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TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR
ON SENATE BILL NO. 2242
RELATING TO ELECTIONS

February 2, 2016

Chair Keith-Agaran and members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to provide comments on Senate Bill No. 2242. This bill allows voters to exhibit their voted ballot and it permits voters to leave the polling place without casting their ballot.

We believe the intent of this bill is to clarify that voters may disseminate images of their ballot electronically or digitally. 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). Currently, there is nothing prohibiting a voter from taking a photo of their ballot and posting it, so long as matters related to vote buying, voter coercion, or others prohibited by Chapter 19, HRS are not involved.

We believe that HRS § 11-137 may not be the proper statute to amend to allow images of a ballot to be disseminated. The language of HRS § 11-137 is geared toward the operation of a polling place and ensuring that it is an apolitical, distraction free, and orderly environment in which voting can occur without campaigning or electioneering. The language that this bill proposes, specifically "other than the voter," would exempt the voter from the prohibitions against willfully exhibiting one's ballot in the polling place and leaving the polling place with one's ballot before casting it. These prohibitions are meant to stop voters from declaring in the polling place how they voted and encouraging others in the

polling place to vote in the same way. Similarly, prohibiting voters from removing ballots from the polling place is a ballot accounting and security matter.

We believe the following language is more appropriate to allow a voter to distribute electronic images of their ballot, regardless of how the image was originally obtained.

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 Senate Bill No. 2242.