

**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. 287, SD 2
RELATING TO ELECTIONS

March 17, 2015

Chair Rhoads and members of the House Committee on Judiciary, thank you for the opportunity to testify in support of Senate Bill No. 287, SD 2. The purpose of this bill is to require the Office of Elections to implement all-mail elections statewide by 2020.

The Office of Elections believes transitioning to all-mail elections will streamline the administration of elections. Currently, elections consist of three systems: (1) absentee walk sites; (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 variation of absentee walk. With that in mind, we have a variety of technical concerns regarding this bill.

We wish to note our support for the implementation of all-mail over three election cycles, as drafted. This implementation plan is consistent with other states, such as Oregon and Washington, which incrementally moved to all-mail on a county by county basis. This allows election officials to determine in a methodical manner issues that need to be addressed, and how implementation can be improved going forward. We propose beginning with the County of Kauai, as they have the smallest population and with any new system there is a learning curve. We plan to implement all-mail elections statewide as follows:

Year	Description
2015	<p>Negotiate with the voting system vendor the implementation of all-mail for the County of Kauai.</p> <p>Discussions with County of Kauai regarding seasonal staff for all-mail processing.</p> <p>Develop an all-mail voter education program.</p>
2016	Implement all-mail for the County of Kauai.
2017	Adjust administrative rules, county/state staffing, and contractor equipment and professional services based on experiences in 2016 for the County of Kauai.
2018	Implement all-mail for the County of Hawaii, County of Maui, and County of Kauai.
2019	<p>Adjust administrative rules, county/state staffing, and contractor equipment and professional services based on experiences in 2018 for the County of Hawaii, County of Maui, and County of Kauai.</p> <p>Develop and issue a RFI for statewide all-mail system.</p>
2020	Implement all-mail statewide.
2021	<p>Adjust administrative rules, county/state staffing, and contractor equipment and professional services based on experiences in 2020 for the County of Hawaii, County of Maui, County of Kauai, and City and County of Honolulu.</p> <p>Issue RFP and award by the end of the year.</p>
2022	Conduct all-mail statewide under a new contract.

The bill as 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 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. We propose 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 by mail, in whole or in part. 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) Any ballot cast by mail under this section shall be subject to the provisions applicable to absentee ballots under sections 11-139 and 15-6.

(e) 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.

(f) 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 and absentee walk polling places 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 walk polling places.

(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.

(g) 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 polling places, while the State will be responsible for the mailing, receipt, processing, and tabulation of ballots. Any responsibilities not enumerated above shall be assigned to the counties or the state by the chief election officer.

(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. Any responsibilities not enumerated above shall be assigned to the counties or the state by the chief election officer.

[(e)] (h) 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.

The administrative rules for all-mail elections referenced in HRS § 11-91.5 were promulgated in 2010 and can be modified as election by mail is implemented, as necessary. Additionally, the proposed language would allow the Chief Election Officer to adjust the implementation timeline depending on funding and public support for all-mail. This recommendation runs counter to Section 11 of the bill, which 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 discretion 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 of the current bill and provide recommendations:

We believe that further clarification is necessary regarding voter service centers. Functionally, we see the voter service centers as being the equivalent of the absentee walk sites, which are currently operated by the county clerks, such that at minimum, the office of the county clerk will be open on election day as a voter service center. We will look into establishing a voter service center on Molokai and Lanai to service voters on election day.

Similarly, we are concerned with requiring a voter service center on Niihau, as they have successfully transitioned to elections by mail and should be exempt from this requirement.

As for Section 8 of the bill, regarding “**§11-184 Election expenses and responsibilities in combined state and county elections[-] by mail,**” we recommend a lease model of an all-mail system, similar to the lease model we have utilized since the migration to marksense voting in 1998. The lease model incorporates the professional maintenance and support necessary for this type of system without significant start-up capital costs and establishing positions to support the system that would otherwise be necessary. Given this, the distinction between initial costs and subsequent costs that the bill makes reference to would not be applicable.

In regard to Section 13, we believe that the migration to all-mail for the County of Kauai in 2016 would require additional ballots, envelopes, and postage, as well as a high-speed scanner sorter to process the return envelopes. As such, we would request an appropriation of \$50,000 in fiscal year 2015-2016 and the same amount in fiscal year 2016-2017.

Finally, 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. As such, we would recommend amending HRS § 15-5 to authorize the electronic transmission of blank and voted ballots by fax, electronic mail and online ballot delivery for any voter who does not receive their mail ballot within 5 days of an election. The following is our proposed language, which is based on the language of Senate Bill No. 441, which is part of our legislative package.

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 in support of Senate Bill No. 287, SD

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ELECTIONS DIVISION
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TESTIMONY OF JADE K. FOUNTAIN-TANIGAWA
DEPUTY COUNTY CLERK, COUNTY OF KAUAʻI
TO THE HOUSE COMMITTEE ON JUDICIARY
ON SENATE BILL NO. 287, SENATE DRAFT 2
RELATING TO ELECTIONS

March 17, 2015

Chair Rhoads and Committee Members:

Thank you for the opportunity to testify in support of Senate Bill No. 287, SD 2. This Bill proposes establishing elections-by-mail for all elections in a county with a population of less than 100,000 beginning with the 2016 Primary Election, and staggering implementation of elections-by-mail for the rest of the state beginning with the 2018 Primary Election. Additionally, the Bill would establish a limited number of voter services centers in each county, require annual reports on implementation, and appropriate funds.

We support elections-by-mail and the Bill in general but have concerns with several sections and offer the following comments and recommendations for your consideration.

Page 3 (Section 11-A, lines 2-4).

