

**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 JUDICIARY
ON SENATE BILL NO. 2496, SD 2
RELATING TO ELECTIONS

March 22, 2016

Chair Rhoads and members of the House Committee on Judiciary, thank you for the opportunity to testify in support of Senate Bill No. 2496, SD 2. The purpose of this bill is to transition to all-mail elections.

Currently, our election model consists of two parts, absentee and election day. No excuse absentee voting was implemented to supplement election day polling places and modernize voting. In the past, absentee voting accounted for less than 20 percent of voter turnout, with the vast majority of voters continuing to vote at their polling place. However, in recent years, more voters are choosing to cast their ballot prior to election day. As such, we believe it would be more efficient to focus our resources on absentee voting, with a significantly smaller election day presence limited to voters obtaining a replacement mail ballot package, or voting on a direct recording electronic voting machine.

Transitioning to elections by mail will increase the amount of ballots that the counties will receive and preprocess beyond their current capacity. As such, we propose a capital investment of \$350,000 for scanner/sorters to be purchased for the counties to process the mail ballot envelopes. Given the timeline for implementing all-mail elections, no funding is necessary for this fiscal year. Instead, \$50,000 will be necessary in fiscal year 2018 to purchase a scanner/sorter for the County of Kauai, and then \$300,000 in fiscal year 2020 to purchase scanners for the remaining counties.

In reviewing the bill, given its broad scope touching on almost every aspect of elections, we naturally found a variety of technical concerns that we would ask you to consider. We believe these technical concerns are easily addressable and will help strengthen the resulting election by mail process that will guide the conduct of our elections going forward.

Proposed Section 11-A

We believe this proposed section does not clearly address how counties are to address the provisions of section 15-4 regarding voting by absentee ballot if they are not initially an election by mail county, and what occurs when the county does transition to be an election by mail county. Specifically, we propose the following changes:

§11-A Elections eligible to be conducted by mail. Beginning with the 2018 primary election, the office of elections shall implement elections by mail in a county with a population of less than 100,000. Beginning with the 2020 primary election, the office of elections shall implement elections by mail for all federal, state, and county primary, special primary, general, special general, and special elections throughout the State in accordance with this part[;]. ~~[provided further that any]~~ Any person registered to vote in a county that has not yet implemented elections by mail under this part may continue to request an absentee ballot or permanent absentee ballot in accordance with section 15-4(e), in lieu of receiving an election by mail ballot package pursuant to this part, and absentee ballot only elections may continue to be conducted pursuant to section 15-4(b)]. Additionally, counties that have not yet implemented elections by mail under this part shall continue to have the authority to conduct an absentee ballot-only election under section 15-4(b), for each registered voter who resides in the county of Kalawao or on any island of a county with a population of less than one hundred eighty thousand, except for the island where the county seat of government is located. Further, in counties that have not yet implemented election by mail under this part, pursuant to section 15-4(c), in the event there are fewer than five hundred registered voters as of the preceding general election in an area covered by a unique ballot type, the clerk shall mail an absentee ballot to each registered voter who resides in such an area, if the chief election officer, or the clerk in a county only election, determines that an election day polling place will not be established for such voters. However, upon a county implementing elections by mail, any permanent absentee ballot requests shall be canceled and the provisions of section 15-4(b), (c), and (e) shall no longer be applicable. Voters in any election by mail county will continue to have the ability to apply each election cycle for an absentee ballot

to be temporarily mailed to a different address than the one associated with their voter registration record, pursuant to section 15-4(a).

Proposed Section 11-B

This proposed section touches on two important issues of when ballots are available to the public and who is authorized to establish voter service centers and places of deposit.

Our law currently provides that ballots will be distributed “no earlier than thirty days before an election.” HRS § 15-5(a). However, there is an exception under state and federal law for voters and overseas voters who must be transmitted ballots at least forty-five days prior to an election. HRS § 15D-9 & 52 USC § 20302(a)(8). The proposed section would reduce the permitted time frame from thirty days to a set period of time “no earlier than eighteen days and not later than fourteen days before the date of an election,” while specifically permitting election officials to comply with laws related to military and overseas voters.

We would prefer that proposed section 11-B be amended to provide that ballots be mailed “no earlier than the date that ballots are mailed to voters covered by HRS § 15D-9.” In the alternative, we would ask that the current provision of HRS § 15-5(a) of “no earlier than thirty days before the election” be utilized instead of the restrictive reference to “no earlier than eighteen days and not later than fourteen days before the date of an election” in the bill.

Among the benefits of allowing ballots to be mailed out at an earlier time are the following: (1) given that ballots may be mailed from the mainland, due to the capacity of printing and mailing houses on the mainland to accommodate the increased volume of ballots being mailed, an earlier mailing date helps address any possible delays in receiving mail from the mainland that may occur; (2) voters would have more time to review their ballots and determine how they want to vote; and (3) election officials would have more time to work with voters who have returned unsigned ballots or whose signatures do not match what is on file, to get it corrected prior to election day, and to ensure the voter the best opportunity to get their ballot counted.

In regard to the establishment of voter service centers and places of deposit, proposed section 11-B(c) refers to the chief election officer determining and providing for voter service centers and places of deposit. However, this is inconsistent with proposed section 11-I(a) and (d), which provides that “the respective clerk, after consultation with the chief election officer shall designate at least one location in the county to serve as a voter service center,” which would generally be the county clerk’s office, and “[t]he county clerks may also designate and provide for places of deposit.” As such, we would recommend that

proposed section 11-B(c) refer to the county clerks instead of the chief election officer.

