

**STATE OF HAWAII
OFFICE OF ELECTIONS**

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
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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 HOUSE BILL NO. 1248
RELATING TO ELECTIONS

January 31, 2019

Chair Lee and members of the House Committee on Judiciary, thank you for the opportunity to testify in support of House Bill No. 1248. This bill implements voting by mail statewide beginning in 2022.

The Office of Elections supports elections by mail because it is convenient and accessible for voters, and it will streamline the administration of elections. In recent elections, more than half of voters have cast their ballot prior to election day.

Additionally, elections by mail would limit logistical issues and voter confusion that may occur at polling place facilities in close proximity to the election. For example, we were notified on June 25, 2018 that the Waikele Elementary School Cafeteria would be unavailable for the Primary Election due to demolition and construction. Waikele Elementary School Cafeteria serves as a polling place for two precincts, 35-05 and 37-04. We mailed letters to these voters notifying them that their polling place had been reassigned to Waikele Community Park for voters of 35-05, and Kanoelani School for voters of 37-04. However, Election Day Officials reported that there was voter confusion as these voters have been voting at Waikele Elementary School since the early 2000s.

Thank you for the opportunity to testify in support of House Bill No. 1248.

JOSIAH K. NISHITA
County Clerk



MARGARET C. CLARK
Deputy County Clerk

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

TESTIMONY OF JOSIAH NISHITA
COUNTY CLERK, COUNTY OF MAUI
TO THE HOUSE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 1248
RELATING TO ELECTIONS

January 31, 2019

Chair Lee and members of the House Committee on Judiciary, thank you for the opportunity to testify in support of House Bill No. 1248. This bill will enact voting by mail uniformly for all counties beginning in 2022.

We feel that elections by mail is a more efficient and effective way to reach our voters and administer elections, and we respectfully request your support of this Bill.

Thank you for the opportunity to provide testimony in support of House Bill No. 1248.

HB-1248

Submitted on: 1/29/2019 9:33:04 PM

Testimony for JUD on 1/31/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Khara Jabola-Carolus	Hawai'i State Commission on the Status of Women	Support	No

Comments:



49 South Hotel Street, Room 314 | Honolulu, HI 96813
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COMMITTEE ON JUDICIARY

Thursday, January 31, 2019, 2:00 p.m., Room 325
SB 1248 RELATING TO ELECTIONS

TESTIMONY

Janet Mason, Legislative Committee, League of Women Voters of Hawaii

Chair Rhoads, Vice-Chair Wakai and Committee Members:

The League of Women Voters of Hawaii **strongly supports HB 1248, that would introduce voting by mail statewide for all elections beginning in 2022.**

Research indicates this modern approach to voting improves turnout, which is the main reason the League supports the bill. We believe the 2022 start date for a statewide program is prudent. We will have results from Kauai's 2020 "vote by mail experience" to guide state and county officials in preparing voters for 2022 and we will have other opportunities to improve the current absentee voting program, which is already very popular.

With the premise that "every vote counts" we respectfully request you consider a few changes to this measure. In Section 11-D Ballot Instructions; ballot return, (c) there is a need to amend the language "received at the office of the clerk," to clarify that clerks may designate official agents to accept ballots. If so, a definition of such allowable designees (such as certified postal service employees) is important.

Also needed is a strong definition of the deadline for ballot returns. Section 11-D states that mailed ballots should be "received at the office of the clerk" no later than closing on Election Day. To permit ballots postmarked before closing on Election Day to be counted, and to provide for return of ballots where the clerk has already contacted the voter regarding a provisional ballot signature, we suggest amended language. The language for section 11-D (c) would be like that in use in Washington: "1) received at the office of the clerk no later than closing on election day or; or 2) postmarked no later than Election Day and received no later than 5 days after the election."

Section 11-D, (c) (2) specifies that personal delivery of ballots at places of deposit should occur by the day **preceding** Election Day, but we think a single 6:00 p.m. deadline on Election Day is a better approach, since the places of deposit are secured and prompt collection at 6:00 p.m. on the date of the election can be arranged. We expect personal delivery of ballots will be popular as it has been in other states such as Oregon; using a different deadline could easily confuse voters and result in unintentional disenfranchisement.



