

SB 441

RELATING TO ABSENTEE VOTING

Allows the county clerk to electronically transmit absentee ballots if mailed absentee ballots are not received by the voter within five days of an election.

PSM, JDL



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TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL AND MILITARY AFFAIRS
ON SENATE BILL NO. 441
RELATING TO ABSENTEE VOTING

February 17, 2015

Chair Espero and members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs, thank you for the opportunity to testify in support of Senate Bill No. 441. The purpose of this bill is to permit the electronic transmission and return of absentee ballots by voters who have not received an absentee mail ballot within five days of an election.

Under the current law, voters covered by the state's Uniform Military and Overseas Voters Act (Chapter 15D, HRS) are permitted to receive blank absentee ballots by facsimile transmission, electronic mail delivery, or internet delivery, if offered by the voter's jurisdiction. HRS § 15D-9. Unfortunately, for voters not covered by these laws, there are no options, if there is not sufficient time to be mailed a new ballot or it is impracticable to make arrangements to pick up the ballot from the county clerk's office.

Prior to the enactment of the Uniform Military and Overseas Voters Act, which established Chapter 15D, HRS and amended HRS § 15-5 (Delivery of Ballots), all voters were authorized to be forwarded a ballot by facsimile transmission, if they did not receive their ballot by mail within five days of an election. The amendment to HRS § 15-5 limited the forwarding of replacement ballots by facsimile transmission to only military and overseas voters covered by Chapter 15D, HRS.

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The bill removes the requirement in HRS § 15-5 that one needs to be a covered voter under Chapter 15D, HRS, and allows any registered voter to be forwarded a ballot. Additionally, the bill expands the means of transmission from facsimile transmission to electronic transmission.

Thank you for the opportunity to testify in support of Senate Bill No. 441.

DANNY A. MATEO
County Clerk



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TESTIMONY OF DANNY A. MATEO

COUNTY CLERK, COUNTY OF MAUI

TO THE SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL
AND MILITARY AFFAIRS

ON SENATE BILL 441

RELATED TO ABSENTEE VOTING

FEBRUARY 17, 2015

Chair Espero and members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs, thank you for the opportunity to offer testimony on Senate Bill No. 441. The purpose of this bill will allow the county clerk to electronically transmit absentee ballots if mailed absentee ballots are not received by the voter within five days of an election.

The Office of the County Clerk, County of Maui, supports Senate Bill No. 441.

We believe this bill will greatly assist us in ensuring that all voters, regardless of their circumstances will be able to exercise their right to vote. In addition to helping voters who are out of state or who cannot physically get to their polling place on election day, we see this bill as aiding our ability to possibly implement all mail elections in the future.

While there is frequent discussion of having all mail elections statewide, the law currently allows the county clerk to conduct an absentee ballot only election for the voters of any island that is not where the county seat of government is located. HRS § 15-4(b). In our county that would be the islands of Molokai and Lanai. Before we consider exercising the option of conducting an all mail election for either of those islands we will of course have discussions with the residents and interested stakeholders.

However, one of the things that has given us pause in the past about utilizing all mail for these islands are the options available to those voters if they receive their ballots late in the mail or if they need a replacement, if they spoil their ballot. We do not want a situation in which voters would have to travel to Maui to exercise their right to vote if circumstances cause them not to be able to return their ballot by mail in a timely manner.

As such, we see the present bill as providing a much needed safeguard for these voters. Having said that, as the bill refers to the electronic transmission of ballots for voters who did not receive their ballot in the mail within five days of an election, we would ask for clarifying language that would ensure there is no dispute that a voter who has spoiled their ballot within 5 days of an election and who by definition cannot receive a mailed ballot within 5 days of an election, will be able to utilize this provision to receive a replacement ballot.

The proposed language would be the following:

"(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. 441.