In addition to Kauaʻi county, it appears that the County of Kalawao (Kalaupapa) would also be required to implement sections 2-12 of the Bill beginning in 2016 since it also has a population of less than 100,000.

Page 3 (Section 11-B).

Please consider specifying that ballot packages shall automatically be mailed to the mailing address contained in a voter's registration record, unless a separate application is submitted requesting that the ballot package be temporarily mailed to an alternate address. Additionally, please consider specifying that the application shall be valid only for elections occurring in the year that the application was processed.

Page 5 (Section 11-E, lines 20-21).

Please consider eliminating the application requirement for voters needing a replacement ballot, unless the voter is requesting that the replacement ballot be mailed to an address different from the initial ballot package.

This process mirrors procedures already in place, which have proven to be convenient for voters, but secure enough to maintain the integrity and security of the mail voting process.

Page 13 (Section 11-92.1, lines 9-11).

Please consider removing requirements which establish a voter service center on each inhabited island. This would require the reestablishment of a facility on the island of Ni'ihau, and we foresee major logistical and operational challenges implementing this provision due to the island's remoteness and very limited infrastructure.

The approximately 100 residents of Ni'ihau have voted entirely by mail since 2010. During the last 3 polling place elections conducted on the island from 2004 to 2008, an average of only 39 voters cast ballots on the island.

General Comment.

Elections-by-mail is a major change to Hawai'i Elections and would greatly benefit from an eventual overhaul of the State of Hawai'i election statutes. As such, if possible, we ask that the Legislature eventually consider a complete re-write of Hawai'i election laws to ensure that the language is clear and to remove any possible conflicts with earlier statutes. During discussions with Oregon election officials, they noted that had they taken the time to do this, it would have greatly eased their transition to elections-by-mail.

If properly implemented, elections-by-mail could right-size operations and extend actual voting services to every registered voter in the State. With more voters opting to vote by mail in each succeeding election, we believe that the time is right to entirely transition to elections-by-mail and respectfully request your support of this Bill

Thank you for this opportunity to testify in support of Senate Bill No. 287, SD 2.



JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk



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HOUSE COMMITTEE ON JUDICIARY
March 17, 2015, 2:00 P.M., Conference Room 325

SB 287, S.D. 2 RELATIING TO ELECTIONS

TESTIMONY

Brad Clark, Legislative Committee, League of Women Voters of Hawai'i

Chair Rhoads, Vice Chair San Buenaventura and Committee Members:

The League of Women Voters of Hawai'i opposes SB 287 SD 2, which would require the Office of Elections to implement a system of election by mail throughout Hawai'i by 2020 but would also repeal late voter registration (Election Day Registration) approved by the Legislature in Act 166, Session Laws of Hawai'i 2014. We hope this Committee can amend the bill so that Hawaii has a truly modern voting system, preserving same day voter registration and introducing voting by mail.

The League strongly supports the establishment of elections-by-mail in Hawai'i because it will smooth elections operations and save money. But we cannot support any effort to eliminate late and Election Day voter registration. Late registration could efficiently be handled by the voter service centers established by this bill. Providing voter registration at these centers would not increase cost as each center will be staffed by trained election officials who will be able to process registration and issue ballots to voters who need to complete a late registration. Actually, our understanding is no additional cost is associated with implementing late registration next year, since this service will only be provided at existing absentee ballot (AB) walk-in locations. If there is no additional cost to implement late registration at AB walk-in locations there should be no additional cost to conduct voter registration at voter service centers. We expect AB walk-in centers and voter service centers will be one and the same.

Colorado now conducts all elections by mail, opens voter service centers before and on Election Day, and allows voters to register and vote at these centers. This system has worked well in Colorado and could be used as a model for implementation in Hawai'i.

The purpose of late voter registration and same day registration is to improve voter turnout, enabling those eligible to vote but unregistered to register and vote for the first time. This is a qualitatively different goal than voting by mail. Flexibility in registration dates also provides a reasonable level of service for address change and name change transactions, both of which are relatively common. If the voter appears in person on Election Day with proper documentation address changes and name changes are straightforward. We do not think it is unreasonable to provide this service up to and including Election Day, especially when few voter service centers will be required. We point out that none of the County Clerks who would be tasked with providing registration on Election Day have objected to this requirement.



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Poor voter turnout remains a serious problem in Hawaii. There are more than 400 thousand people (more than 30% of those eligible to vote) who haven't registered to vote¹ To improve voter turnout, **voting by mail must preserve recently enacted same day registration reform.** The League of Women Voters of Hawai'i cannot support any vote-by-mail bill that eliminates Election Day Registration. We respectfully request your committee to include provisions for Election Day Registration in this vote-by-mail bill. Our members are experienced and trusted volunteers in election and voting operations and stand ready to assist the state and counties in implementation of this important change.

Thank you for the opportunity to submit testimony.

¹

Source: Office of Elections, Hawaii statewide summary, certified results of General Election, 2014 for number of registered voters and number who voted., and Estimates of the Population of Voting Age for each State and the District of Columbia, February 6, 2018, Federal Register, page 6689.

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Marshall	Individual	Support	No

Comments:

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Brinker	Individual	Support	No

Comments:



SB287 SD2
RELATING TO ELECTIONS
House Committee on Judiciary

March 17, 2015

2:00 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) Administration will recommend that the Board of Trustees adopt a position of **SUPPORT WITH AMENDMENTS** for SB287 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 also reflecting the underrepresentation of Native Hawaiians 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. SB287 SD2 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 home. This will ultimately result in a more accessible election process and potentially higher voter turnout rates.