Proposed Section 11-C

The bill appears to require that public notice be provided after the mailing of ballots has actually occurred as opposed to in close proximity either before or after the mailing. Given the need to ensure that the ballots have been actually mailed under the bill, we cannot coordinate with the newspapers in advance of the expected mailing to have the notice come out on the day or the day after the mailing occurs, as there is always the possibility the mailing may be delayed for some reason. Instead, we would have to wait until after the mailing occurs. Given the lead time that newspapers require before printing notices, it is likely that voters would receive their ballot in the mail before the notice is even printed.

As a result of this, we would recommend that the language of the bill be amended to provide as follows:

§11-C Public notice of mailing. Public notice of the date or dates that ballot packages are expected to be mailed or have been mailed shall be given by the chief election officer and all county election officers in the manner prescribed in section 1-28.5 ~~when all the packages have been mailed or made available to voters.~~

Proposed Section 11-D

Proposed section 11-D(c) makes the following reference to returning a ballot:

(c) To cast a valid ballot, the voter shall return the marked ballot in the return identification envelope containing the secrecy envelope with the marked ballot:

(1) By mail so that the return identification envelope is received at the office of the clerk no later than the time provided in section 11-131 on the date of the election;

(2) By personal delivery to any place of deposit no later than 6:00 p.m. on the day preceding the date of the election; or

(3) By personal delivery to any voter service center no later than the time provided in section 11-131 on the date of the election.

We would note that proposed section 11-D(c)(1) restricts returning ballots to the county clerk to mail only. While one could add the term “personal delivery” to this subsection, consistent with the language of proposed section 11-D(c)(2) &

(3), we believe the term “personal delivery” can be interpreted by some as meaning delivery by the actual voter, as opposed to hand delivery by the voter or their agent, such as a friend or family member. As such, it may be better to say “hand delivery” or “hand delivery by the voter or their agent” for all of proposed section 11-D(c). In the alternative, one could define in HRS § 11-1 “personal delivery” as hand delivery by the voter or their agent. If instead the intent of the section is that only the voter can deliver the ballot then specific accommodations should be made for voters who are not able to make it to the county clerk’s office, a voter service center, or a place of deposit due to a disability, hospitalization, or similar reason.

In regard to deadlines, the proposed section refers to delivery to places of deposit no later than 6:00 p.m. on the day preceding the date of the election. Clarification is necessary to determine if this means that places of deposit cannot operate after 6:00 p.m. or close prior to 6:00 p.m. It would be difficult to ensure that all places of deposit will remain open until 6:00 p.m. for the depositing of ballots and that all places of deposits will be secured at 6:00 p.m. to prevent people from submitting ballots. Given this, we would recommend that the language be changed to “delivery to any place of deposit before the last retrieval of return identification envelopes associated with the place of deposit.” This would permit us to post signs at places of deposit that would essentially say the following: “The last scheduled pick up of ballots from this location is _____. After this time, we recommend that you go to your local voter service center or your county clerk’s office to drop off your ballot, obtain a replacement ballot, or vote on a voting machine.”

Proposed Section 11-E

We have similar concerns regarding the use of the term “personal delivery” that were mentioned in regard to proposed section 11-D. Consistent with that, we would believe the proposed section should clarify that an agent of the voter is authorized to pick up a replacement ballot for a voter. This would address situations in which a voter is not physically able to pick up the ballot. Finally, as it relates to a written request, we believe the section should be revised to be flexible enough to permit the county clerks to accept a replacement ballot request by email, over the telephone, or by the presentation of a replacement ballot request form in person or by mail, as the county clerk deems appropriate.

§11-E Replacement ballots. (a) A voter may [obtain] request a replacement ballot if the ballot was destroyed, spoiled, or lost. ~~[Replacement ballots shall be provided to a voter who completes and signs a replacement ballot request form. The replacement ballot request form shall include information that allows the clerk to verify the registration of the voter and ensure that another ballot has not been returned by the voter.]~~

(b) Upon receipt of the replacement ballot request [~~form~~], the clerk shall:

- (1) Verify the registration of the voter and ensure that another ballot has not been returned by the voter;
- (2) Note on the list of registered voters that the voter has requested a replacement ballot and manner in which it was requested;
- (3) Mark the return identification envelope as containing a replacement ballot; and
- (4) Issue the replacement ballot package by mail or by making the ballot package available for pick-up by the voter.

(c) Voters requesting a replacement ballot shall return the return identification envelope containing the secrecy envelope with the marked replacement ballot by mail or by [~~personal~~] hand delivery by the voter or their agent to a place of deposit no later than 6:00 p.m. on the day preceding the date of the election or by [~~personal~~] hand delivery by the voter or their agent to a voter service center or the office of the county clerk no later than the time provided in section 11-131 on the date of the election.

Proposed Section 11-F

We are concerned with proposed section 11-F which provides an additional five business days after an election for a voter to sign their ballot or otherwise cure a deficiency in their ballot. We would note that five business days after the Primary Election works out to nine calendar days, due to the subsequent non-business days of Sunday, Statehood Day, Saturday, and Sunday. Additionally, the proposed section provides that results may be released during this time frame. Given the interest that the public and candidates may have in the names of the voters who still have the ability to change the election results, the bill should clarify if this will be considered public information or not. Ultimately, the regular extension of elections for up to nine days to allow people to vote by correcting deficient return envelopes, in situations where results have already been released, is inconsistent with the concept of prompt finality and closure when it comes to our elections.

