



**HAWAII STATE ASSOCIATION OF PARLIAMENTARIANS
LEGISLATIVE COMMITTEE
P. O. Box 29213
HONOLULU, HAWAII 96820-1613
E-MAIL: HSAP.LC@GMAIL.COM**

February 5, 2018

Honorable Rep. Roy M. Takumi, Chair
Honorable Rep. Linda Ichiyama, Vice-Chair
House Committee on Consumer Protection and Commerce (CPC)
Hawaii State Capitol, Room 329
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in SUPPORT of HB2630; Hearing Date: February 6, 2018 at 2:00 p.m. in House conference room 329; sent via Internet

Dear Rep. Takumi, Chairman; Rep. Linda Ichiyama, Vice-Chair; Committee Members,

Thank you for the opportunity to provide testimony on this bill.

The Hawaii State Association of Parliamentarians (“HSAP”) has been providing professional parliamentary expertise to Hawaii since 1964.

I am the chair of the HSAP Legislative Committee. I’m also an experienced Professional Registered Parliamentarian who has worked with condominium and community associations every year since I began my parliamentary practice in 1983 (over 1,700 meetings in 35 years). I was also a member of the Blue Ribbon Recodification Advisory Committee that presented the recodification of Chapter 514B to the legislature in 2004.

This testimony is provided as part of HSAP’s effort to assist the community based upon our collective experiences with the bylaws and meetings of numerous condominiums, cooperatives, and planned community associations.

This testimony is presented in SUPPORT of HB2630.

Current Situation:

Today, numerous Hawaii condominium associations have a secret ballot requirement. Pursuant to the parliamentary authority for these meetings, the secret ballot requirement is met by using slips of paper. There is no authority for condominium associations to use electronic voting devices when the bylaws require secret ballot.

For many years condominium associations have conducted board elections that simply took too long to count. Some results were later found inaccurate because paper ballots with multiple percentages were susceptible to error.

Longer wait times were experienced if additional motions were presented and needed to be voted. In an extreme case (and not humorous at the time), a simple motion to extend a speaker's time by 3 minutes required a ballot vote due to the different percentages of common interest. 15 minutes later, the association voted not to extend the time, hardly a productive use of owners' time.

In other cases, especially associations with 50+ different common interests, it would take several hours or the meeting would be adjourned to meet the next day with the results.

In one case, the results were incorrect, which led to an expensive special meeting to authorize a recount. In several other cases, paper ballots were counted incorrectly, electing directors to incorrect terms and damaging the association's confidence in the election system as well as property management. In still another case, an improperly elected director simply resigned in order to save the association the cost for a meeting to authorize a recount.

The use of paper ballots have several issues:

- a. They are susceptible to fraud due to the ease of photocopying and color printing prior to the meeting.
- b. Property management must keep careful control of the ballots and if any ballots are missing, its practically impossible to retrieve it from an unknown owner.
- c. An owner can provide the owner's ballots to another owner and leave the meeting, thus providing the equivalent of unauthorized and unregulated proxy voting.
- d. The quorum may be lost due to an owner leaving the meeting after leaving her ballots with somebody else. Only a few observant individuals would know that.

The Condominium Property Act has no requirement nor regulation regarding "secret ballot". The word "ballot" appears in the Condominium Property Act, mainly in the context of mailing one to owners for approval, approving lease rent negotiations, or retaining the secret ballots for later inspection.

The integrity of the secret ballot process is usually entrusted to property management. They will control the ballot packet distribution and ensure owners sign for their ballot packet before receiving it. Property management would distribute ballots authorized by proxy after everybody checked-in.

In contentious meetings, property management has required a photo identification card and ballot receipt signature before receiving the ballots and entering the meeting room.

Current Options with Secret Ballot:

Today, associations with a secret ballot requirement who want to use modern technology need to do either one of the following:

- a. Amend the bylaws to remove the secret ballot requirement.
- b. Implement scanning technology with a form of machine readable bar code and make sure the paper ballot redacts the name of the owner.

Amend the Bylaws:

A bylaw amendment is always possible, although quite difficult due to the high vote required.

Owner apathy has made a bylaw amendment of this type quite impractical because most condominium owners in my experience do not attend association meetings.

They leave it up to proxy-holders or other owners who attend to make decisions.

Therefore, many owners simply wouldn't be concerned with this issue because they don't go to association meetings. This apathy makes it difficult to amend the bylaws.

Implement Scanning Technology:

My experience with this scanning technology has been with several association meetings on Maui and a few associations on Oahu. It still takes a long time to count, sometimes over an hour. Paper has been known to jam, thus requiring manual revisions, adding to the time requirements.

Technological Options:

The technology is available to provide an electronic voting device to owners upon check-in and retrieve them before they leave. An owner could be required to provide a photo identification card in order to obtain a uniquely identified electronic voting device. The device would be surrendered and the photo identification card returned.

