

**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 FINANCE
ON SENATE BILL NO. 2444, SD 2, HD 1
RELATING TO ELECTIONS

April 1, 2016

Chair Luke and members of the House Committee on Finance, thank you for the opportunity to testify in support of Senate Bill No. 2444, SD 2, HD 1. This bill requires the Office of Elections to join the Electronic Registration Information Center (ERIC) to share data with its 16 member jurisdictions and will permit election officials to ensure compliance with the Help America Vote Act (HAVA) and the National Voter Registration Act (NVRA).

We believe being a member of ERIC would help to maintain the accuracy of the voter registration rolls by allowing us to compare our voter registration file and driver license file against those of other members of ERIC. We would be required to provide the complete driver license file to notify member states if an individual applies for a driver license or state identification card, indicating that they may no longer be a resident of their state.

We would note that previous testimony expressed concerns over the legality of accessing this information. However, our reading of the federal Driver Protection and Privacy Act (DPPA) is that data may be released for a variety of reasons, including "[f]or use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions." 18 USC § 2721(b)(1). Additionally, sixteen other jurisdictions have not found that membership in ERIC and corresponding utilization of the driver license file to carry out their election related duties was somehow a violation of the DPPA

(i.e., Alabama, Colorado, Connecticut, Delaware, Illinois, Louisiana, Maryland, Minnesota, Nevada, Oregon, Pennsylvania, Rhode Island, Utah, Virginia, Washington, and Washington D.C.).

The bill appropriates \$25,000 for the initial membership to ERIC, with additional annual fees to be requested with the annual budget. We estimate the annual membership fee to be \$23,000, and the initial mailing associated with membership to cost \$63,000. The bulk of the initial mailing would consist of voter registration postcards sent to all eligible drivers and state identification card holders who are not currently registered to vote. Subsequent annual mailings would be significantly less as they would only involve new drivers and state identification card holders who are eligible but not registered to vote.

We are exploring other funding sources including the Pew Charitable Trusts to see if we would be eligible to apply for the next round of grants that they may issue to defray costs associated with encouraging voter registration. We have not been able to apply in the past as we currently do not have the necessary access to the driver license file, as required by membership in ERIC.

Additionally, this bill would help to ensure that the Department of Transportation and county examiners of drivers are able to provide us the driver's licensing and state identification file to accomplish the duties of the chief election officer and the county clerks under HAVA and NVRA.

For example, HAVA requires our offices to enter into an agreement to "match information in the database of the statewide voter registration system with the information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration." 52 USC § 21083(a)(5)(B)(i).

Similarly, NVRA provides, in relevant part, the following: (1) "[e]ach State shall include a voter registration application form for elections for Federal office as part of an application for a State motor vehicle driver's license;" (2) "[t]he voter registration application portion of an application for a State motor vehicle driver's license—(A) may not require any information that duplicates information required in the driver's license portion of the form (other than a second signature or other information necessary under subparagraph (C));" and (3) "[a]ny change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes." 52 USC § 20504.

We believe receiving the applications electronically will be useful in investigating inquiries by drivers or state identification card holders if they allege that they did in fact fill out the voter registration application portion of the driver

license or state identification in the face of being told that they are not registered. Only by being able to see the application would election officials be able to confirm if the individual did or did not fill out the voter registration portion.

Thank you for the opportunity to testify in support of Senate Bill No. 2444, SD 2, HD 1.

JADE K. FOUNTAIN-TANIGAWA
County Clerk

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**ELECTIONS DIVISION
OFFICE OF THE COUNTY CLERK**

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LIHU'E, KAUA'I, HAWAII 96766-1819

**TESTIMONY OF JADE K. FOUNTAIN-TANIGAWA
COUNTY CLERK, COUNTY OF KAUA'I
TO THE HOUSE COMMITTEE ON FINANCE
ON SENATE BILL NO. 2444, SD 2, HD 1
RELATING TO ELECTIONS**

April 1, 2016

Chair Luke and Committee Members:

Thank you for the opportunity to offer comments on Senate Bill No. 2444, SD 2, HD 1. This Bill would require the Office of Elections to join the Electronic Registration Information Center (ERIC) and share information with the counties to encourage participation and ensure the integrity of the voter rolls.