Evidence indicates that the people of Hawai'i generally would also likely benefit from the modernized voting process envisioned by SB287 SD2. For example, Washington and Oregon, the two states that already conduct elections-by-mail, rank among the top four states in the nation for voter turnout, with 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

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.

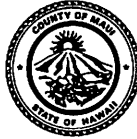
³ Allison Terry, *Voter turnout: the 6 states that rank highest, and why*, CHRISTIAN SCIENCE MONITOR, November 6, 2012, available at <http://www.csmonitor.com/USA/Elections/2012/1106/Voter-turnout-the-6-states-that-rank-highest-and-why/Oregon>.

voter could vote at their own convenience, but 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.

OHA has one major concern regarding Section 12 of SB287 SD2 which would eliminate the same-day voter registration provisions established by Act 166, Session Laws 2014. Eliminating same-day voter registration would dial back the progress promised by this recent legislation, re-implementing restrictive registration timelines and re-establishing an unnecessary barrier to voter engagement. Implementation of same-day voter registration and elections by mail need not be mutually exclusive. On the contrary, implementing them simultaneously will provide a more open and inclusive voting system by which most will vote by mail at their own convenience. However, some individuals who are not registered or who have forgotten to update their registration with a new address or a name change may do so in person until Election Day at “voter service centers” and simultaneously cast their votes. These systems can and should work together to improve voter turnout in Hawai‘i. **Therefore, we recommend eliminating Section 12 of SB287 SD2.**

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 WITH AMENDMENTS** SB287 SD2. Mahalo for the opportunity to testify on this important measure.

DANNY A. MATEO
County Clerk



JOSIAH K. NISHITA
Deputy County Clerk

LATE

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TESTIMONY OF DANNY A. MATEO
COUNTY CLERK, COUNTY OF MAUI
TO THE HOUSE COMMITTEE ON JUDICIARY
ON SENATE BILL 287, SD 2
RELATING TO ELECTIONS
MARCH 17, 2015

Chair Rhoads and members of the House Committee on Judiciary, thank you for the opportunity to testify on Senate Bill No. 287, S.D. 2. The purpose of this bill requires the Office of Elections to implement elections by mail in a county with a population of less than 100,000, beginning with the 2016 primary election; and in each county with a population of less than 500,000, beginning with the 2018 primary election. Beginning in 2020, requires all federal, state, and county primary, special primary, general, special general, and special elections to be conducted by mail. Provides places of deposit for personal delivery of mail-in ballots and ensures a limited number of voter service centers in each county to remain open on the day of election to allow voters with special needs to vote and receive personal delivery of absentee, permanent absentee, and mail-in ballots.

The Office of the County Clerk, County of Maui, supports Senate Bill No. 287, S.D. 2, but we have concerns with several sections and would like to offer the following technical comments.

This bill implements elections by mail in a county with a population of less than 100,000 in 2016. 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. We recommend that the county of Kalawao be clearly excluded from this bill.

In several sections of this bill it is unclear why there are references requesting an absentee ballot or permanent absentee ballot since every registered voter will be mailed an elections by mail ballot package pursuant to §11-B(b) of the proposed bill. We suggest that references to absentee ballot or permanent absentee ballot be removed to avoid confusion since all registered voters will receive an elections by mail packet. The exception would be if a voter is requesting their ballot be mailed to an address other than their mailed address on their voter registration record (i.e. college student).

March 17, 2015

Page 2

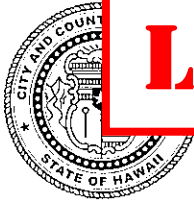
We also suggest that you consider removing the application requirement for voters needing a replacement ballot. We already have replacement ballot procedures in place which are convenient for the voters and yet maintain security for our mail voting process.

In addition, there are substantial costs involved for both the County of Maui and the State to retrieve ballots if we had places of deposit or voter service centers on inhabited islands. In order to expeditiously retrieve ballots and transmit results in a timely fashion, two charter planes are used to fly between Lanai, Molokai, and Maui, and Hana and Kahului. In the 2014 elections, our office experienced significant obstacles in obtaining a company to fly at night between these areas, due to the compensation, tax and other procurement requirements, and dangerous conditions. Our County has experienced significant chartered and commercial plane crashes that have resulted in loss of lives. We respectfully request that, at the very least, you eliminate the requirement for us to collect ballots from places of deposit on Molokai, Lanai, and Hana on election days so that safer and more cost conscious methods can be used to provide election results.

Our office supports the State providing funding for all upfront costs related to establishing centralized statewide mailing, tabulation, and processing of ballots related to tall mail elections. Centralizing these operations would allow the State and counties to utilize economies of scale and reduce costs for all parties involved.

Our office also requests that safeguards be in place for voters who do not receive their mailed ballot, or who need a replacement ballot. Authorizing the electronic transmission of blank and voted ballots by facsimile, electronic mail, and other means would assist in ensuring each individual has adequate opportunities to cast a vote.

Thank you for the opportunity to testify on Senate Bill No. 287, S.D. 2.



LATE

OFFICE OF THE CITY CLERK
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3077 TELEPHONE (808) 768-3810

GLEN I. TAKAHASHI
City Clerk (Acting)

WRITTEN TESTIMONY ONLY

TESTIMONY OF GLEN TAKAHASHI
ACTING CITY CLERK, CITY AND COUNTY OF HONOLULU
TO THE HOUSE OF REPRESENTATIVES COMMITTEE ON JUDICIARY
ON SENATE BILL 287, SD2
RELATING TO ELECTIONS
March 17, 2015

Chair Rhoads and Committee members:

Thank you for the opportunity to testify on Senate Bill 287, SD2. The purpose of this bill is to require the Office of Elections and the Counties to implement all mail elections by 2020.

As the bill states, since its inception, absentee voting has been increasing steadily and in 2014, a majority of the votes cast on Oahu were by absentee ballot before election day. We feel that resources and efforts should reflect the shift toward this trend and toward a single election scheme rather than a hybrid scheme comprised of in person voting and mail voting over various locations and times. The election scheme should be intuitive with practical voter deadlines and responsibilities that facilitate participation.

We note that with recently acquired mail scanning technology, the Office of the City Clerk is presently capable of processing the volume of vote-by-mail envelopes for all registered voters of the City and County of Honolulu. However, we defer to the Office of Elections on the transition timeline since ballot production and tabulation also needs to be considered. The Office of the City Clerk also requests a reasonable amount of time to allow for adequate operational planning and budgeting.

With that being said, we offer comments concerning this bill.

In reference to newly added §11-E Replacement ballots, we believe that requiring the voter to submit a replacement request form prior to mailing the replacement ballot can be onerous and is unnecessary in certain situations. There could be various reasons why a replacement ballot is needed, some of which may not be the fault of the voter (e.g. postal mishap). A timely verbal request would be sufficient in this case and in instances where a replacement ballot is needed due to a simple voter error (e.g. spoiled ballot).

However, if a replacement ballot request involves mailing the replacement to a new address, a signed replacement request form as noted within this bill may be appropriate as it would serve as the documentation to update the voter's address record for future elections.

We would also recommend amending §11-E to read similar to replacement ballot provisions in Hawaii Administrative Rules as follows:

§3-175-10 Ballot cast upon receipt; replacement ballot. A ballot contained in a properly signed return envelope that has been received by the chief election officer or clerk shall be considered cast and may not be recast for any reason. As such, a voter may not request back a ballot or seek to cancel it after it has been received by the chief election officer or clerk.

A voter may receive a replacement ballot if the original ballot is destroyed, spoiled, lost, or not received by the voter.

We also note that while it may appear logical to phase in voting by mail from small counties to the largest, the ability to implement a vote by mail scheme is also dependent upon each county having a complete signature image database (for comparing signatures on envelopes) and we defer to the other counties as to whether those resources are presently available.

Finally, since voting by mail is accompanied by different types of voter errors and omissions (such as missing and non-matching/outdated signatures on return envelopes or in the county's signature database), we recommend allowing for a period of not more than two weeks after the election for notifying the affected voters and allowing for correction of those errors. Our experience reveals that as much as 20% of ballots can be received during the last three days of the election and 1-3% of ballots may fall into this category of voter error. While most voters can be notified of these types of errors prior to the election, this would allow voters to correct the error/omission regardless of how late they may have returned their ballot.

Thank you for this opportunity to testify on Senate Bill 287 SD2.



HAWAII

COMMON CAUSE
Holding Power Accountable

LATE

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

Tuesday 03/17/2015 at 2:00 PM in Room 325
SB287 Relating to Elections

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

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

Common Cause Hawaii opposes SB287 SD2, which would require the Office of Elections to implement a system of elections by mail, but also repeal late voter registration (Election Day Registration).

Common Cause Hawaii strongly believes that a Vote-by-Mail (VBM) system can co-exist with Election Day Voter Registration. Further, we believe that the strongest type of Vote-by-Mail system includes Election Day Registration. The previous Committee has explained that the Senate's intent for VBM is to encourage early registration and early voting, and used this as justification to repeal EDR.

However. Doing this will inadvertently reduce voter access.

Culturally, there is a saying called "Hawaii Time". It's common knowledge that in Hawaii, many people procrastinate. While it may be ideal to encourage people to register to vote and vote early, this is an unrealistic expectation.

To encourage maximum voter participation, we must preserve Election Day Registration. EDR is the failsafe to "catch" any final eligible voters who want to participate in our elections — particularly those who have moved and need to update their voting address so that they may vote in the new precinct they live in. These people tend to be already particularly engaged with our electoral process, and it would be detrimental to intentionally exclude them in the electoral process.

In the past, Common Cause Hawaii has supported a VBM system for its potential cost-savings reasons. Currently, the Office of Elections is running an expensive "hybrid" model in which half of the elections are conducted via absentee ballot, and the other half is conducted via in-person polling places. Considering factors such as staffing needs (including part time staff and paid Election Day "volunteers") and renting various facilities to use as polling places, expenses for the current system is large and can be scaled back, and is addressed through transitioning to a VBM system.

While VBM may make it more convenient to cast a vote, there is no conclusive evidence that VBM alone will encourage or increase voter turnout. An increase in voter turnout is attributed to EDR, which is the main reason why Common Cause Hawaii firmly believes we must have an election system where VBM and EDR co-exist. Further, implementing such a model, which combines VBM and EDR will propel Hawaii to become one of the "model states" when it comes to voting modernization.

For these reasons, **Common Cause Hawaii cannot support a Vote-by-Mail bill that will repeal Election Day Registration. We ask the Committee to include Election Day Registration in this Vote-by-Mail bill.**

Thank you for the opportunity to testify on SB287 SD2.

