letter is written in support of H.B. 376 to change the term of the election officer as well as to place a requirement on the elections commission to conduct, perform and hold a public hearing on the performance of the Chief Election Officer.

I strongly support this bill for several reasons. One good example was the lack of ballots for the people in the Puna area in the past. Ballots were not delivered to precincts and people waited in line for a very long time. Many of them just gave up and went home. They never got to vote. Percentage of precinct voting will show the drop in participation. While we encourage people to get out and vote, we need to make it accessible and convenient. The Election Division plans for months if not years and a mistake like this is unacceptable. We need accountability to streamline the process because apparently, it's not working.

Another good example in the past is missing ballots. To discover ballots missing after the fact is another embarrassment. Well thought out planning and direct communication is essential.

We need to take positive action on H.B. 376. I ask for your favorable support.

Thank you for your time and your patience.

Sincerely,

Sharon Raniada

RICKY R. WATANABE
County Clerk

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LATE



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TESTIMONY OF RICKY R. WATANABE
COUNTY CLERK, COUNTY OF KAUA'I
TO THE HOUSE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 376
RELATING TO THE CHIEF ELECTION OFFICER

January 30, 2015

Chair Rhoads and Committee Members:

Thank you for the opportunity to testify in opposition to House Bill No. 376. This Bill seeks to change the term of the chief election officer (CEO) from four (4) to two (2) years. Additionally, the Bill proposes requiring the Elections Commission to conduct a performance evaluation of the chief election officer within 2 months of certifying election results, and hold a public hearing relating to the performance evaluation.

We oppose this Bill and cannot support shortening the CEO's appointment term since this offers little if any benefit to election stakeholders and will likely destabilize the administration of the Office of Election and the support it provides to the Counties.

If anything, we recommend increasing the CEO's term to six (6) years with yearly performance appraisals during the contract term and a comprehensive review at the end of the 6 year term.

We also cannot support creating additional responsibilities for the Elections Commission without providing them the funding needed to carry out the proposed duties.

Thank you for this opportunity to testify in opposition to House Bill No. 376.

RICKY R. WATANABE
County Clerk

STEWART MAEDA
County Clerk



JON HENRICKS
Deputy County Clerk

LATE

OFFICE OF THE COUNTY CLERK

Elections Division
County of Hawai'i
Hawai'i County Building
25 Aupuni Street
Hilo, Hawai'i 96720

TESTIMONY OF STEWART MAEDA
COUNTY CLERK, COUNTY OF Hawai'i
TO THE HOUSE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 376
RELATING TO THE CHIEF ELECTION OFFICER
JANUARY 30, 2015

Thank you for the opportunity to testify in opposition to House Bill No. 376. This bill seeks to change the term of the chief election officer from 4 years to 2 years. The bill also requires the Election Commission to conduct a performance evaluation of the chief election officer within 2 months of certifying election results, and hold a public hearing relating to the performance evaluation.

We oppose this bill and cannot agree that shortening the chief election officer's appointment to two years would provide benefits to the administration of elections. The administration of elections requires stability and continuity. In 2014, voter's in the County of Hawai'i approved a charter amendment establishing the term of the County Clerk to a 4 year term. This was to provide stability in the Office of the County Clerk which includes the administration of elections.

We recommend the term of the chief election officer remain at 4 years.

Thank you for the opportunity to testify on House Bill No. 376.

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
James McCully	Individual	Support	No

Comments: Chair Karl Rhoads Vice Chair San Buenaventura Aloha I strongly support this bill as an improvement on, and an advancement of, the status quo. The Chief Elections officer should be accountable on an immediate basis given the importance of their responsibility. Please support this bill. Mahalo James McCully

LATE

Honorable Representatives...

My name is Frankie Stapleton and I offer testimony in support of HB376 as a Puna resident and active Election volunteer.

This past August I agreed to be a poll watcher in the rural Puna district. You can imagine the frustration of elections workers who could not even find out on Friday, Aug. 8, whether or not the scheduled Primary Election would take place the following day. That, however, was the least of our problems.

On Friday, it was only a few hours since Iselle had struck our district with near-hurricane force winds and, similarly, just hours before the planned Aug. 9 Primary Election. The civil authorities barely had time to do any assessment of the damages and problems in the areas affected by the tropical storm as Puna District alone is almost the size of Kauai, and much of it off-grid even without such an unprecedented storm.

I was one of the lucky ones. Even though I was able to leave my home and eventually make it to Pahoia town on that Friday, it would be three weeks before several thousands of households in Puna would have electricity or communication with the outside world. And I could not find out on Friday whether I should report to the precinct station the following morning or not. No phones, no radio, no TV, no internet. Trees and hot utility lines were down throughout Puna's 40-some subdivisions and many people had to chainsaw their way out of homes. And that alone took several days, even weeks for some.