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Deadline for return of replacement ballots as specified in Section 11-E (c) should be amended to correspond with the suggestions we made for Section 11-D (c).

In Section 17, adding a clause after 11-131, (Voter service center hours), to specify "Places of Deposit Hours." would help avoid confusion about when places of deposit will be open.

Finally, for the benefit of Kauai voters in 2020, we ask whether Act 182 should be amended to clarify any ambiguity about "receipt of ballots by the Clerk" and deadlines for receipt of 2020 ballots.

We fully support the effort to measure savings derived through voting by mail instead of polling place voting; this should be included in the office of elections reports to the legislature for sessions 2020 through 2025

This measure holds promise for Hawaii voters. Thank you for the opportunity to submit testimony.

HB-1248

Submitted on: 1/29/2019 9:47:08 PM

Testimony for JUD on 1/31/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brett Kulbis	Honolulu County Republican Party	Oppose	No

Comments:

The Honolulu County Republican Party OPPOSES this bill.

TO: HOUSE COMMITTEE ON JUDICIARY
RE: HB 1248 RELATING TO ELECTIONS.

Enacts voting by mail uniformly across all counties for all elections
commencing in 2022

FOR HEARING ON Thursday, January 31, 2019

FROM:

Kenneth R. Conklin, Ph.D.
46-255 Kahuhipa St. Apt. 1205
Kane'ohe, HI, 96744
Tel. 808.247.7942

TESTIMONY IN OPPOSITION

Voting by mail, early voting, or absentee voting should be the exception — not the normal, routine, expected procedure. There are many reasons why.

Hawaii voters are being herded like sheep to vote by mailed absentee ballots (and eventually to vote electronically through the internet). Holding elections that way might save money, produce immediate final results the moment the "polls" close, and be extremely convenient for voters. But voter turnout has not improved in recent years despite easy mail-in of ballots and even-easier registration.

During the past several years news media editorials have repeatedly said that Hawaii's dismal voter turnout would be greatly improved by allowing early voting, absentee voting, mail-in voting, electronic voter registration, and same-day voter registration. Since 2010 Hawaii people have been offered the even greater convenience to never again need to apply for an absentee ballot -- just mail a request one time for permanent absentee voting. But as these methods have been adopted, voter turnout has not noticeably improved. Electronic voting by internet has even been tried for neighborhood board elections on O'ahu, but voter turnout has not improved.

ABSENTEE VOTING BY MAIL MAKES IT EASY FOR LARGE NUMBERS OF VOTERS TO SELL THEIR VOTES; OR FOR CANDIDATES, UNION STEWARDS, OR CORPORATE BOSSES TO INTIMIDATE VOTERS IN LARGE NUMBERS.

In the "good old days" of in-person voting, a voter could take money and sell his vote, but could nevertheless vote for whichever candidate he wanted, because the ballot was marked in the privacy and secrecy of the voting booth. However, if a voter takes possession of an absentee ballot to be returned by mail, then someone else who buys that vote or intimidates that voter can actually watch the voter mark the ballot; can watch to be sure the ballot gets enclosed inside the official envelope and the envelope gets signed by the voter; and then can mail the envelope for the voter to be sure it gets sent in. Thus the buyer or intimidator can be absolutely certain that the vote has been cast the way the buyer or intimidator wants.

The way for a buyer or intimidator to control large numbers of votes is to demand that people apply for and receive absentee ballots to be returned by mail. Since the period for absentee voting lasts several weeks, there's plenty of time for one buyer or intimidator to control hundreds of votes. Here are a few obvious ways to do that.

A candidate who "walks his district" can use the telephone to line up voters to get absentee ballots and then make appointments; and then visit each of them at home to watch them mark the ballots, seal them in the outer mailing envelope and sign the envelope; and then take the envelopes to the post office. A union steward or company boss can instruct large numbers of workers to get absentee ballots, and then organize a meeting where everyone comes to fill out the ballots and sign the envelopes together. A candidate could also do the same thing at an assisted living facility, care home, nursing home, or hospital; meeting with a large number of absentee voters who might have painful or debilitating illnesses that distract them from paying attention; or diminished mental capacity.

In 2018 there were news reports that in some states on the mainland, candidates were engaged in "ballot harvesting" even where it is illegal, and that such a process is actually legal in some states. Workers for a candidate

will go door to door to collect blank absentee ballots from individuals who have signed up on social media to support that candidate; or to collect all absentee ballots in neighborhoods where residents are overwhelmingly of the same race or ethnicity as the candidate, The ballots are harvested like grapes in a vineyard. Then the candidate's workers fill in the ballots, seal them, sign the envelopes with the voters' names and mail them in. Or voters could be asked to close but not seal the outer envelope and sign it, so that it can later be closed and sealed by the candidates' workers after they have filled it in. That way the signature appears authentic.

These doomsday scenarios are not merely speculative. Romy Cachola was a member of Honolulu City Council. Term limits forced him out of office in 2012. He ran in the primary election on August 11, 2012 for the state House of Representatives, against first-time candidate Nicole Velasco.

There are both voter narratives and statistical evidence proving that Cachola stole the election by using voter intimidation with absentee ballots. Chad Blair published articles describing what happened in Civil Beat online newspaper, on August 16

<http://www.civilbeat.com/articles/2012/08/16/16869-concerns-of-voter-intimidation-raised-in-cachola-victory/>

and August 17

<http://www.civilbeat.com/articles/2012/08/17/16880-hawaii-law-prohibits-voter-intimidation/>

Chad Blair reported "Cachola won 51 percent to 46 percent. ... But if only Election Day and early walk-in votes had been counted, Velasco would have won in a landslide, 60 percent to 36 percent. ... According to a Civil Beat analysis, more than 70 percent of those who voted for Cachola in the Democratic primary against Velasco did so via a mail-in ballot. That was by far the highest percentage in Hawaii. ... In all, 41 percent of votes cast were mail-in votes, placing Cachola's 70 percent figure in even sharper contrast. ... Civil Beat granted anonymity to a Filipino family in District 30 who says Cachola forced the grandmother of the house to complete an absentee ballot as he watched. ... "And he just like forced me to do the voting in front of him, and I did not want to. I told him, 'I have to go, I know what to do.' So I stopped what I did, then he looked at his name. I scratched

it, and he watched me do it all the way until I finished." The woman said Cachola then told her to put the ballot in the state Elections Office envelope, to seal it and then give it to him to mail. He then left the house with the ballot in hand. ... The family, who supported Velasco and sign-waved on her behalf, said they told Velasco about what happened. ... There was a similar voting pattern when Cachola first ran for the City Council in 2000. In a primary election race, he won 46 percent to 43 percent over his closest competitor, Dennis Nakasato. Among mail-in absentee voters, Cachola secured 59 percent of the vote. Among those who voted in person — either on Election Day or before it — he got only 43 percent of the vote. ..."

ABSENTEE VOTING IS NOT ALLOWED IN THE U.S. CONGRESS OR THE HAWAII LEGISLATURE. THINK ABOUT WHY.

Anyone who watches the U.S. Senate or House on C-SPAN can see that absentee voting is not allowed for either a voice vote or a roll call vote. In the House, each of the 435 representatives can vote in a roll call only from his chair on the floor by pressing a button for "aye" or "nay" or "present (but abstain)." The votes are then tallied by a central computer and the running count is publicly displayed throughout the ten or twenty minutes set aside for voting, after which the result becomes final. In a Senate roll call vote, a period of time is allowed during which each Senator must approach the clerk's desk and be recognized by the clerk who speaks the Senator's name through a publicly audible microphone. The Senator then speaks the word "aye" or "nay" or "present", and the clerk then repeats both the Senator's name and his vote. That's very 19th Century!

Wouldn't it be much more convenient if a Representative or Senator didn't have to get on the little underground train from his office building to the Capitol building? Why can't he simply watch the proceedings on TV and cast his vote from the comfort of his office? Think how much time and inconvenience could be saved. Indeed, why should a Representative or Senator who is ill or perhaps hospitalized a thousand miles away not be allowed to vote from his home or bed? There have been extremely dramatic, courageous incidents when a Member of Congress knew his vote

could be decisive and made a point of coming in person to cast his vote, because otherwise he would not be allowed to vote. On July 22, 2012 Nicole Debevec of United Press International recalled that "Rep. William Natcher, D-Ky., who served until his death in 1994, holds the record for the most consecutive roll-call votes: 18,401 over 41 years, until an illness broke the streak. Roll Call [publication] reported Natcher was wheeled onto the House floor on a hospital gurney to cast one of his final votes."
http://www.upi.com/Top_News/US/2012/07/22/Politics-2012-Of-ads-and-adages/UPI-13111342944000/#ixzz23wm0cixH

There must be very good reasons why the U.S. Congress refuses to allow absentee voting. Readers can easily figure out many of those reasons. Anytime someone suggests the Hawaii government should make elections happen entirely by absentee voting, we should demand to know why a Hawaii citizen's vote is less important than a vote by a Member of Congress. And anytime an individual voter considers whether to apply for an absentee ballot, he should think about the reasons why a Representative or Senator is required to cast every vote in person, sometimes at great inconvenience and even at the risk of losing his life to get to the "polling place."

Do-gooders think society should do everything possible to increase voter participation by making it easy and convenient to vote. But perhaps it's better to require people to go out of their way to vote. If someone has such little knowledge about the candidates, or cares so little about the election that he is unwilling to make the effort to go to the polling place on election day, then perhaps we're all better off if he does not vote. Low voter turnout is evidence that people can't find candidates they consider worthy of voting for. Personally, I don't mind if voter turnout is low, because that magnifies the effectiveness of my own vote. Ignorant or apathetic people are welcome to abstain.

The right to vote should be exercised by people who know how precious is the blood and treasure sacrificed to make it possible. The founders of our nation signed the Declaration of Independence right below its closing words "... we mutually pledge to each other our Lives, our Fortunes and our sacred Honor."

Surely we can show our respect by sacrificing a few minutes to go to the polling place on election day.

MAIL-IN BALLOTS REJECTED FOR ERRORS GET NO SECOND CHANCE

I have served as a precinct elections official in every election for 26 years (except the general election of 2000 when I was a candidate for OHA and therefore not allowed to work in the general election). For the most recent several elections we have had voting machines which detect errors and immediately kick back a bad ballot along with a message helping the voter understand what's wrong. The voter can then get a new ballot and try again.

In the primary election of 2012, and again in 2018, I spent nearly the whole time from 7 AM to 6 PM sitting at the voting machine helping voters insert their ballots and helping them understand why bad ballots got rejected. Perhaps ten percent of ballots got rejected.

The two most frequent reasons were failure to mark the box to choose a particular political party, or voting for candidates in a political party different from the one selected (For example, vote for both Linda Lingle [R] and Mazie Hirono [D] for Senate). Some voters simply didn't understand that the purpose of a primary election is for each party to choose who will be its candidate to run against the other parties' candidates in November. In a primary election a voter must pretend for that one day to be a loyal member of one political party -- the voter must first mark the ballot to identify which party that is, and then must vote only for candidates inside that particular party (plus the non-partisan OHA and county contests on the back side). A few voters also didn't realize that "non-partisan" is actually used as a party name on the front, and thought they could vote for a "non-partisan" candidate in addition to a Democrat or Republican etc. A few voters also voted for more than one candidate in the same contest (for example, both Tulsi Gabbard and Esther Kia'aina among the Democrat candidates for Second Congressional District).

The voting machine catches such errors and kicks back the ballot so the voter can get a replacement ballot and try again. But if an absentee ballot is mailed in, and has an error, the voter gets no second chance. Sometimes in-person voters get frustrated, angry, or disgusted when they make an error and don't want to get a replacement ballot. There is a button on the machine whereby a voter can tell the machine to accept the ballot despite the error. In that case, if the error affects only one contest, then the particular contest where the error occurred is ignored by the machine, but other contests get counted. What happens with mailed-in absentee ballots that have errors? The commonsense procedure would be for an elections official to push the button to accept the ballot despite the error, so that at least the contests without any error would get counted. But I don't know whether that's how the bureaucrats handle it. In any case, the absentee voter loses out on the opportunity he would have had at the polling place to get a replacement ballot to correct whatever error he made. It would be interesting to find out how many such errors there were among the absentee ballots, and whether the number of errors in any particular contest was larger than the margin of victory and thus could have changed the outcome of the election.

PETER L. FRITZ

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HOUSE OF REPRESENTATIVES
THIRTIETH LEGISLATURE, 2019
REGULAR SESSION OF 2019

COMMITTEE ON JUDICIARY

H.B. 1248
Hearing: January 31, 2019

RELATING TO ELECTIONS

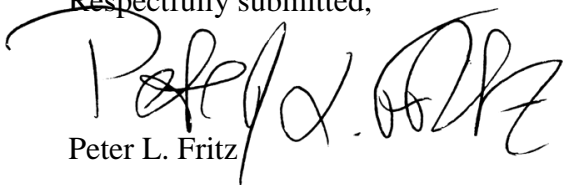
Chair Lee, Vice Chair San Buenaventura and members of the Committee. My name is Peter Fritz. I am an individual with a disability. I am testifying **in support of this bill and suggest that language be added to clarify when individuals with disabilities can request to vote using a ballot that is electronically transmitted.**

The ADA generally requires that State and local governments provide qualified individuals with disabilities with equal access to their programs, services, or activities. It is not clear from the language of this bill that an individual with a disability can request that a ballot be transmitted more than 5 days prior to an election. To provide access for voters with special needs that is equal the access to for voters that receive a ballot by mail, it is suggested that language be added to §11-G to clarify that a ballot may be requested at any time by an individual with special needs. In addition, it is also suggested once a voter has requested that a ballot be transmitted electronically, that the clerk maintains a list of individuals that have requested that a ballot be transmitted electronically. Revised §11-G would read as follows:

§11-G Electronic transmission under certain circumstances. (a) If a ballot package is not received by a voter within five days of an election or a voter otherwise requires a replacement ballot within five days of an election, the voter may request that a ballot be forwarded by electronic transmission. ~~[; provided that a voter with special needs may request that a ballot be forwarded by electronic transmission.]~~ At any time, a voter with special needs may request a ballot package be forwarded by electronic transmission. The clerk shall maintain a list of names and electronic mail addresses of persons who request a ballot package by electronic transmission. The clerk shall forward a ballot package by electronic transmission to the persons on this list at their designated electronic mail address at the same time as ballots are mailed to voters. Upon receipt of such a request and confirmation that proper application was made, the clerk may transmit the appropriate ballot, together with a form containing the affirmations, information, and a waiver of the right to secrecy under section 11-137.

Thank you for the opportunity to testify.

Respectfully submitted,



Peter L. Fritz

HB-1248

Submitted on: 1/29/2019 5:21:59 PM

Testimony for JUD on 1/31/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua Kay	Individual	Support	No

Comments:

I am in support of HB1248. I believe that a mail-in voting system would encourage people to vote. I also believe this would be more efficient and cost-effective than the current system of voting.

HB-1248

Submitted on: 1/29/2019 9:45:32 PM

Testimony for JUD on 1/31/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments:

I have been testifying in support of this measure for way too long. More people are voting absentee than showing up at the polls. It costs more to have elections at the polls than mail ballots. It is hard for the authorities to find poll workers and poll watchers. Mail is the way to go, now. Stop stalling.

HB 1248 Late

To: The House Committee on Judiciary
From: Brodie Lockard for the Common Cause Hawaii Board
Date: Thursday, January 31, 2019, 2:00 pm

In strong support of HB 1248

Dear JUD Chair Lee, Vice Chair San Buenaventura and Committee Members—

Common Cause Hawaii strongly supports HB 1248.

Five states now use Vote by Mail to various degrees. It has increased voter turnout, with very little evidence of voter fraud.

Hawaii has had the lowest voter turnout of any state, for many years. VBM makes voting easy and convenient. The Hawaii State Office of Elections estimates approximately \$750,000 would be saved in each election cycle by converting to VBM. It requires fewer voting machines, fewer polling places, fewer poll workers and fewer lines; and causes less confusion at polling places.

A verifiable paper trail is maintained for all ballots. Replacement ballots for lost or damaged ballots are available from the county clerks, who cancel the original ballot before issuing a replacement. In-person voting sites will continue to be available for voters who would like to vote in-person and to provide additional services to voters.

In recent years, voters have increasingly opted to vote by mail instead of voting in person at walk-in polling places. During the 2016 general election, 53.6% of Hawaii voters cast their ballots prior to Election Day.

Please pass HB 1248 and encourage voting for everyone in Hawaii.

Thank you for the opportunity to testify.

Brodie Lockard
Board Member, