



**STATE OF HAWAII
OFFICE OF ELECTIONS**

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
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 SENATE BILL NO. 219
RELATING TO ELECTIONS**

February 4, 2015

Chair Keith-Agaran and members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to testify on Senate Bill No. 219. The purpose of this bill is to require the Office of Elections to implement all-mail elections.

The Office of Elections is in support of all-mail elections. We believe the transition to all-mail elections will encourage voter turnout, streamline the administration of elections, and result in cost savings. Currently, elections consist of three systems: (1) absentee walk locations; (2) election day polling places; and (3) absentee mail. The vast majority of voters either vote at election day polling places or by absentee mail. As such, it may be more efficient to focus our resources on absentee mail, with a significantly smaller election day presence limited to voters obtaining a replacement ballot package, or voting on a direct recording electronic voting machine; as well as some minor variation on the current absentee walk component. With that in mind, we have a variety of technical concerns regarding this bill.

This bill envisions elections by mail to be implemented statewide in a specified year. We believe that an incremental implementation would be the best approach for the State of Hawaii to migrate to elections by mail. Other states, such as Oregon and Washington introduced all-mail elections on a county by county basis. By following this model, we will be able to identify and correct any issues, as well as target voter education efforts as implementation progresses.

We would propose an implementation timeline to begin in 2016 in the County of Kauai; followed by the County of Hawaii and the County of Maui in 2018; and finally the City and County of Honolulu in 2020. Additionally, this migration would occur under the current contract that expires on December 31, 2020, as it has sufficient machinery and professional services to support the transition.

The bill as currently drafted raises a variety of operational issues that may inhibit the ability of all-mail elections to be successfully implemented. As such, we would recommend more streamlined language that makes minimal changes to our current laws but authorizes all-mail elections to be utilized for regularly scheduled elections, as opposed to our current laws that only permit all-mail elections for special elections. Specifically, we would recommend the following:

HRS § 11-91.5. Federal, state, and county elections by mail. (a)

Any federal, state, or county election [~~held other than on the date of a regularly scheduled primary or general election~~] may be conducted in whole or in part by mail. This includes the ability to designate specific precincts or counties that will be conducted by mail, in whole or in part.

(b) The chief election officer shall determine whether a federal [~~or state election, other than a regularly scheduled primary or general election,~~] election, state election, or an election involving state and county offices, may be conducted by mail [~~or at~~], polling places, or a combination of mail and polling places.

(c) The county clerk shall determine whether a solely county election, held other than on the date of a regularly scheduled primary or general election, may be conducted by mail [~~or at~~], polling places, or a combination of mail and polling places. An election by mail in the county shall be under the supervision of the county clerk.

(d) Voters may vote by absentee ballot at an absentee walk polling place. For purposes of an election by mail, at least one absentee walk polling place shall be designated by the county clerk to be open on the day of the election. In the event of a state or federal only mail election, the chief election officer shall designate at least one absentee walk polling place to be open on the day of the election.

(e) Election expenses in mail elections shall be shared and set forth as follows:

(1) Expenses related to mail elections involving both state and county offices, or federal and county offices, unrelated to voter registration shall be divided in half between the State and the counties. Each county will pay a proration of expenses as a proportion of the registered voters at the time of the general election. The counties will separately be responsible for expenses associated with voter registration and absentee voting.

(2) All expenses for county mail elections, which do not involve state or federal offices, shall be borne by the county and paid out of such appropriations as may be made by the council.

(3) All expenses for state or federal mail elections, which do not involve county offices, shall be borne by the State and paid out of such appropriations as may be made by the legislature. Expenses attributable to registration of voters by the county clerk, for said state or federal elections, which do not involve county offices, shall be borne by the State and paid out of such appropriations as may be made by the legislature.

(f) Election responsibilities in mail elections shall be shared and set forth as follows:

(1) In mail elections involving both state and county offices, or federal and county offices, the counties will continue to be responsible for voter registration and absentee walk voting, while the State will be responsible for the mailing, receipt, processing, and tabulation of ballots.