Not knowing if the election was on or not, I simply drove to my precinct center on Election Day and found that 2 of the Dist. 4 precincts were open and 2 were not! The 2 that were shut down were located in subdivisions but the 2 precincts that vote at sites in Pahoia town itself were open for business.

I immediately voiced my concern and objection to the election not being postponed for all of Puna and similarly affected areas to the precinct election official at Pahoia School cafeteria. It was an action for the record as the precinct official said he understood there were many people who couldn't make it to Pahoia for the election as a result of the storm damages but there was nothing he could do about it. Pahoia itself has less than 1,000 residents but the surrounding area has approximately 10,000 residents, with hundreds of registered voters who for one reason or another (two approaching hurricanes???) had not voted absentee earlier in the week. And there are still many voters who like to physically go to the polls to vote on Election Day.

As Election Day progressed, numerous citizens were turned away from the 2 polls at Pahoia town as well as at the 2 closed precincts. In addition to the inability to communicate with the Puna public, the Elections Office had changed some Puna precinct assignments in 2012, then

reversed them for the 2014 election cycle. And many voters had not gotten their voter registration cards so they didn't even know where they were supposed to vote. Some residents in the closed precincts were told to come vote in Pahoia town, an erroneous directive, but others went to Pahoia sites just to find out where they needed to vote, then not allowed to vote there. Lots of irate voters! Especially since it was a challenge just to get to Pahoia town.

A subsequent election process was set up the following Friday, Aug. 15, (a state and county holiday) for the 2 precincts that were shut on Aug. 9. However, that was after the Chief Election Officer had notified everyone that the election would be held three weeks down the road. After that announcement, Scott Nago sent a letter to voters he composed on Aug. 11 and mailed to voters who were still dealing with lack of power and trees blocking homes and thoroughfares. That meant that many voters got his letter in the mail on the very day he had set for the alternate election. He made no accommodations for the voters in the Pahoia town precincts who had been unable to get to the polls on the original Election Day. Erroneous press reports added to the problems.

And there were several other snafus created by the Elections Office that caused frustration among voters in addition to the lack of communication and accessibility, and those who hadn't received their voter registration cards, etc. That was the lack of notification of the specific address of the poll where Precincts 1 and 2 were supposed to vote on Aug. 15, and that all voting had to be done electronically. No paper ballots. Some voters had to stand in line for more than 90 minutes due to so few machines being dispatched to the voting site at Keonepoko School.

A giant mess, to be sure. A number of concerned citizens collected names and contact info from those who had been able to get to polling stations but denied the vote. We tried to get the county and state elections officials to remedy the problem.

On the Monday following the Aug. 9 Primary Election, I met with Steward Maeda, Hawaii County Clerk, to find out why the election was not postponed for all the lower Puna precincts and to lodge a complaint. Mr. Maeda said the decision had been made in Honolulu. He referred me to the Governor's office and the Governor's office referred me to the Chief Election Officer Nago.

Mr. Nago's office said the decisions were made based on information from Civil Defense. Civil Defense Chief Darryl Oliveira told me himself that Civil Defense and Hawaii County officials did not and would not make such a decision. Oliveira said CD and Fire Dept. personnel stationed in lower Puna in response to the approaching storm were trapped by fallen trees and had to leave their vehicles and hike out of the area. They at least were aware of the situation facing Puna's residents.



Hope L. Cermelj
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I, Hope L. Cermelj, voted in 2014 primary election absentee ballot, for I worked that Aug. 9th as poll worker @ Pahoa High School. I am a democratic party delegate, & I felt obligated to help denied voters, turned away from 2014 primary due to tropical storm Iselle. I contacted Washington D.C. EAC, Election Assistance Commission @301-563-3935-Kaylynn Dyson, was assigned to document our denied/disenfranchised voters. Also, I contacted Eric Holder's Atty. General of America-Washington D.C. @202-305-0014, Brittany Wake was assigned to tabulate, collect, turn in, emails, letters written, and phone calls to her Civil Rights Voting Section Dept. under A.G. Eric Holder, who in turn, assigned Washington D.C. Civil Rights attorneys to investigate the whole Puna District tragedy/civil rights violation. The Civil Rights Voting Section @ AG office stated that all denied voters either turned away, unable to drive or walk to polling place(s), not notified due to power outages from natural disaster, their individual federal voting rights were violated, and the State of Hawai'i under federal voting public law would be obligated to remedy these voters' civil rights.

For 2 weeks paid for by me personally, a classified ad ran in local East side Tribune-Herald newspaper. 100+ responses were directed to Brittany Wake, & Kaylynn Dyson email addresses, as well as phone calls to their offices, from Puna District 4 upset/disenfranchised/denied registered voters.