LATE

TESTIMONY to: House Judiciary Committee

S. B. 287 SD2 Relating to Elections

Tuesday, March 17, 2015

2:00 PM -- State Capitol House Conference Room 325

Submitted in **OPPOSITION** by: Mary Smart, Mililani, HI 96789

Chair Karl Rhoads, Vic Chair San Buenaventura and Committee Members:

1. I most strongly OPPOSE S.B. 287 SD2.
2. Mail-in vote/vote by mail (VBM) has been used in other states and we know it is problematic. Currently we have voluntary participation. Many people, including myself, want to ensure their vote is counted. We are adamant that election day voting be maintained. Although not perfect, there are better control procedures and poll watchers. In the mail-in process there are not adequate controls protecting the ballots from the time the ballots are mailed to the voter and until they are counted. Many people don't know whether their [mail-in ballot was counted or not](#). As Joseph Stalin reminded us: "Those who vote decide nothing. Those who count the vote decide everything." We have no idea of how many hands the ballots will pass and each change introduces more opportunity for fraud.
3. It is well known that mail-in ballots are vulnerable to fraud, handling errors, [delays](#) (and more [delays](#)) or misplacement. Sometimes there is difficulty [reading](#) the mail-in ballot. Regardless of whether malicious intent is present or not, every unauthorized voter disenfranchises a legitimate vote cast. NBC documented a problem with the voter roles in an article [here](#) which would tempt a person to complete whatever ballots are sent to them, intentionally breaking the law or not. Page 21 of the Brennan Center for Justice report "[The Truth about Voter Fraud](#)" reported: "In Hawaii in 2000, 553 apparent noncitizens were alleged to have registered to vote. On further investigation, 144 documented that they had become citizens. At least 61 individuals affirmatively asked to cancel their registration; the others were stopped at the polls and specifically asked about their citizenship before voting. There are no reports of which we are aware that any noncitizen actually voted. To the extent that noncitizens were actually represented on the rolls, officials attributed the registrations to mistake rather than fraud." Once we implement mail-in ballots only, we become more susceptible to the fraudulent vote since having to appear in person is more intimidating/risky than mailing-in a ballot.
4. Most people are unaware of the danger and have signed up for absentee voting or have cast an early vote at a location outside their normal precinct. There is a reason that "election day" voting at your local precinct was instituted and it was to ensure that only authorized individuals voted in elections ensuring one person - one vote. As we have

moved to mail-in and early voting, more and more people have been caught voting more than once and in multiple locations. That must stop. The 2016 is endangered because the legislature recently passed a bill that the Governor signed that instituted instituting same day registration and voting which is known to make it easy for people of ill will to negatively impact election results. That measure should be repealed.

5. If costs are to be reduced, hold elections on one day. Those who care and have researched the candidates are most likely to participate. Mail-in ballots make voters susceptible to the pressure of outsiders who may not allow them to vote for their preferred candidate. [Civil Beat](#) published an article regarding a sitting Hawaii Representative forcing a grandmother to vote for him and then taking the completed ballot for submission. Mail-in voting takes away the secret nature of the vote. A 2009 study conducted in California and sponsored by the PEW Foundation found that when mandatory VBM was implemented, the individual voter voting DECREASED by 13.2%. The negative impact of a VBM process was compensated only by increased communication with the voter. It took at least 4 pieces of communication sent out by elections officials to create a level playing field with walk-in precinct voting. Being forced to vote by mail had a negative effect on the turnout of urban and minority (Hispanic and Asian) populations. For a mail ballot the estimated odds of voting DECREASED: 50% for urban voters; 30.3% for Asian voters, and 27.3% for Hispanic voters. There was a clear advantage for the Democratic Party with an increase odds of 5.99% over Republicans. The age odds of voting increased 3.8% for each additional year. Not only is there a decrease in participation by many segments of the population when forced into a VBM situation, there is also a problem of voter intimidation, vote selling, and vote stealing that is introduced into the process. Dr. Kenneth R. Conklin, PH.D. wrote an excellent article for Hawaii Reporter on August 21, 2012 that detailed the problems associated with VBM. Dr. Conklin's article and others point out that 10% of the mail in ballots were rejected for a simple error. The voter was never informed that their vote was not counted. This is the same as turning away a voter for every ten that appeared at the polls. That would never be allowed but of course it wouldn't happen because there would be too many witnesses. That number of disenfranchised voters would be newsworthy. Rejected VBM ballots are stealth and therefore no voter objections or uprisings and most especially, no news coverage. VBM solutions invites voter coercion, stealing ballots, buying ballots, voting more than once, and even voting after death.

6. To increase the number of people voting and the continued security of our voting procedure, I highly recommend Election Day become a State and National holiday.

7. Costs could be reduced by only publishing the ballots in the two official languages of Hawaii. That is a national requirement for multiple language ballots that should be changed. If people can't understand the ballot in those two languages, they most likely haven't read and understood the campaign literature of the candidates and therefore are not necessarily voting for the candidate who has their best interest at heart.

8. If Hawaii wanted to ensure all citizens are able to vote, we must employ a competent Elections Officer. The failures of that officer (Scott Nago) to protect the vote has been shameful, especially since he has remained in place in spite of his failures. The late distribution of absentee ballots to military personnel in [2010](#) is just a prelude to what will happen with our ballots in the future. In 2012 under our election officer's supervision, several polling places ran [out of ballots](#). With this type of leadership, I have no confidence that our Elections office will be able to safeguard our ballots over any length of time.

9. Mail-in voting only counts if you follow the instructions correctly. How many languages will the ballots have to be printed to accommodate all voters? How many instruction sheets will have to be sent to each person to make sure they it is in the language they need? Since having your vote count depends on whether the voter follows directions correctly, it could be considered a literacy test to disenfranchise those who cannot read. People who condone voter fraud have been caught on video telling someone where they can get unused ballots in [this video](#) from Colorado. The video clearly shows how dangerous a mail-in ballot system can be. People have been [caught](#) and convicted of voting multiple times in elections, but many more individuals commit the crime and are not detected. Watchdog.org, a project of the [Franklin Center for Government & Public Integrity](#), a non-profit organization that promotes a well-informed electorate and a more transparent government, reported that [6.9 million people](#) in 28 states are registered to vote in 2 or more states. If only a small percentage of those people voted more than once, it could change the outcome of an election. One can only speculate how much higher the number of people in this situation would be if all 50 states were considered.