(2) The county will be responsible for mail elections involving only county offices.

(3) For mail elections involving only state or federal offices, the counties will continue to be responsible for voter registration and absentee walk voting, while the State will be responsible for the mailing, receipt, processing, and tabulation of ballots.

~~[(d)]~~ (g) The chief election officer shall adopt rules pursuant to chapter 91 to provide for uniformity in the conduct of federal, state, and county elections by mail.

As it relates to the administrative rules for all-mail elections referenced in HRS § 11-91.5, those rules were promulgated in 2010, and can be further modified through the migration process, as necessary. Additionally, the proposed language would give the Chief Election Officer the ability to adjust the migration depending on issues of funding and public support for all-mail that may occur during the migration. This recommendation runs counter to Section 13 of the bill that removes HRS § 11-91.5 in its entirety, but we believe it would be prudent to allow the Chief Election Officer and the county clerks to have more control over the timing and manner of migration, in order to address any issue that may arise.

Furthermore, we would like to address the following operational issues and provide recommendations:

In regard to “**§11-B Procedures for conducting elections by mail,**” we believe that the specific mailing date range should not be stated in the bill as there may be printing, mailing, and litigation issues that can make it difficult to guarantee a specific time period for mailing ballots for a particular election. We propose that the mailing time frame be prefaced with the words “to the extent possible.”

As for “**§11-C Counting of mail-in ballots,**” we believe the counting of ballots should be permitted to occur prior to election day, so long as election results are not reported until the close of polls on election day. Given the volume of ballots that would occur in an all-mail election, it would not be possible to scan all ballots on election day. Similar to the State of Oregon, we would need to begin the scanning process well in advance of the election and put in safeguards to ensure election results are not reported. We would recommend the following changes to subsection (a):

(a) The ~~[method of preparing]~~ counting of ballots may begin no sooner than the seventh day before the election. In the presence of official observers, counting center employees may ~~[start to]~~ count the ballots, but no results will be released to the public until the close of polls on election day. All handling and counting of the mailed-in ballots shall be according to procedures established by the chief election officer.

We feel that the definition of “voter service centers” and the usage of the terms “polling place” and “precinct” needs further clarification. At times it appears that “voter service centers” are another term for “absentee polling places” and then at other times it appears to be the equivalent of an election day polling place. Additionally, the term “precinct” is sometimes used as the equivalent of all of these locations for voting. The use of all of these terms throughout the bill could be interpreted as each having their own definition and nuance between them.

We assume that the bill seeks to establish “voter service centers” as the means by which full-service voting can occur prior to election day and on election day, supplemented only by drop-off locations that would lack voting machines, and that the terms absentee polling place and polling place could eventually drop from our laws. The term “precinct” as defined in HRS § 11-1 as “the smallest subdivision established by law,” would need to remain to represent the unique combination of contests that voters who reside in a particular area, in relation to the boundaries for congressional, state senatorial, state representative, and council districts, are entitled to vote for on their ballot.

In regard to the quantity of voter service centers established in **§11-D Voter service centers; minimum number; designation; services provided**, we are concerned that operationally the establishment of approximately 40 voter service centers that will be open from the tenth day prior to the election will raise its own unique set of issues, that will not necessarily be easier to resolve than our current model, with its focus on staffing over 200 polling places on election day, supplemented by approximately ten absentee polling places, leading up to the election.

For comparison purposes, it should be noted that the City and County of Honolulu currently operates two absentee walk sites, while a county in Oregon is only required to have one site at their county building. This bill would require the City and County of Honolulu to establish 25 locations. Additionally, this bill would require a voter service center on Molokai, Lanai, and Niihau, which would be very difficult to operationally accomplish.

Section 2 of the bill refers to a “place of deposit” and defines it as “any state public library or any other site designated by the chief election officer.” In order to avoid any confusion over whether libraries will or will not participate as a “place of deposit” we would recommend removing the reference to “any state public library.” Upon passage of this bill, we would have to reach out to various entities to see if they would be amenable to being a “place of deposit” and

whether we could work out any security issues related to utilizing that location to accept ballots and ensuring that the place will be open until the close of polls.