Proposed Section 11-H

Given the significant volume of ballots that would be centrally counted by election officials, as opposed to the current model in which approximately half of the ballots are counted separately by voting machines at over two hundred polling places, we believe that beginning the counting of ballots up to fifteen days prior to an election would be appropriate.

To the extent proposed section 11-H continues to refer to counting beginning no sooner than the tenth day prior to an election and the tenth day prior to the General Election is a Saturday, we believe the language of the section may need to be clarified. Specifically, it is typical for a statute to say whether a deadline falling on a Saturday, Sunday, or holiday is moved to the preceding or succeeding day which is not a Saturday, Sunday, or holiday (i.e., Typically when a deadline is ten days prior to an event and lands on a Saturday it will either be moved to the “succeeding” day going forward, which is Monday, or the “preceding” day, which would be interpreted as Friday.)

Given that the statute makes no reference to the preceding or succeeding day, we would need to rely on HRS § 1-29 Computation of Time to resolve the matter. The law provides, in part, that “[t]he time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a Sunday or holiday and then it is also excluded.” Given that the law makes no reference to excluding Saturday and the tenth day is Saturday, we will in all likelihood simply start on that day. Assuming HRS § 1-29 had specifically excluded Saturday, as it does for Sundays and holidays from the computing of days, then the tenth day prior to the General Election for purposes of that statute would have been Friday.

Proposed Section 11-I

Our comments relating to the calculation of deadlines would similarly apply to determining the tenth day prior to the election for the opening of voter service centers. Having said that, we are also concerned that the present language requires all voter service centers to be open at the same time. It may be better to provide more flexibility to the counties in terms of what the days and hours of operations should be. As such, we propose the following version of section 11-I(b) for your consideration:

(b) The voter service center at the office of the county clerk, or a site designated by the county clerk to serve that purpose, shall be open no later than the fifteenth day prior to election day, or as soon thereafter as ballots are available. The days and hours of operation of this voter service center will be determined by the county clerk. However, the designated voter service center will be open on the day of the election and will be open on that day until 6:00 p.m., the closing hour of voting. The opening time on election day will be determined by the county clerk. If at 6:00 p.m. on election day, any voter desiring to vote is standing in line outside the entrance of the designated voter service center with the desire of entering and voting, but due to the designated voter service center being overcrowded has been unable to do so, the voter shall be allowed to vote irrespective of the closing hour of voting. No voter shall be permitted to enter or join the line after the prescribed hour for

closing of voting. Additional voter service centers may be established by the county clerk at other locations and may follow a different schedule of times and dates of operation. To the extent one of these additional voter service center is open on election day, it may have a closing time earlier than 6:00 p.m., but in no event will it be permitted to have a closing time later than 6:00 p.m. Any voter desiring to vote standing in line outside the entrance of one of these additional voter service center with the desire of entering and voting, but due to the additional voter service center being overcrowded has been unable to do so, the voter shall be allowed to vote irrespective of the stated closing time of the additional voter service center. No voter shall be permitted to enter or join the line after the prescribed closing time for the additional voter service center, unless the county clerk decides to extend the closing time, but in now event may the county clerk extend the closing time beyond 6:00 p.m.

In regard to places of deposit, we believe the bill should be amended to further reflect that places of deposit may be designated by the county clerk to have different days and hours of operation. Our comments are similar to the ones made for proposed subsection 11-D(c)(2). Specifically, we indicated that the deadline of 6:00 p.m. on the day prior to the election should be changed to “delivery to any place of deposit before the last retrieval of return identification envelopes associated with the place of deposit,” in recognition of the fact that unlike voter service centers, one cannot guarantee that at exactly 6:00 p.m., all return identification envelopes are picked up at that time or that steps could be taken to prevent additional return identification envelopes from being deposited after that time before election officials are able to retrieve return identification envelopes from the place of deposit. Given this, we would propose the following language:

(d) The county clerks may also designate and provide for places of deposit if locations and apparatus for the purposes specified in this part can be securely maintained [throughout the period of use for each election]. This may involve different places of deposits having different dates and hours of operation. The county clerk may amend the dates and hours of operation of individual places of deposit, but in no event shall the hours of operation be amended beyond 6:00 p.m. on election day. All places of deposit shall be secured no later than by 6:00 p.m. on election day to ensure that no additional return identification envelopes may be deposited after that time. To the extent the county clerk designates a place of deposit to be open until 6:00 p.m. on election day, any voter desiring to vote standing in line outside the entrance of the place of deposit with the desire of entering and depositing their return identification envelope, but due to the designated place of deposit

being overcrowded has been unable to do so, the voter shall be allowed to deposit their return identification envelope irrespective of the closing hour of voting. No voter shall be permitted to enter or join the line after the prescribed hour for closing of voting. Such places of deposit will not be considered voter service centers as they may not have voting machines or replacement ballots that are required for a voter service center. The deadline for voting will not be extended for such voters requiring a replacement ballot or a voting machine, as places of deposit do not serve that purpose.

Proposed Section 11-J

In regard to the sharing of expenses, the goal of this bill should be to divide expenses between the State and counties for regularly scheduled elections, specifically the Primary Election and the General Election, with special elections not held in conjunction with these elections being handled consistent with whether such elections are primarily state, county, or federal elections.