10. It is known that ballots are thrown out and not counted for a number of reasons. The voter might never be informed. Someone might decide that your signature doesn't match the original submitted. However, there are diseases such as Parkinson's that affects your handwriting. If your ballot is stolen and someone votes under your name prior to you being able to vote, you will be unable to cast a vote for the candidate of your choice. There have been cases where two people mailed their ballots on the same day and one arrived in time to be counted and another was too late. This is not a fair system.

11. No official government issued identification is required to vote in Hawaii. Both of those conditions weaken the legitimacy of the vote count and disenfranchise valid votes. We don't need more changes to our voter process. There are already a significant number of loopholes to dilute valid votes. This session the Senate is considering HB 1007 HD1 giving drivers licenses to people who might not otherwise be able to obtain one. The "driver's license" has been the means of many unauthorized individuals voting and thus disenfranchising the vote of legal voters. We know this is a problem that jeopardizes the validity of elections because this has been a problem in Arizona for ten years. As the [Heritage Foundation reported](#): "In 2005, Arizona passed Proposition 200, which requires anyone registering to vote to provide "satisfactory evidence of United States citizenship," such as a driver's license, a birth certificate, a passport, naturalization documents, or any other documents accepted by the federal government to prove citizenship for employment purposes. The state issues a "Type F" driver's license to individuals who are legally

present in the United States but are not citizens. Since Proposition 200 took effect, 2,177 non-citizens applying for such licenses have attempted to register to vote. Another 30,000 have been denied registration because they could not produce evidence of citizenship.

12 There are many good sources of information on why complete mail-in voting is a bad idea. There is a very good resource that delineates numerous reasons to vote NO on this bill: [THE NO VOTE BY MAIL PROJECT](#). The rationale they compiled is as follows:

"• [Absentee ballots](#) are not "[secret ballots.](#)" Voting at the kitchen table in front of your spouse is not voting in secret behind a privacy screen at a polling booth. The secret ballot is not created by a "privacy envelop," rather the secret ballot relies on the polling site, and the secrecy provided by a polling booth. Without this fundamental level of protection, the ballot becomes far more susceptible to influence. Vote buying, vote collecting, and vote stuffing schemes become possible in vote by mail systems. Additionally, a signed but unvoted ballot becomes valuable in a system that spends billions on elections every year.

• Absentee ballots are still counted by the same privately owned voting machines that have been in the news, including Diebold, ES&S, Sequoia and all the rest. Don't be fooled into thinking that Vote-By Mail systems do away with privatized computer vote counting. Diebold, or ES & S, Sequoia, and all the other voting machine companies use proprietary software vote counting machines that are just as capable ([or incapable](#)) of counting vote-by mail "paper ballots" as they are at counting touchscreen votes. Most vote by mail systems are counted by the very same computer systems that your vote would be counted upon were you to be voting at a polling site. And in the case of some counties that have been switched over to touch screens, there have been reports that the absentee ballots are typically hand entered into the touchscreen system anyway. In 2006, Maryland made national headlines because the state had switched to [touch screen machines](#) but absentees were still using paper ballots. The Republican Governor [made a fuss about the touch screens](#) that the Democratic Secretary of State, Linda Lamone, was pushing. The rate of absentee ballot requests went through the roof in Maryland because people wanted a paper ballot. However, if their paper ballot system is anything like King County, the paper ballots are eventually fed into the AccuVote system made by Diebold, and then counted by the centralized, GEMS central tabulation software. Or so similar system. "[Hacking Democracy](#)," the recent HBO documentary, makes it clear that the problem is deeper than machine A versus machine B. Feeding paper ballots into machines and then never auditing the paper ballots is not acceptable. However, it is a common practice with absentee vote-by mail systems.

• In many cases, like King County, WA, the Post Office no longer maintains control of the incoming ballots during processing of incoming mail. Instead of the government run Post Office maintaining the chain of custody of absentees, [a private company sorts incoming absentee ballots](#) into precincts before giving them back to King County for counting. This breaks down any chain of custody rules that may have been in place at the

post office, and privatizes another link in the chain. Not surprisingly, the Post Office never makes an official tally of the number of ballots given to this company. So if they don't know how many ballots are provided, how would they know how many should be returned? A basic rule in accounting has been foolishly eliminated. Recent reports by Blackboxvoting.org from New Hampshire, indicate that the "chain of custody" procedures in state systems are broken at a fundamental level, around the country. From [beginning to end](#), the [whole system of Absentee Ballots is insecure](#), as ballots are no longer strictly controlled by the County and citizen poll workers in the individual Precincts.

