

Honolulu, Hawaii

FEB 16 2017

RE: S.B. No. 334

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 334 entitled:

"A BILL FOR AN ACT RELATING TO ELECTIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require all federal, state, and county primary, special primary, general, special general, and special elections to be conducted by mail beginning with the 2020 primary election;
- (2) Establish an election by mail system, including requirements for ballots, replacement ballots, deficient return of ballots, electronic transmission of ballots under certain conditions, ballot counting, voter service centers, places of deposit, and election expenses and responsibilities;
- (3) Make conforming amendments to existing laws relating to elections to reflect and implement an election by mail system, including the laws relating to voter registration, precinct officials and watchers, election proclamations, postponement of elections due to natural disasters, ballots, voting procedures, ballot counting and election results;



- (4) Make conforming amendments to existing laws relating to absentee voting, including:
 - (A) Repealing language that provides for a permanent absentee ballot clarifying that absentee ballots will be used to request a ballot to be mailed to a temporary address; and
 - (B) Repealing voter registration at an absentee polling place;
- (5) Appropriate funds for the implementation and administration of the elections by mail system; and
- (6) Require the Office of Elections to submit a report to the Legislature prior to the convening of each Regular Session from 2019 to 2023, regarding the implementation and administration of the election by mail program.

Your Committee received testimony in support of this measure from the Office of Elections; Office of the County Clerk, County of Kaua'i; Office of the County Clerk, County of Maui; Office of the City Clerk, City and County of Honolulu; Office of the County Clerk, County of Hawai'i; Americans for Democratic Action Hawai'i; Hawai'i Alliance for Progressive Action; Common Cause Hawaii; League of Women Voters of Hawaii; Sierra Club of Hawai'i; and twenty-seven individuals. Your Committee received testimony in opposition to this measure from the Libertarian Party of Hawaii and two individuals.

Your Committee finds that the trend in Hawaii has been toward increased mail-in voting and that shifting to elections by mail would significantly reduce the logistical issues related to conducting elections. This measure uniformly implements an election by mail voting system for all elections beginning with the 2020 primary election.

Your Committee notes that this measure repeals references to precincts and polling places and further amendments to various applicable laws relating to elections may be necessary as this measure moves through the legislative process.

Your Committee has amended this measure by:



- (1) Amending section 1 to accurately describe the components of the elections by mail program;
- (2) Clarifying that, to the extent practicable, the county clerk shall mail ballot packages so as to enable voters to receive their ballots approximately eighteen days prior to an election;
- (3) Clarifying that the county clerks are primarily responsible for voting operations at voter service centers and places of deposit, per the request of the Office of the City Clerk of City and County of Honolulu;
- (4) Clarifying that to cast a valid ballot or replacement ballot, a voter may personally deliver the ballot at a voter service center or place of deposit or utilize the option to mail the ballot;
- (5) Allowing a voter five, rather than ten, business days after the date of election to cure a deficient return identification envelope;
- (6) Clarifying the times by which a voter must return a voted replacement ballot that was forwarded by electronic transmission;
- (7) Clarifying that if a voter returns multiple voted ballots for the same election, the clerk must prepare only the first ballot returned that is not spoiled, rather than the replacement ballot, for counting;
- (8) When applicable, referencing business days, rather than working days, and adding a definition of "business day" to section 11-1, Hawaii Revised Statutes;
- (9) Deleting references to "precinct" and replacing them, when appropriate, with "district" or "area" and adding a definition of "district" to section 11-1, Hawaii Revised Statutes;
- (10) Reinstating language that requires the county clerk to mail notice that a person is registered to vote within thirty days of registration;



- (11) Deleting language that prohibits a person from being prevented from voting in the precinct due to a name or address change reported on election day;
- (12) Reinstating section 11-76, Hawaii Revised Statutes, and amending the language to clarify that election day officials under the supervision and control of the Office of Elections shall be compensated;
- (13) When applicable under the law relating to the appointment of watchers, replacing references to a precinct chairperson with clerk;
- (14) Clarifying the hours of voter service centers;
- (15) Clarifying that the two hundred-foot radius requirement under section 11-132, Hawaii Revised Statutes, applies to any voter service center, place of deposit, and its appurtenances;
- (16) Adding language to section 11-139, Hawaii Revised Statutes, that clarifies that a person with disabilities may be provided assistance at a voter service center pursuant to any state or federal law relating to persons with disabilities;
- (17) Decreasing the time allowed to file a complaint contesting a primary election result from sixteen to thirteen days after a primary or special primary election so that general election ballots may be prepared in time for overseas voters, per the request of the Office of Elections;
- (18) Deleting references to "precinct official" and replacing, when appropriate, with "election official" and repealing the definition of "precinct official" under section 11-1, Hawaii Revised Statutes, as well as amending the definition of "election official";
- (19) Deleting section 51, which would have repealed section 15-4, Hawaii Revised Statutes;
- (20) Requiring the Office of Elections to submit its first written report to the Legislature on the implementation



and administration of the election by mail program prior to the regular session of 2018, rather than 2019;

- (21) Adding language that requires the Office of Elections to report on any developments in assistive technology that may be implemented to ensure that persons with disabilities are not, on the whole, disadvantaged by the implementation of the election by mail program, including the costs associated with such technology;
- (22) Inserting an effective date of January 7, 2059, to encourage further discussion and making certain section effective on various dates; and
- (23) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 334, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 334, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,


GILBERT S.C. KEITH-AGARAN, Chair