A review of proposed section 11-J indicates that it may unintentionally result in this not occurring in situations in which a county either does not appear on the Primary Election ballot or General Election ballot, due to specific provisions of their charter that might come into play if there are only two candidates for particular offices, resulting in not needing to appear on the Primary Election ballot, or in situations in which a charter permits a candidate to win outright during the Primary Election and not needing to appear on the General Election ballot. Ultimately, it may be a rare situation in which all of a county's contests would not appear on a particular ballot, but it could occur. The planning and budgeting for the Primary Election and General Election for the State and counties cannot be held in limbo until the close of candidate filing or the results of the Primary Election are known (e.g., voting system contract, voter service centers, places of deposits, counting centers, staffing, etc.).

We propose the following language in Section 11-J(a)(1) and (b)(1) to clarify that for regularly scheduled elections, all counties and the State are to be involved in sharing the expenses and responsibilities associated with conducting these elections.

(a)(1) Expenses related to elections by mail for a regularly scheduled primary election or general election, unrelated to voter registration, shall be divided in half between the state and all counties, regardless of whether an individual county has any county contests or questions on a particular ballot. In regard to non-regularly scheduled elections by mail, involving both state and county offices, or involving both federal and county offices, expenses, unrelated to voter registration, shall be divided in half between the State and the county or counties whose contests or

ballot questions appear on the ballot. Each county shall pay a proration of the expenses as a proportion of the registered voters at the time of the previous general election. The counties shall be separately responsible for expenses associated with voter registration.

Proposed Section 11-J(a)(1).

(b)(1) For elections by mail involving ~~[both state and county offices, or involving both federal and county offices]~~ a regularly scheduled primary election or general election, or an election involving both federal and county offices, regardless of whether an individual county has any county contests or questions on a particular ballot the election:

- (A) The counties shall be responsible for voter registration, absentee voting, and the mailing and receipt of ballots;
- (B) The State shall be responsible for the printing and counting of ballots;
- (C) The State and counties may otherwise agree to the delegation of these responsibilities to each other; and
- (D) Any responsibilities not specified in this paragraph may be assigned to the counties or the State by the chief election officer;

Proposed Section 11-J(b)(1).

Section 7 – Election proclamation; places of deposit; voter service centers.

As we noted in regard to proposed section 11-B, places of deposit and voter service centers are determined by the county clerks in proposed section 11-I. Given this, the proposed changes by Section 7 of the bill to HRS § 11-92.3(a) should acknowledge this. As such, we propose the following:

§11-92.1 Election proclamation; ~~[establishment of a new precinct.]~~ places of deposit; voter service centers. (a) The chief election officer shall issue a proclamation ~~[whenever a new precinct is established in any representative district.]~~ listing all polling places and, in counties where elections by mail have been implemented pursuant to part , places of deposit, and voter service centers. Places of deposit may be open as soon as election by mail ballot packets are made available to voters. The chief election officer shall provide a suitable polling place for each precinct~~[-]~~ in counties where elections by mail have not been implemented. Beginning on January 1, 2018, voter service centers

shall be made available by the county clerk pursuant to section 11-1 in a county where elections by mail have been implemented. Schools, recreational halls, park facilities, and other publicly owned or controlled buildings, whenever possible and convenient, shall be used as polling places~~[-]~~ or, in the case of elections by mail pursuant to part , as voter service centers. The chief election officer in the case of polling places or the county clerk in the case of voter service centers shall make arrangements for the rental or erection of suitable shelter for ~~[this purpose]~~ these purposes whenever public buildings are not available and shall cause these polling places or voter service centers to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for election on any island. This proclamation may be issued jointly with the proclamation required in section 11-91.

Section 9 – HRS § 11-173.5 Contests for cause in primary, special primary elections, and county elections held concurrently with a regularly scheduled primary or special primary election

Section 9 of the bill amends the deadline to file an election contest in a primary election from the sixth day after the election to the thirteenth day. This appears to be an attempt to address the changes in proposed section 11-F that involve allowing voters up to nine days after a primary election to correct deficient return identification envelopes, such as forgetting to sign the envelope or the signature not matching what is on file for the voter.

We incorporate by reference our concerns regarding extending the deadline as inconsistent with the concept of prompt finality and closure when it comes to our elections. Additionally, any desire to give voters more time to correct deficiencies with their ballot could be addressed by mailing the ballots nine days prior to the current date the bill envisions for mailing ballots, and encouraging voters to return their ballots in a timely manner, so election officials can discover any problems sufficiently in advance to permit a voter to correct their ballot before the close of polls.

Ensuring Current Mailing Addresses for Ballots

The linchpin for elections by mail is ensuring that all registered voters receive their ballot by mail. Having said that, we live in a mobile society where people frequently move, and one of the last things they do is update their voter registration mailing address. As such, we propose that this bill incorporate a means by which changes to currently registered voters' mailing addresses can be updated in a timely manner in the statewide voter registration system, along with ensuring that new registered voters are able to be included in the system to permit them to receive a ballot by mail.

Specifically, we propose the following:

SECTION ____ Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriated designated and to read as follows:

"§11-A Updating of statewide voter registration system with driver license and civil identification card information. (a) If an applicant for a civil identification card or driver's license is already a registered voter, the application shall serve to automatically update the applicant's voter registration residence address, mailing address, or name, as may be applicable. A notice to this effect shall be stated on any application or change of address or name form utilized by the examiner of drivers.

(b) The examiner of drivers shall electronically transmit to the office of elections, any changes of name or address or any new voter registration applications for utilization by the statewide voter registration system.