Section 6 of the bill regarding the election proclamation raises questions as to how many election day polling places or voter services centers are intended by the bill. Specifically, we question what is meant by the following proposed portion of **§11-92.1 Election proclamation; [~~establishment of a new precinct.~~] precincts:**

The chief election officer shall provide one or more precincts within a representative district as the chief elections officer deems necessary for voters who are unable to participate in elections conducted by mail pursuant to part _____. Beginning on January 1, _____, voter service centers shall be made available pursuant to section 11-D.

It is not clear if the first sentence of this excerpt is requiring the establishment of a minimum of 51 polling places, each associated with one of the 51 representative districts, as the term “precinct” and “polling place” are sometimes used interchangeably. If so, we would need to still leave in place a significant system to coordinate these 51 polling places or voter service centers.

The distinction between “precinct” and “polling place” should be clarified in Section 7 of the bill, which amends “**§11-92.3 Consolidated or alternate precincts; natural disasters; postponement; absentee voting [required;] ; vote by mail; special elections.**” Specifically, the bill refers to consolidating precincts “or provid[ing] an alternate precinct.” We would recommend changing the language to the following: “or establish a new polling place for the voters of the impacted precinct.”

As for Section 8, regarding “**§11-184 Election expenses and responsibilities in combined state and county elections[.] by mail.**” it is not clear who will pay and be responsible for the voter services centers, given the interchangeable use of the terms of polling place and voter services centers, as provided for in Section 2 of the bill. Specifically, subsection (1) refers to the State paying and being responsible for precinct officials, but subsection (2) refers to the counties paying and being responsible for employees assigned to conduct absentee or elections-by-mail polling place or voter service center functions.,

In order to implement all-mail elections, we believe there should be a safeguard in place for voters who do not receive their ballots in a timely manner to vote and return them by election day, as they are out-of-state, or are otherwise

physically not able to get to a voter service center on election day. We would recommend amending HRS § 15-5 authorizing the electronic transmission of blank and voted ballots by fax, electronic mail, and online ballot delivery for such voters, within 5 days of an election, if they have not received their ballot or they have spoiled their ballot. The following is our proposed language and we have also submitted a similar bill, Senate Bill No. 441, for consideration by the Legislature.

SECTION ___. Section 15-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If mailed absentee ballots are not received by the voter within five days of an election, or a voter otherwise requires a replacement ballot within five days of an election, a ~~[covered]~~ voter ~~[under chapter 15D]~~ may request that absentee ballots be forwarded by ~~[facsimile,]~~ electronic transmission. Upon receipt of such a request and confirmation that proper application was made, the clerk may transmit appropriate ballots ~~[by facsimile]~~ together with a form requiring the affirmations and information required by section 15-6, and a form containing a waiver of the right to secrecy, as provided by section 11-137. The voter may return the voted ballot and executed form by ~~[facsimile]~~ electronic transmission or mail; provided that they are received by the issuing clerk no later than the close of polls on election day. Upon receipt, the clerk shall verify compliance with the requirements of section 15-9(c), and prepare the ballots for counting pursuant to section 15-10. The clerk shall determine, prior to an election, which form or forms of electronic transmission shall be authorized for the initial transmission of ballots to voters and the return transmission of ballots by voters. The forms of electronic transmission authorized for the initial transmission of ballots may differ from those authorized for the return of ballots by voters. For purposes of this subsection, "electronic transmission" may include facsimile transmission, electronic mail delivery, or the utilization of an online absentee ballot delivery and return system.”

Thank you for the opportunity to testify on Senate Bill No. 219.

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

TESTIMONY OF DANNY A. MATEO
COUNTY CLERK, COUNTY OF MAUI
TO THE SENATE COMMITTEE JUDICIARY AND LABOR
ON SENATE BILL NO. 219
RELATING TO ELECTIONS
FEBRUARY 4, 2015

Chair Keith-Agaran and members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to offer comments on Senate Bill No. 219. The purpose of this bill, beginning with the primary election of an unspecified year, requires the Office of Elections to implement elections by mail. Thereafter requires all federal, state, and county primary, special primary, general, special general, and special elections to be conducted by mail. Establishes a minimum number of voter service centers per county and island, in lieu of traditional polling places. Requires voter service centers to provide services such as voter registration.