- The [cost of running an all mail voting system](#) can actually be greater than a poll based voting system. The supporters of VBM have frequently argued that the system saves money over the cost of poll-based voting systems, and they often deride the current poll system as a "mixed" or "hybrid" system. But upon deeper examination this argument is questionable at best. First off, instead of providing ballots only to voters who "turn-out" to vote, a 100% VBM system prints and mails ballots to every registered voter in the county, precinct, or jurisdiction. Typical elections do not come anywhere near 100% turnout. So in a hypothetical 50% turnout election, 50% of the ballots will have been printed, sorted, stamped and mailed to people that are not voting. Printing absentee ballots is far more expensive than printing poll ballots. Why? Because there's a host of additional items that are necessary to print and mail a ballot. First you print the ballot, then you have privacy envelopes and mailing envelopes that have extra printing, instructions, and a security flap over a signature box. This makes for a fairly expensive piece of mail. And in counties of tens or hundreds of thousands of voters, it adds up fairly quickly. Additionally, there's a bit more upfront cost, as the ballots must go out weeks ahead of time. So ballot printing is on a rush schedule following a primary vote when compared to the printing cycle necessary for a poll-based voting system. This is a major factor in the now commonly seen headline, "Absentee Ballots mailed late," or, "Absentee Ballots misprinted."
- The Signature Verification Process is error prone and routinely [disenfranchises thousands of voters](#) when it is used. Ballots rejected for having invalid signatures are treated as "Guilty before proven innocent." In King County, Washington, in 2006, the Seattle Weekly reported that over 7,000 votes were initially removed from the vote totals, until voters were contacted, and given a chance to verify their signature and the validity of his or her ballot. Over 3,000 voters did not respond in time, and those ballots were disenfranchised. That's just one County in an off year election. Vote-By Mail systems increase the error rate in numerous ways.
- Voter Suppression, [Vote Buying](#), [Vote Stuffing](#) become far easier in this system. In a system which provides ballots to every registered voter, but routinely turns out less than 100% of those registered, there's a lot of extra ballots floating around in the system. People who don't vote often may be tempted to sell their vote, or even give away their ballot. This is because all that is needed to sell a blank ballot is a signature. As we've seen in recent years, even national elections can hinge on the thinnest of margins. Close races will drive up the value of each and every signed ballot. The main tool that prevents

this type of vote selling is, in fact, the secret ballot booth. Fraud and coercion will not be prevented with a “privacy envelop,” commonly used in vote by mail schemes.

- Accidental [double voting](#) can and does happen. [Some people are forgetful](#), and vote early when the ballot arrives 3 weeks or so before an election. [But then when election day arrives](#) they can't remember if they've voted, so they request a new ballot, or go to their polling place. [While systems are in place to try an prevent double voting](#), the reality is that these systems are not perfect, and sometimes that second vote will be both cast and counted. In fact, it is not unheard of that for voters to receive duplicate absentee ballots in the mail due to clerical errors, etc. This also increases the potential for accidental double voting in the system.
- Some [studies show](#) a short term spike, [but long term decline](#) in voter participation, in 100% absentee systems. Claims that Vote-By Mail will increase turnout have [no real evidence](#) supporting this assertion. After running the No Vote By Mail Project for going on 2 years now, a pattern seems to be emerging that small jurisdictions (really small), and elections that have typically low expected turn-out, like the proverbial dog catcher election, can see the greatest potential increase in turn-out with VBM. However, large elections are seeing some signs of decreased participation after switching to 100% VBM systems. Current hypothesis include the increased likelihood that voters start treating ballots like “junk-mail,” and the undermined nature of “voting day” as a special day of civic engagement.
- The [post office](#) loses [mail](#) or just [misplaces it for years](#), the county loses ballots, and people lose their own ballots. The post office does not release delivery statistics. They have in fact conducted internal audits, and the GAO has conducted audits as well. Currently though it is impossible to get these numbers. Even with a 99% delivery rate, 1% of the ballots would be lost in the mail. Judging by the amount of mail I get everyday for people that no longer, or never, lived in my house, it is easy to assume that the accurate delivery rate for elections is not 100%. And it's not just eventual delivery rates that matter anyway, it's on-time delivery. Because elections are time sensitive accurate statistics as to on-time delivery rates are important for calculating any margin of error rate for a 100%, or partial, Vote-By Mail system.
- The Absentee System greatly [alters the Precinct System](#). If voting at your local precinct polling place is replaced by voting through the United States Post Office, not only will society at large lose a well developed civic infrastructure, but it will inevitably alter that system. What the exact nature of this impact is unclear. And I have not had enough time, or grant money, to properly research this question.
- Vote-By Mail systems [vastly increase the time](#) it takes to [count elections](#). Far from increasing the speed of elections, Vote-By Mail makes counting elections take a lot longer. Why? Because votes are still coming in prior to the official election day. In most systems, like Washington State, the ballot only needs to be postmarked, not delivered by election day. Therefore ballots are continuously added to the vote totals until the official date of certification, 2 to 3 weeks after election day. Oregon has a requirement that the

ballot be delivered by election day. However, this is only marginally better, as ballots that are postmarked in time may be delivered late, well after election day. Any day that is chosen will see a certain percentage of ballots disenfranchised due not to lost mail, but rather to delayed delivery.

- Vote-By Mail systems eliminate [“Election Day” and replace it with “Election Month,”](#) thereby greatly increasing the costs campaigns must spend on GOTV (Get-Out the Vote) efforts. The cost of competing in a Vote-By Mail system, as a candidate, is increased due to GOTV efforts taking 1 month, rather than the the weekend before the Tuesday vote. So 3 day GOTV efforts are affectively replaced with a 30 day GOTV effort. As costs increase, only established and well-funded campaigns can maintain GOTV efforts for weeks on end. Smaller campaigns without deep pockets will find it even harder to compete in Vote-By Mail systems.