(c) Databases maintained or operated by the counties or the department of transportation containing driver's license or civil identification card information, including any documents or images, shall be electronically accessible by election officials and the statewide voter registration system to allow for the timely processing of voter registration applications and address and name changes; facilitate verification of information provided by online voter registration applicants under section 11-15.3, ensure the integrity of the voter registration rolls, or for any other election purpose."

Thank you for the opportunity to testify in support of Senate Bill No. 2496,
SD 2.



DISABILITY AND COMMUNICATION ACCESS BOARD

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LATE

March 22, 2016

TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY

Senate Bill 2496, SD2 – Relating to Elections

The Disability and Communication Access Board (DCAB) supports Senate Bill 2496, SD2 - Relating to Elections. The purpose of this bill is beginning with the primary election in 2018, it requires the Office of Elections to implement election by mail in a county with a population of fewer than 100,000. Beginning with the 2020 primary election, implement election by mail in each of the other counties for all elections. It also establishes an elections by mail system, including requirements for ballots, replacement ballots, deficient return of ballots, ballot counting, voter service centers, places of deposit, and election expenses and responsibilities; establishes procedures for postponed elections; makes conforming amendments to provide for an elections by mail system; allows for the electronic transmission of mail-in ballots; appropriates funds for the implementation and administration of the elections by mail program; and requires the Office of Elections to submit annual reports to the legislature from 2017 to 2023 regarding implementing the elections by mail program.

DCAB worked cooperatively with the Office of Elections when the Help America Vote Act (HAVA) of 2002 was initially passed. We housed the Election Specialist position for the first three (3) years of the HAVA grant by providing technical assistance related to disability and accessibility issues as they related to voting. DCAB assisted the Office of Elections with surveying polling places to ensure the facilities were accessible and in selecting accessible voting equipment to ensure individuals with disabilities could vote independently and privately. The Election Specialist position has since relocated to the Office of Elections to provide disability-related expertise as part of the elections staff.

DCAB continues to support efforts of the Office of Elections by providing technical assistance related to accessibility so that voters with disabilities can continue to exercise their right to vote independently and privately at polling places, similar to any other voter. We have no objection to phasing in all-mail elections or offering open voter service centers or places of deposit, as long as the site is accessible. We defer to the Office of Elections and county clerks' offices regarding the amount of funding necessary to transition to an all-mail voting process.

Thank you for the opportunity to testify.

Respectfully submitted,

BARBARA FISCHLOWITZ-LEONG
Chairperson
Legislative Committee

FRANCINE WAI
Executive Director



LATE

SB2496 SD2
RELATING TO ELECTIONS
House Committee on Judiciary

March 22, 2016

2:00 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2496 SD2, which reduces barriers to voting and increases voter participation opportunities, by allowing future elections to be held by mail.

It is well known that Hawai‘i has historically suffered from low voter turnout. Hawai‘i consistently ranks lower than the national average for voter participation among those eligible to vote in the presidential election.¹ In response to historical data reflecting the underrepresentation of Native Hawaiians in particular in the polls, during the past two election seasons OHA has implemented a “Hawaiian Voice, Hawaiian Vote: I Mana Ka Leo” campaign to increase Native Hawaiian voter registration, education, and turnout.

During the course of these campaigns, many potential Native Hawaiian voters expressed ambivalence toward taking time off of work to visit polls, or taking the necessary steps to complete the absentee voter registration process. This measure would reduce such hurdles for voter participation by automatically giving citizens the opportunity to vote at their own convenience, from the comfort of their own homes. This will ultimately result in a more accessible election process and potentially higher Native Hawaiian voter turnout.

Evidence indicates that the people of Hawai‘i generally would also likely benefit from the modernized voting process envisioned by this bill. For example, Washington, Oregon, and Colorado—the three states that already conduct elections-by-mail—saw marked increases in voter turnout after implementing their mail-in voting systems.² Notably, these states have not found that holding elections by mail complicates election administration, or leads to increased voter fraud.³ Implementing such a system for Hawai‘i would not only mean that every eligible voter could vote at their own convenience, but

¹ Editorial Board, *The Worst Voter Turnout in 72 Years*, THE NEW YORK TIMES, Nov. 11, 2014, available at <http://www.nytimes.com/2014/11/12/opinion/the-worst-voter-turnout-in-72-years.html>.

² New York Times, Graphic: Voting by Mail (Oct. 6, 2012), http://www.nytimes.com/interactive/2012/10/07/us/voting-by-mail.html?_r=0; Joey Bunch, *Despite criticism, few efforts to change Colorado’s mail ballot law*, THE DENVER POST, Feb 15, 2015, http://www.denverpost.com/politics/ci_27529935/despite-criticism-few-efforts-change-colorados-mail-ballot.

³ Allison Terry, *Voter turnout: the 6 states that rank highest, and why*, CHRISTIAN SCIENCE MONITOR, November 6, 2012, available at <http://www.csmonitor.com/USA/Elections/2012/1106/Voter-turnout-the-6-states-that-rank-highest-and-why/Oregon>.

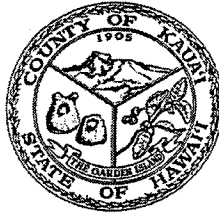
also that voters would have a much longer time with ballots in their hands, giving them ample opportunity to consider issues and candidates and make more informed decisions.