Each electronic voting device has a unique number that would allow voting by pressing buttons and confirming the vote on the screen. The computer would provide voting results in less than a minute!

The surrendering of the electronic voting device upon leaving would also help to ensure that quorum calculations are realtime and accurate.

The first time I saw the use of electronic voting devices was in 1998 with over 900 people at a convention on Maui. It took about 15 seconds to count the vote! I've also used the devices successfully for several years as a member at a national convention with over 300 people present. The voting is open for 15 seconds which could be extended and the results are practically instantaneous.

The 3 companies I've researched require no internet access for their electronic voting devices. A visual example of the process is on the last page of this testimony.

Proposed Bill (Sections 2 and 3):

There are two other sections that I am providing technical comments on.

Section 2 of the bill proposes to change the reference in HRS §514B-106(f) from HRS §514B-121(b) to HRS §514B-121(c). Technically, **both** references should apply to removals and replacement that “occur at a special meeting”, that of **calling** the meeting required by HRS §514B-121(b) and that of **noticing** the meeting required by HRS §514B-121(c).

Section 3 of the bill proposes to change the reference in HRS §514B-110(e) for a meeting “called” from HRS §514B-121(b) to HRS §514B-121(c). I don't believe this is correct because the subsection refers to a **meeting called** which should be HRS §514B-121(b). This is different from **noticing** the meeting required by HRS §514B-121(c).

Proposed Bill (Section 4):

This section of HB2630 allows condominium associations to use electronic voting as an alternative to a paper secret ballot at a meeting.

It has 4 basic requirements:

- a. It requires that the board establish reasonable procedures to provide for the secrecy and integrity of the unit owners' votes.
- b. It requires availability of a printed audit trail containing the serial number of the electronic voting device, each common interest voted, and the vote that was tabulated
- c. It also requires that the printed audit trail be available to owners in the same manner as meeting records are currently available.
- d. It requires that the procedures established by the board be (a) available to owners at no charge and (b) available at any meeting at which the electronic voting device is used.

Conclusion:

The proposed legislation provides for electronic voting devices as well as providing a requirement for reasonable procedures for security and integrity. This is a more accurate and potentially more secure than the use of paper ballots.

The bill simply permits condominium associations to utilize this technology if they wished. It is not mandatory; it simply provides associations with a tool for more efficient meetings.

Should there be a legislative need to codify more definitive procedures as part of this legislation, I would be happy to assist.

We ask that you approve HB2630.

If you require any additional information, your call is most welcome. I may be contacted via phone: 423-6766 or by e-mail: Stevevghi@Gmail.com. Thank you for the opportunity to present this testimony.

Sincerely,

Steve Glanstein, Professional Registered Parliamentarian
Chair, HSAP Legislative Committee

SG:tbs/Attachment

Sample of Electronic Voting Device Usage





**Hawaii Council of Associations
of Apartment Owners**
DBA: Hawaii Council of Community Associations
1050 Bishop Street, #366, Honolulu, Hawaii 96813



February 2, 2018

Rep. Roy Takumi, Chair
Rep. Linda Ichiyama, Vice-Chair
House Committee on Consumer Protection & Commerce

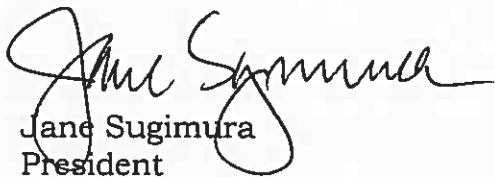
Re: Testimony in support of
HB2630 RELATING TO CONDOMINIUM VOTING
Hearing: Tues., Feb. 6, 2018, 2 p.m., Conf. Rm. #329

Chair Takumi, Vice-Chair Ichiyama and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA). This organization represents the interests of condominium and community association members.

HCAAO supports the intent and purpose of this bill to the extent that it provides an option for associations to use electronic devices to assist in the voting process. We believe that the bill needs more details relating to safeguards for associations who choose to use this process and suggest that this Committee pass this bill out to allow that discussion to continue.

Thank you for the opportunity to testify on this matter.


Jane Sugimura
President



P.O. Box 976
Honolulu, Hawaii 96808

February 4, 2017

Honorable Roy Takumi
Honorable Linda Ichiyama
Committee on Consumer Protection & Commerce
415 South Beretania Street
Honolulu, Hawaii 96813

Re: HB 2630 SUPPORT INTENT

Dear Chair Takumi, Vice-Chair Ichiyama and Committee Members:

This testimony is submitted on behalf of the Community Associations Institute ("CAI"). CAI supports the intent of HB2630.

It is proposed that: "at any association meeting where a secret ballot is required or used, the association may use an electronic voting device instead of a secret ballot." Further, "The board shall establish reasonable procedures to provide for the secrecy and integrity of the unit owners' votes," but no board is able to do that.