The Office of the County Clerk, County of Maui, would like to provide comments on the proposed bill.

This bill does not take into account funding issues the counties will face while implementing these mandates, including up-front and ongoing costs. While the bill provides an undisclosed amount of funding to the Office of Elections to implement it, the counties have been tasked with the responsibility of paying for employees assigned to conduct elections-by-mail or voter service center functions, costs associated with public solicitation on voter service center locations, and half of the remaining costs created by this bill. Our office supports centralized mailing, processing and counting center operations, instead of separation between the counties and State in all mail elections, to utilize economies of scale and keep costs lower.

The establishment of voter service centers in the counties presents logistical and staffing issues. As an example, the Office of the County Clerk, County of Maui, tried to establish an absentee walk site on Lanai for the 2014 Primary and General Elections. Although print and radio advertising was done to hire for the new absentee walk site, our office did not even receive three applications, the minimum amount of individuals required to staff an absentee walk site.

Our office consistently faces challenges in hiring for polling sites on election days, even though the volunteers would only be required to work the polling site for one full day. Finding qualified volunteers to work for ten days at six voter service centers around the County would present significant challenges. Most of our current polling place workers are comprised of teachers, students, retirees and other individuals who normally have election days off.

Finding locations that could accommodate the voter service centers for ten days on both the Primary and General Elections would prove challenging. Changing locations between the Primary and General Elections would create confusion and frustration amongst voters, and utilizing public locations, such as schools or community centers, for these functions would displace local community groups and residents who regularly utilize these facilities.

Language within the bill would need to be clarified, including but not limited to the use of the terms “voter service centers”, “precinct”, and “polling place”.

The County of Kalawao is the only existing county that falls into the category of a county with fewer than fifteen thousand registered voters to have a voter service center. There were only 42 registered voters in the County of Kalawao for the 2014 General Election and each election their registered voter count decreases. Historically speaking, it was the residents of the County of Kalawao who requested not to have a polling place due to the advanced age of their residents, making them physically unable to operate a polling place. The County of Kalawao is already covered under section 15-4(b), Hawaii Revised Statutes, for all mail elections.

Thank you for the opportunity to testify on Senate Bill No. 219.

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
LĪHU'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 SENATE BILL NO. 219
RELATING TO ELECTIONS
February 4, 2015

Chair Keith-Agaran and Committee Members:

Thank you for the opportunity to testify on Senate Bill No. 219. This Bill proposes establishing elections-by-mail for all federal, state, and county elections. Additionally, the Bill seeks to establish a minimum number of voter service centers per county and island.

Our current polling place based voting model utilizes a substantial portion of available resources yet is limited to providing direct service only to voters who take the time to go to the polls on Election Day. Though absentee mail and early voting are available, these services also require a voter to initiate the process before voting can actually occur.

The voting process should be as effortless as possible for voters and we believe that this is a key to increasing voter turnout so wholeheartedly support a transition to elections-by-mail since this will allow the Counties to automatically mail a ballot packet to every properly registered voter.

Though we support elections-by-mail, we have major concerns with establishing voter service centers since this would create considerable logistical issues for our office so request that the Committee consider eliminating this requirement.

In addition to making voting services as effortless as possible for voters, we also believe the administration of elections should be as uncomplicated as possible. At present, Hawai'i actually conducts three (3) elections during each Primary and General Election: 1) absentee mail elections, 2) early voting elections, and 3) polling place elections on Election Day. Each election is separate and distinct, and requires its own unique operations and support structure.

Requiring voter service centers, while implementing elections-by-mail will increase the overall complexity of elections and almost certainly drive up expenses

since savings, if any, from a limited reduction in physical polling places will probably be insufficient to offset increased postage costs and related expenses.