Hawai'i's electorate may benefit greatly from the increased convenience offered by this measure, but we recognize that the logistics of implementation can be complex. Therefore, on these matters, we defer to the Office of Elections and County Clerks' Offices.

Given the potential to greatly bolster Hawai'i's low voter turnout rate, including the turnout of Native Hawaiian voters, OHA urges the Committee to **PASS** SB2496 SD2. Mahalo for the opportunity to testify on this important measure.

JADE K. FOUNTAIN-TANIGAWA
County Clerk

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**TESTIMONY OF JADE K. FOUNTAIN-TANIGAWA
COUNTY CLERK, COUNTY OF KAUAʻI
TO THE HOUSE COMMITTEE ON JUDICIARY
ON SENATE BILL NO. 2496, SD 2
RELATING TO ELECTIONS
March 22, 2016**

Chair Rhoads and Committee Members:

Thank you for the opportunity to provide written testimony in support of Senate Bill No. 2496, SD 2. This Bill would require the Office of Elections to implement elections by mail in a county with a population of fewer than 100,000 beginning with the 2018 Primary Election, and expands elections by mail to each of the other counties beginning with the 2020 Primary Election. The Bill also establishes an elections by mail system, procedures for postponed elections, makes conforming amendments, and appropriates funds.

Our Office supports the migration to elections by mail and believes that it is the right time to begin making this change, especially due to the increased number of voters in each election opting to vote utilizing a ballot which has been mailed to them.

The current election model is more complicated than necessary and utilizes a significant amount of resources, because three (3) separate elections are actually conducted in conjunction with each Primary and General Election: 1) an absentee mail election, 2) an early voting (absentee walk) election, and 3) a polling place election on Election Day.

To ensure the overall integrity of the current election process, a highly complex coordination of effort is required between election officials, Election Day officials, and voting system contractors. The resulting policies and procedures are complicated and cumbersome, and difficult to implement for Election Day officials, since they only volunteer their time twice every 2-years.

Poll workers are especially impacted due to the extensive Federal and State laws governing operations at the polls, and we anticipate that Election Day registration will only increase the overall complexity of the process for this group of Election Day officials

Chair Rhoads and Committee Members
Testimony for SB 2496, SD 2, Relating to Elections
March 22, 2016
Page 2

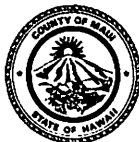
The current election model does not deliver the convenience requested by many voters, as voters must still initiate the actual voting process by either applying for an absentee mail ballot, or physically reporting to an early voting site or Election Day polling place. Conducting elections by mail will send a ballot to every properly registered voter and establish a voting process which is as effortless and convenient as reasonably possible. Given the reasons stated above, we respectfully request your support of this Bill.

Thank you for this opportunity to testify in support of Senate Bill No. 2496, SD 2.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

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

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 HOUSE COMMITTEE ON JUDICIARY
ON SENATE BILL NO. 2496, SD 2
RELATING TO ELECTIONS
MARCH 22, 2016

Chair Rhoads and members of the House Committee on Judiciary, thank you for the opportunity to testify in support of Senate Bill No. 2496, SD 2 and for the opportunity to offer comments. The purpose of this bill is to phase in statewide elections by mail by the 2020 primary election.

An all-mail election is an effort to make the voting process convenient for our voters and an effort to boost our voter turnout. With more voters choosing to vote by mail, we feel it is time to transition to an all-mail election. We believe it would be more efficient to focus our resources on absentee mail rather than our current process of three systems: absentee mail, absentee walk, and election day polling places.

For clarification, this bill implements elections by mail in a county with a population of less than 100,000 in 2018. We would request that the bill expressly exclude the County of Kalawao from this provision. The county of Kalawao falls into the category of a county with a population of less than 100,000, but is already covered in HRS §15-4(b) for all mail elections and in HRS §11-1. Definitions,

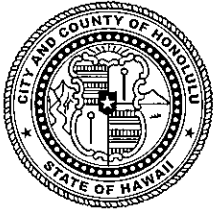
“County, the counties of Hawaii, Maui Kauai, and the city and county of Honolulu, as the context may require. For the purpose of this title, the county of Kalawao shall be deemed to be included in the county of Maui.”

We would like to recommend that language be included to give the County Clerk some discretion over the hours and days of operation for additional voter service centers that may be established. The County of Maui has had difficulties in the past recruiting volunteers for polling place operations on Lanai, and currently is facing difficulties finding

March 21, 2016
Page 2

volunteers on Molokai willing to work during the absentee walk-in period for the 2016 Primary and General Elections. In 2014, the County of Maui tried to establish an absentee walk-in facility on Lanai, but after extensive print and radio advertising, failed to receive even three volunteer applications, the minimum required to open such facility. Requiring additional voter service centers to maintain the same hours and days of operation as others statewide may create insurmountable challenges relating to the lack of volunteer staffing and transportation and logistical issues for the County of Maui to provide additional voter service centers to our residents on Lanai and Molokai.

Thank you for the opportunity to support and comment on Senate Bill No. 2496, SD 2.



GLEN I. TAKAHASHI
CITY CLERK

KIMBERLY L. RIBELLIA
DEPUTY CITY CLERK

OFFICE OF THE CITY CLERK

CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 100
HONOLULU, HAWAII 96813-3077
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TESTIMONY OF GLEN TAKAHASHI
CITY CLERK, CITY AND COUNTY OF HONOLULU
TO THE HOUSE COMMITTEE ON JUDICIARY
ON SENATE BILL NO. 2496 SD2
RELATING TO ELECTIONS

March 22, 2016

Chair Rhoads and Committee members:

Thank you for the opportunity to comment on Senate Bill 2496 SD2. The purpose of this bill is to provide a framework for vote by mail elections in Hawaii. The Office of the City Clerk generally supports voting by mail and is willing to work with the Committee to craft legislation that ensures a fair and tidy administrative election scheme.