The make-up primary was also botched by Election Office in Oahu on August 15th.....improper notification to District voters, 2-day paper notices stapled on Pahoatown electric poles, incorrect newspaper articles, and the County District 5 voters were given no polling place at all for make-up primary election, due to tropical storm Iselle, no electricity, down trees in roads, hwy. 130, hwy 137 (Kalapana-Kapoho).

I support fully HB376 and urge Hawai'i legislators to get behind Election Office changes for 2016 election. Mahalo nui loa, Hope Cermelj @ 808-965-8021-Kalapana, Hawai'i.

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Philip G. Matlage	Individual	Support	No

Comments: I strongly support the adoption of HB 376, to add much needed oversight to the Office of Elections, there must be an opportunity to evaluate and correct the performance of the chief elections officer. To have a 4 year term without any opportunity to evaluate to performance and adherence to the statues governing the elections processes does a disservice to the voters of this state. The shorter term appointment would allow an opportunity to not only correct any shortcomings in performance and execution of the elections process, but encourage a more thoughtful approach to any difficulties arising in an election process. To put a finer point on the reasons for my support of this bill I would like to remind this committee of the lessons of the most recent election cycle, as experienced here in District 4 (Puna). I live in House District 4, precinct 1. Just prior to the 2014 primary election Hawaii County was struck by hurricane Iselle, 2 days before the primary election. The greatest damages were experienced here in House District 4 (lower Puna); 20 thousand or more trees were downed blocking roads (Public and Private), downed Power lines blocked not only roads but the entrances to precinct's 1 &2 polling places. The damages were so extensive HECO line crews were brought in from across the state and all available power polls in the state were diverted to the district to restore service, a process which took not hours or days but weeks. Notices were posted at the District 4 polling places stating the election would be completed by means of a mail-in ballot at a later date, for the 2 precincts ordered closed by the Office of Elections. In a move which still bewilders me, the Chief Elections Officer allowed partial results of the District 4 election voting to be released on the "first count", despite having knowingly closed half of the polling places prior to Election Day. To any but the most callused of observers, hopelessly tainting the election results, let me also say all of the candidates I personally supported were elected. The Chief Elections Officer subsequently changed the date, location and method of the election; 3 times in 3 days, twice within hours of each other, is a violation of the election laws, notification by mail and or personal delivery is required. The Office of Elections setup 2 roadside banners within District 4 noting when and where the election was to be held, and had spot radio advisories, deemed adequate public notice to hold an election. Additionally a single public notice was published in the Hawaii Tribune-Herald newspaper within 24 hours of the polling place opening. The District 4 Precinct 1&2 voters were advised by notices posted by the elections officials at the 2 closed polling places they would be sent a mail-in ballot, and the same was noted in the Hawaii Tribune newspaper. The written notices posted on the polling place doors were even shown as part of a KHON2 news story on the evening news broadcast. The adequate notice as determined by the Office of Election was in the despite continuing outages of; electricity, telephone, internet, cable TV, and widespread unavailability of drinking water, and in many cases downed trees blocking the public's ability to get to the polling place. Despite the difficulties in reaching the polling place people were confronted with an inadequate number of voting machine/booths (electronic only), one voting machine had not been "zeroed out" before being delivered to the polling place.

Precinct 1 & 2 voters were required to use different machines, some voters from Precinct 1 just left without voting as too few voting machines were delivered for their use. No paper ballots were available to use, nor were absentee ballots accepted. All of the above noted difficulties were in addition to the 6-800 voted not tallied from Maui County, which were somehow missed in the Election Day "audit". The Chief Elections Officer just kept the hits coming for the voters here in Puna when he called a press conference, again in Honolulu, noting Puna voters would have to go to a different polling place other than what was assigned to vote on the general election day. The local County Elections Office, thankfully, scrambled to ensure those who were misinformed were allowed to cast a ballot no matter what polling place they appeared at. For the above noted experiences I am urging the members of this committee to support and pass HB 376. We must have changes to restore my personal and the public's confidence in our elections office and the government we elect. Philip Gregory Matlage House Dist-4 Democratic Party Chairman District 4/ Precinct 1 resident

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Jim Albertini	Individual	Support	No

Comments: I support this bill. Puna on the Big island had lots of problems in the last election. Hopefully this bill will help officials be more sensitive to the voters and the circumstances of being able to get to the polls. Mahalo. Jim Albertini

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Taira Yoshimura	Individual	Support	No

Comments: I am writing in support of HB 376. Decisions to hold the 2014 primary at Keonepoko Elementary School a week after Hurricane Iselle was typical of the incompetence inflicting great inconveniences upon us. The poor planning and preparation resulted in over a two-hour wait in line to vote. Plus two hour wait for the special bus. The process required six hours of my day. We need a mechanism to replace incompetent people as quickly as possible.