- Election Month greatly changes the “timing” of the campaign calendar, but organizations that interact with the political calendar have been slow to react to this phenomenon here in Washington State. Traditional low-cost mass media methods of reaching voters can be somewhat negated as not all the free mass media type of information has time to reach the voters. Looking at the 2008 Presidential Primary Race, many California voters cast early absentee ballots before the California Televised primary debate was aired. Many voters’ only access to less well known candidates has been from televised debates. Jesse Ventura went into the televised debate for Minnesota’s Governor at 10% polls, and did so well in the debates that he was subsequently elected Governor. In a Vote-by Mail system, later arriving information will have less impact on races, and novices will need to figure out new ways to compete against well funded big name campaigns. This type of time shift is also occurring at the local level here in Washington State, a predominantly Vote-By Mail state. News cycles must start earlier, and local precinct level candidates forums are not used to the time shift, so often candidate forums are taking place too late for candidates to make their case for running for office directly to the people. This drives up the cost of mass media spending, and makes it harder for new candidates without established donors to compete. Vote-By Mail systems alter the time-table of the election cycle. The change to Vote-By Mail means many voters will vote before all the information has been presented by candidates, civic institutions are forced then to either adjust their calendars, or as is currently the case, they don’t change there forum dates, rather fewer voters have a chance to see candidates in person at these forums.

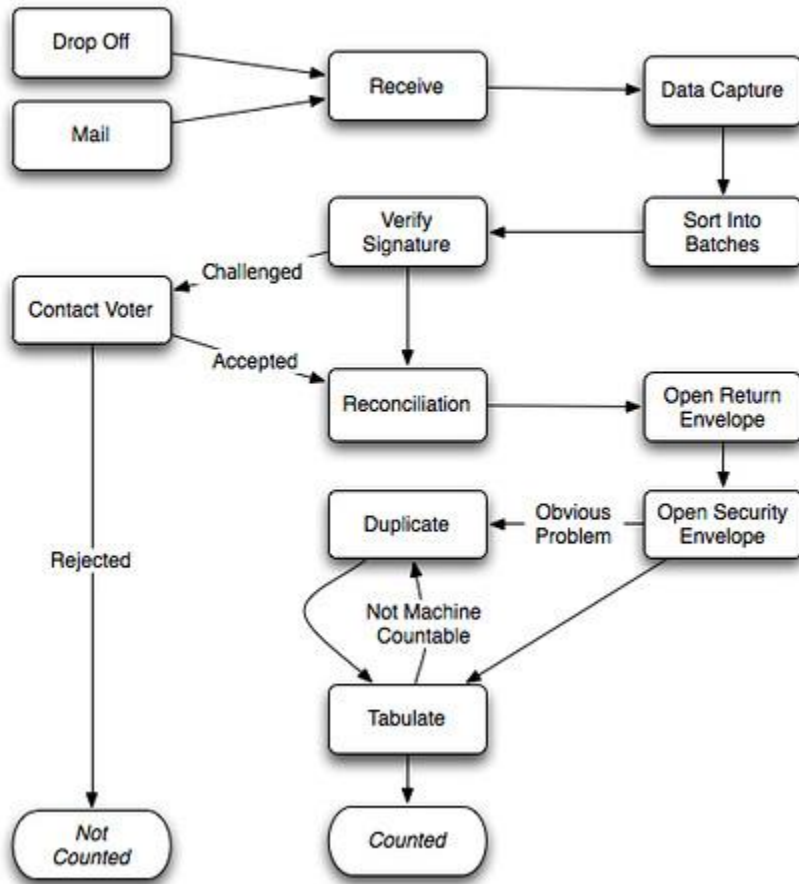
- In a Presidential Primary, some voters will cast their ballots for candidates who have dropped out by the time the votes are counted in that state. In the Presidential Primaries Candidates may drop out of a race before votes cast votes are counted in states behind Iowa. For instance, in 2008, California started voting a month before the official February 5th, voting day, so those early votes were cast up to 30 days before the counting began. In this time, John Edwards voters were effectively voted early for a candidate who was not on the ballot when the California race was counted. California’s Presidential primaries in 2008 are a good example of this. Well funded campaigns like Hillary Clinton and Barack Obama started blanketing the state with advertising weeks before the absentee ballots

were mailed. However, the Televised debates weren't aired until half-way through the month, therefore many voters had voted prior to the debates, and also prior to several candidates withdrawing from the race. In NJ, half of the candidates on the Democratic primary ballot had dropped out before election day, and [a judge ruled](#) that those absentee voters who had already voted for a candidate who was no longer in the race were entitled to vote again in the primary.

- [Many, many people](#) have gone to jail already for [rigging elections](#) using absentees, [throughout the country](#) and [around the world](#). This is occurring in the [here](#) and now, [not some distant past](#). These are not "isolated incidents." Mayors, County Auditors, and County-wide co-conspirators are the phrases I've come across in the last two years.
- The margin of error in this system is currently unknown
 - No delivery rate or loss statistics are available from the USPS
 - In King County in 2006 over seven thousand signatures were pulled for signature verification, however over 3000 voters never responded in time to validate their signatures (the variance of this activity is fairly unknown statistically at this point)
 - No numbers are available for how many ballots show up too late to be counted, but were postmarked on time (though this number might exist somewhere, it's not something those pushing this system are interested in publicizing)
 - The rate of voter spoiled ballots is higher, much higher, than poll place voting, because voting machines like the paper based optical scan system can reject spoiled ballots letting the voter know that they misvoted.... 2nd chance voting is then possible. Not so in VBM systems.
 - The percentage of coerced, stolen, given away, or bought votes is basically unknowable
 - The only number we really have each election cycle is the number of ballots received from registered voters. Other numbers are either not being tracked, or, as in the case of USPS delivery rates are confidential, not allowed for public consumption.
- In Oregon 2.5% of voters report intimidation in the VBM system there, and 0.5% report changing their votes in accordance with that intimidation.
- The whole system is more complex, see the following chart and article:

Mail Ballot Processing

(Updated December 2nd, 2007)



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13. The Hawaii process may be different, but it is still fraught with unacceptable problems.

14. Do not pass S.B. 287 SD2 out of committee.