Our Office has no position on the Bill, but has concerns about transmitting the entire voter and driver license file to another entity without first thoroughly vetting its data handling policies and procedures, network security, and related technical matters.

Safeguarding voter data is of utmost importance and we would prefer that a thorough evaluation of ERIC's operations occur before committing to membership to ensure our voter data remains secure once it leaves our jurisdiction.

Thank you for this opportunity to offer comments on Senate Bill No. 2444, SD 2, HD 1.

JADE K. FOUNTAIN-TANIGAWA
County Clerk, County of Kaua'i



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COMMITTEE ON FINANCE

Friday, April 1, 2016, 11:00 a.m., Room 308
SB 2444 SD2 HD1 RELATING TO ELECTIONS

TESTIMONY

Janet Mason, Legislative Co-Chair, League of Women Voters of Hawaii

Chair Luke, Vice Chair Nishimoto, and Committee Members:

The League of Women Voters of Hawaii offers comments on SB2444, SD2, HD1.

While it's a little early to be confident, the Electronic Registration Information Center (ERIC) has apparently made good progress in helping member states clean up their voter rolls. The Pew Charitable Trust established this nonprofit in 2012, but our understanding is States control their own database. If Hawaii were to participate they would have the benefit of cross-checking information from voter registration, motor vehicle lists, and US Post Office changes-of-address records from thirteen states and the District of Columbia.

Our understanding is Hawaii's County Clerks and Office of Elections officials already uses electronic Social Security records to enhance the integrity of our voter registration data files. Of course, even with online voter registration and access to Social Security data, there can be errors in voter rolls, such as a citizen entering an incorrect driver's license number or an inaccurate Social Security number. Is it necessary to have ERIC to resolve these errors?

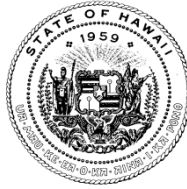
The Senate Ways and Means Committee already addressed codifying the requirement in our state statutes that the Department of Transportation and the counties should electronically provide their databases including driver's license and civil identification information to elections officials and the statewide voter registration system. This reinforces the fact that there is no conflict between the privacy provisions of the Federal Driver Protection and Privacy Act and state statutes.



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We know registration officials are diligent in trying to improve our rolls; going forward maybe this investment with ERIC would be helpful. The goal is to get voters registered accurately and \$25,000 toward this effort strikes us as reasonable. The Office of Elections and County Clerks now endorse joining ERIC, which is necessary for its success.

Thank you for the opportunity to submit testimony.



Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

LATE

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

April 1, 2016
11:00 a.m.
State Capitol, Room 308

S.B. 2444, S.D. 2, H.D. 1
RELATING TO ELECTIONS

House Committee on Finance

The Department of Transportation (DOT) is in **strong opposition** to S.B. 2444, S.D. 2, H.D. 1.

This bill allows for the electronic transfer of all driver license and civil identification card information including any documents or images contained in the databases maintained or operated by the counties or DOT to the election officials and statewide voter registration system. The bill also allows the Office of Elections to join the Electronic Registration Information Center, a private non-profit organization and non-governmental agency to “verify their respective voter registration rolls.”

If the intent of this bill is to provide “direct accessibility” only to the personal information and documents of persons who affirm their desire to be registered to vote, then those applicants have given their consent to release their personal information to the election officials and the statewide voter registration system.

If, however, the intent of this bill is to provide “direct accessibility” of all individuals in the driver’s license and identification card databases maintained or operated by the counties or the Department of Transportation, then DOT must oppose this as such access could be in potential conflict with Section 286-172, Hawaii Revised States.

Not all present driver license holders and civil identification card holders within these databases have given their consent to be registered to vote and therefore, would feel that their right to privacy has been infringed upon by the release of their personal data.

Thank you for the opportunity to provide testimony.