Thus, CAI suggests that any legislation authorizing the use of electronic voting be more prescriptive. Further, any approved technology should meet standards to enable visually, or otherwise, disabled persons to fully participate in an election.

Voting is of fundamental importance. Thus, it is risky to simply set forth an aspirational goal for boards to guard the "secrecy and integrity" of the voting process. Specific standards should instead be prescribed.

In its current form, HB 2630 provides for an audit trail, but it is unclear, for example, that authentication of voter identity is covered by that requirement. A review of national standards, if any, and other state laws should be considered. Nothing should be left to chance.

Honorable Roy Takumi
Honorable Linda Ichiyama
February 4, 2018
Page 2 of 2

CAI fully supports the intent of HB 2630. It simply takes the position that amendments may be appropriate to assure consumer protection.

Community Associations Institute, by

Philip Nerney

For its Legislative Action Committee

HB-2630

Submitted on: 2/3/2018 5:06:50 PM

Testimony for CPC on 2/6/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Hawaiian Civic Club of Honolulu	Support	No

Comments:



CHARLES E. PEAR, JR.
ATTORNEY AT LAW

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February 5, 2018

Rep. Roy M. Takumi, Chair
Rep. Linda Ichiyama, Vice Chair
Members of the House Committee on Consumer Protection & Commerce
Twenty-Ninth Legislature
Regular Session, 2018

Re: H.B. 2630
Hearing on February 6, 2018, 2:00 p.m.
Conference Room 329

Dear Chair, Vice Chair and Members of the Committee:

My name is Charles Pear. I am testifying as legislative counsel for ARDA Hawaii.

ARDA Hawaii supports H.B. 2630. Other jurisdictions have considered and adopted similar legislation authorizing, but not requiring, condominium and homeowners' associations to use electronic voting devices in meetings. Electronic voting is more convenient, and condominium and homeowners' associations that adopt electronic voting may see an increase in owner participation in elections and other matters.

Thank you for your kind consideration of this legislation. I would be happy to take any questions if you think that I may be of some small assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Charles E. Pear, Jr.", written in a cursive style.

Charles E. Pear, Jr.

CEP/CAT:kn

HB-2630

Submitted on: 2/5/2018 10:31:02 AM

Testimony for CPC on 2/6/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Associa	Support	Yes

Comments:

The proper use of technology with safeguards will help associations conduct fast accurate elections.

HB-2630

Submitted on: 2/5/2018 11:25:42 AM

Testimony for CPC on 2/6/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lila Mower	Hui `Oia`i`o	Support	No

Comments:

We support this proposal only if it is amended to prohibit any conflict of interest such as:

No association shall enter a contract with an electronic voting service provider that is owned or operated by:

- (1) A member of the board or an officer of the association;
- (2) A person who has a material financial interest with a member of the board or an officer of the association; or
- (3) A close relative of a member of the board or an officer of the association; or
- (4) An employee of the association or person that contracts to provide goods or services to the association or condominium, including but not limited to managers and managing agents.

Additionally, none of these excluded classes shall solicit, receive, or accept any undisclosed fee, compensation, commission, or gratuity whether in cash or in kind from any third party who provides or solicits to provide electronic voting goods or services to the association or condominium.

HB-2630

Submitted on: 2/3/2018 5:51:23 PM

Testimony for CPC on 2/6/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Rainbow Family 808	Support	No

Comments:

I strongly support HB2630. I've used electronic voting at a national meeting. The devices were guarded and when used provided results within minutes. Everyone were happy to use the electronic voting system.

Please approve this option with the passage of HB2630.

Mike Golojuch, President

Palehua Townhouse Association

HB-2630

Submitted on: 2/3/2018 11:10:01 AM

Testimony for CPC on 2/6/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marcia Kimura		Support	No

Comments:

I am in favor of any measure that discourages tampering with or manipulating actual voting results of condo elections.

HB-2630

Submitted on: 2/5/2018 11:42:09 AM

Testimony for CPC on 2/6/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Govier		Support	No

Comments:

To Chairman Takumi

and CPC committee members:

I write to SUPPORT HB 2630

As a Professional Registered Parliamentarian I've had experience with electronic voting and also with voting when I served various associations in Hawaii.

Electronic voting is efficient and the results accurate and therefore fair.

Please VOTE YES on HB 2630

HB-2630

Submitted on: 2/1/2018 5:09:11 PM

Testimony for CPC on 2/6/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow		Oppose	No

Comments:

This bill needs to die, now. It is the property management companies who perform most of the voting tasks. There charges to the associations will increase. To ask them to get clickers, instruct the owners how to vote, and to have boards set up procedures. As a board member, I do not believe boards are capable to set up these procedures. While counting votes the current way is time consuming, it is the best way to go. And, this cannot be hacked.

Lynne Matusow