As drafted, this bill provides a workable framework for a vote by mail election scheme. We do have concerns regarding the resources required for the administration of voter service centers and places of deposit. However, we understand these to be cost shareable items that accompany the vote by mail conversion.

If voting by mail is to advance, we also request the following amendment to the election day registration statute to harmonize election day polling operations and to minimize the impact on the counties until voting by mail is implemented statewide.

"[§11-15.2] **Late registration.** *[Section effective January 1, 2018.]* (a) Notwithstanding the closing of the general county register pursuant to section 11-24, a person who is eligible to vote but is not registered to vote may register by appearing in person:

(1) Prior to the day of the election, at any absentee polling place established pursuant to section 15-7 in the county associated with the person's residence; or

(2) On the day of the election, at the polling place in the precinct associated with the person's residence.

(b) The county clerk shall designate a registration clerk, who may be an election official, at each of the absentee polling places in the county established pursuant to section 15-7, prior to the day of the election [~~and at~~]. At each of the polling places in the county on

the day of the election, an election official shall be designated to serve as a registration clerk.

(c) The registration clerk shall [process] accept applications for any person not registered to vote who submits a signed affidavit in accordance with section 11-15, which shall include a sworn affirmation: . . . "

The election day registration law contains two lines of authority within each election day polling place; regular polling officials report to the State, and registration officials (that service same day registrants) would be recruited, trained, and report to the County Clerk.

This amendment would clarify and maintain that all election day polling place operations remain under the direction and control of the State Office of Elections. It is our belief that implementation of election day registration can be accomplished by utilizing regular polling officials with slightly modified training, thereby avoiding duplicative effort, and implementation costs for the Counties.

Doing so would also integrate registration clerks with their fellow poll workers and allow for providing valuable assistance in the polling place when needed. Further benefit would be realized since these poll workers/registration clerks would also be trained to utilize the State's existing phone bank support. The Oahu phone bank (located in the State House of Representatives' Capitol Chamber) is a regular feature of election day operations and serves to provide general support as well as voter registration verification.

Enactment of voting by mail statewide would likely subsume the same day registration policy. However, until that occurs, the election day registration law contains responsibilities (for each County election office) without funding to implement the program starting 2018 and beyond. If our office were to implement the law as drafted, we anticipate possibly having to duplicate the phone bank support and recruit and train an additional 300 officials to support the 144 polling places on Oahu. There would also be other costs in the form of program staff, training, supplies, mobile phone/communication stipends etc.

Thank you for the opportunity to comment on SB 2496 SD2.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 19, 2016 12:02 PM
To: JUDtestimony
Cc: laurie.field@ppvnh.org
Subject: *Submitted testimony for SB2496 on Mar 22, 2016 14:00PM*

SB2496

Submitted on: 3/19/2016

Testimony for JUD on Mar 22, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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

Tuesday 03/22/2016 at 2:00 PM in Room 325
SB 2496 SD2— Relating to Elections

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

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

Common Cause Hawaii supports SB 2496 SD2 which would (eventually) establish a statewide “Voting-by-Mail”, or, “Elections-by-Mail” system.

Common Cause believes that increased citizen participation in the electoral process is a crucial component of a maintaining a successful democracy, and believes that Voting-by-Mail provides people more time to exercise their right to vote.

VOTING TRENDS

It’s important that the ways we engage the voting public be maximized to counter the perceived voter apathy, and other factors that have led to a decrease in voter participation in recent years. We believe the intent of SB 2116 achieves that goal in numerous ways; the first of which being the basic voter preference for Voting-by-Mail. Although statewide Voting-by-Mail has yet to be fully implemented locally, it has been successfully utilized in Hawaii as recently as the 2010 1st Congressional District election. According to figures provided by the Office of Elections, trends show a leaning of basic voter preference for VBM with 83% of the early voters from the 2014 Hawaii Primary Election opting to do so by mail-in absentee ballot.

OVERCOMING LOGISTICAL OBSTICLES

In addition to the individual and collective benefits that Voting-by-Mail provides to the public, tangible solutions to significant logistical obstacles accompany the intent of this bill: Hawaii’s 2014 Primary Election reminded us that the potential for storms, hurricanes, and other natural disasters, pose a substantial threat to an electoral system which relies heavily on holding elections on a single day. A Voting-by-Mail system is more “protected” from these natural disasters.

POTENTIAL TO SAVE TAXPAYER MONEY

Estimates from the Office of Elections show that after an initial technology investment, the state would save at least \$874,000 per election cycle. Tax dollars can be saved by the reduced need for as many walk-in voter service centers that accompanies a Voting-by-Mail system; a system which will only be further complemented by the election reform measures that are in the process of being implemented: Online Voter Registration, as of 2015; Late Voter Registration at Early Walk-In Sites as of 2016, and Election Day Registration as of 2018. Phasing in Voting-by-Mail will enable election officials to dedicate one election cycle to implementing and refining each new voting program.

These programs, combined with implementing a Voting-by-Mail system, will showcase Hawaii as a “model” state for voting reforms.