Elections-by-mail will be a major change to Hawai'i elections but it will right-size operations and extend actual voting service to every registered voter in the State. With more voters opting to vote by mail in each succeeding election, we believe the time is right for transitioning entirely to elections-by-mail and respectfully request that you seriously consider our comments and recommendations.

Thank you for this opportunity to testify on Senate Bill No. 219.



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www.lwv-hawaii.com | 808.531.7448 | voters@lwvhawaii.com

COMMITTEE ON JUDICIARY AND LABOR

February 4, 2015, 9:00 A.M., Conference Room 016

SB 219 RELATING TO ELECTIONS
TESTIMONY

Brad Clark, Legislative Committee, League of Women Voters of Hawaii

Chair Keith-Agaran, Vice Chair Shimabukuro, and Committee Members:

The League of Women Voters of Hawai'i strongly supports establishment of an all ballot by mail system in Hawai'i. However, we have several concerns about SB 219 which would require the office of elections to implement elections by mail beginning with the primary election in an as yet unspecified year. Thereafter the bill would require all federal, state, and county primary, special primary, general, special general, and special elections to be conducted by mail. It establishes a minimum number of voter service centers per county and island in-lieu of traditional polling places and requires voter service centers to provide services such as voter registration.

We urge the establishment of vote-by-mail elections in the State of Hawai'i. According to the National Conference of State Legislatures there are at least twenty-two states that allow certain elections to be conducted by mail and the states of Oregon, Washington and Colorado conduct mail-in voting for all elections. Voting by mail has become increasingly popular in Hawai'i. For statewide primary elections mail-in ballots accounted for 42.4% of total ballots cast in 2010, 45.9% of primary ballots in 2012 and 51.2% of primary ballots in 2014. For Hawai'i General Elections, mail-in absentee ballots accounted for 42.4% in 2010, 45.9% of the vote on 2012 and 51.2% of the vote in 2014. ¹

Vote-by-mail systems have several advantages over the current polling place elections currently conducted in the State. There is a potential for significant cost savings in a vote-by-mail system. It will no longer be necessary to recruit, train and pay the hundreds of poll workers now needed in the state's 247 polling places. Hawai'i currently has the lowest percentage turnout of voters of any state. In the 2016 general election only 52.3% of registered voters cast ballots in the election which represents only 34.9% percent of eligible citizens casting ballots. Vote-by-mail systems have increased the voter turnout by making ballots available to each registered voter. Hawai'i conducted the special congressional election in District 1 in 2010. The turnout in that special election was 54%

Section 11-D of the bill requires a minimum number of voter service centers to be opened in each county to allow a voter to deposit or cast a ballot, update his or her address and to have his or her name changed on the register of voters if he or she has legally changed names. Section 15-7 also requires that these

¹ Hawai'i State Office of Elections: <http://hawaii.gov/elections>



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centers allow voters to register and vote if they are not currently registered. These voter services centers are required to be open beginning ten days before an election and close on the day prior to the election. This bill does not specify where a voter can go on Election Day to register and vote. This bill should be amended to specify that the voter service centers, or other locations, are available for voter registration and voting on the day of the election.

The League of Women Voters supports the establishment of voter service centers to assist voters who wish to vote in person, who have lost or damaged their ballot or need to complete a late registration and vote. However, we believe that the formula used in this bill puts a burden on county election officials by requiring minimum numbers of voter service centers in each county. Using the formula in this bill and the voter registration totals from the 2014 general election the following numbers of voter service centers would be required: twenty-five in the City and County of Honolulu, six in the County of Hawai'i, six in the County of Maui and three in the County of Kaua'i. The bill would also require at least one voter service center on each inhabited island in the state. This would require the County of Kaua'i to set up and staff a voter service center for at least ten days on the island of Ni'ihau. We believe this is excessive. The bill should be amended to allow the chief elections officer and the county clerk of each county to determine the number of service centers needed to serve the voters.