Thank you for the opportunity to offer testimony supporting SB 2496 SD2.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 18, 2016 5:39 PM
To: JUDtestimony
Cc: ndavlantes@aol.com
Subject: *Submitted testimony for SB2496 on Mar 22, 2016 14:00PM*

SB2496

Submitted on: 3/18/2016

Testimony for JUD on Mar 22, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE

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COMMITTEE ON JUDICIARY
Tuesday, March 22, 2016, 9:00 a.m., Room 325
SB2496, SD2 RELATING TO ELECTIONS

TESTIMONY

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

Chair Rhoads, Vice-Chair San Buenaventura, and Committee Members:

The League of Women Voters of Hawaii strongly supports SB2496 SD2. Hawaii has been diligently moving to make it easier for citizens to exercise their fundamental right to cast a ballot; our established policies like early voting and permanent absentee voting make the franchise widely available. Starting voting by mail in 2018 with full implementation by 2020 gives election officials and the public sufficient time to adjust to other recent convenience reforms that are already underway: online voter registration (2015), late voter registration (2016) and same day voter registration (2018). These are all compatible with voting by mail.

It is important to note that even when voting by mail becomes a reality, voters who prefer to vote in person will be able to do this at a polling place or voter service center on election day, as long as their ballot has not already been cast. Beginning in 2020, at least one voter service center will continue to be open in each county, affording those with a strong preference for traditional polling place voting an opportunity to continue doing this. We do strongly support having far fewer polling places; otherwise, the simpler operations and cost saving benefits will not be realized.

Under this measure, for most elections the counties will continue to be responsible for mailing and receipt of ballots and the State will continue to be responsible for printing and counting ballots. This well-established division of labor makes sense, and we are gratified that all County Clerks endorse moving to voting by mail instead of our current complex approach (polling places, absentee voting, permanent absentee voting).

There will be a brief period from the 2018 primary to the 2020 primary, when Hawaii will continue to have a hybrid system of voting, with Kauai County voting by mail and the remaining counties having a combination polling place-absentee voting arrangement. During this period voter registration would continue to be available online, and late voter registration will continue to be available at absentee polling places or voter service centers. Election day registration would be available in Kauai County at any established voter service center and election day registration would be available in the remaining counties at established polling places. During this transition period, voter registration would continue to be the responsibility of the counties, but could be accomplished with manual registration affidavits signed by voters at polling places or by using the new automated statewide voter database. In



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light of Kauai County's experience in 2018, the 2019 and 2020 annual reports to the legislature required under this bill should shed additional light on any fine-tuning required for this division of labor between the state and counties. We also hope the Office of Elections will organize rulemaking on a voting by mail Act as soon as practical.

In our opinion this bill doesn't integrate voting by mail with our existing absentee and permanent absentee laws and regulations as well as HB 1653 HD1 did, but we are hopeful this integration might yet occur. Avoiding legal and operational confusion about how current absentee regulations will mesh with voting by mail laws is important, because absentee voting by mail has become increasingly popular in Hawai'i. In our last general election, absentee ballots already accounted for the majority of votes cast.¹

We note that elections officials already have suggested a specific mailing period for distribution of ballots (one that is shorter than a 45-day window). The following "mail-out" dates are used by other states: Colorado (no sooner than 22 days); Oregon (29 days for voters who are not military or overseas voters but have temporary addresses outside the state and 21 days for voters with in-state addresses) and Washington (no sooner than 18 days). It makes sense to us to establish a tiered mail-out schedule, including 1) military and overseas voters, 2) persons outside of Hawaii for a single election and individuals residing at their regular permanent Hawaii address. We defer to elections officials on an exact schedule, but think it is prudent to mail ballots about three weeks before the election, and to include a schedule in the Act.

In fairness to opponents of voting by mail, it is true that the secrecy of *how* one votes is not guaranteed when voting by mail. If a voter wishes to voluntarily disclose his marked ballot to someone else, he should be permitted to do so. But the League does not brush aside concerns of some citizens about voter intimidation, and we urge election officials to publicize their procedures for service to any voter who is concerned about avoiding such intimidation.

We do think there is no problem in guaranteeing the secrecy of a marked ballot after the voter puts the ballot in a "secrecy" envelope that contains no identification of the voter. Then the secrecy envelope is put into an outer envelope which the voter must sign. That signature is then compared to the signature that appears on the voter registration form. After verification, the privacy envelope containing the ballot is removed from the outer envelope, and then opened in a separate process. Once the privacy envelope is separated from the outer envelope, there is no way to reestablish which ballot goes with which name.

Voting by mail has been promoted by the League of Women Voters of Hawaii since 1999, so the League applauds the intent of all "Voting by Mail" bills introduced this session. By our tracking it now appears this measure SB 2496

¹ 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 general elections, mail-in absentee ballots accounted for 42.4% in 2010, 45.9% in 2012 and 51.2% of the vote in 2014. Source: Office of Elections: <http://elections.hawaii.gov/election-results>.



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SD2 and HB1653, HD2 remain viable. We hope the Legislature will rally around the few remaining differences between these two bills and secure the \$375,000 appropriation (\$50,000 in the supplemental budget) requested by the Office of Elections. As far as we know, no other costs associated with implementing this measure have been requested, and the estimated savings is \$800,000 each election cycle. This appropriation request does not include the voter education that is a necessity to make voting by mail a success in Hawaii, but this expense can be deferred until the next biennium budget.

Please secure this important opportunity for Hawaii voters and save money by doing so!

Thank you for the opportunity to submit testimony.