The bill states that public notice of the mailing of ballots shall be made pursuant to HRS 1-28.5 which requires a legal notice in a daily or weekly publication. To ensure the widest distribution of this information we suggest that the bill be amended to also require that chief elections officer and/or county clerk issue a general news release and post the information on the state office of elections and county clerk websites.

We have concerns about the section 11-C of the bill which states, "Counting of mail-in ballots. (a) The method of preparing ballots for counting may begin no sooner than the seventh day before the election." This language needs to be changed. The shift to elections by mail will require new policies and procedures to ensure that the ballots are secure and that they are processed and counted in a timely manner. In the general election of 2014 there were a total of 189,107 absentee ballots processed statewide. Assuming that a mail ballot election would result in a turnout of 54% (as in the 2010 special congressional election) there would be over 381,000 mail ballots to process. It would be advisable to allow election officials to begin the process of signature verification as soon as the ballots are received from the voter as is presently the case.

Currently in Hawai'i mail ballot envelopes are not opened until election morning which results in voted ballots not arriving at the counting stations until late morning. In the 2014 primary elections counting of absentee ballot was not completed until after midnight. To ensure that ballots are counted in a timely manner it is advisable that the legislature allow the chief elections office to establish procedures which allow ballot envelopes to be opened and scanned prior to Election Day. Several states allow ballot envelopes to be opened and ballots to be scanned prior to Election Day so long as results are not released prior to the scheduled close of polls. As examples, California allows ballots to be opened and



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scanned seven business days before an election, Oregon seven calendar days before an election and Colorado ten days before an election.ⁱⁱ Hawai'i should allow the processing of prior to Election Day to ensure that the most complete results are available to the public on election night.

Section 2.2. of this bill defines a ballot and includes language which says "It shall also include the face of the mechanical voting machine when arranged with cardboard or other material within the ballot frames, containing the names of the candidates and questions to be voted on." This appears to be old language referring to lever voting machines which are no longer in use. We suggest that this language be taken from the bill and new language that reflects the use of electronic voting devices be put in its place.

We suggest that the language in Section 5 of the bill dealing with removal of voters from the register be reviewed to ensure that it complies with the National Voter Registration Act.

SB 219 does not set a timeline for vote-by-mail. While the League of Women Voters strongly supports establishing a vote-by-mail system in Hawai'i we do not underestimate the fact that this would be a major process change. Adequate voter education, sufficient time to acquire and test additional ballot scanning and/or counting equipment, select drop off locations, etc. is necessary to ensure success. For this reason, we believe that it would be appropriate to implement voting-by-mail in stages. We recommend an approach that allows Kaua'i County to begin vote-by-mail elections in 2016, adding Maui and Hawai'i Counties in 2018 and conducting vote-by-mail elections in all counties beginning with the primary of 2020. This approach will allow the office of elections and the county clerks to systematically implement vote-by-mail.

This bill allows for an appropriation, which is appropriate. We rely on the office of elections and county clerks to articulate what is needed to conduct elections by mail, and we recommend that adequate funding be made available to ensure the necessary funds to implement this important voting change.

The League of Women Voters of Hawai'i strongly supports the establishment of vote-by-mail elections in this State and hope that our comments on this bill will help in that effort. Our members are experienced, trusted volunteers in election and voting operations, including voter registration drives, working at polling places, counting centers and the State control center. We urge you to consider our comments and thank you for the opportunity to submit testimony.

ii California Elections Code section 15101, Oregon Revised Statutes 254.478, Colorado Statutes 1-7.5-107.5



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From: mailinglist@capitol.hawaii.gov
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Subject: Submitted testimony for SB219 on Feb 4, 2015 09:00AM
Date: Tuesday, February 03, 2015 5:23:58 PM

SB219

Submitted on: 2/3/2015

Testimony for JDL on Feb 4, 2015 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Individual	Support	No

Comments: I strongly support this bill. As someone who has working polling locations, been a poll watcher and worked on getting out the vote, I can attest to the poor voter turn out in our state. At least this would increase the chances that more of our citizens will participate in the democratic process. Ann S. Freed Mililani, Hawaii

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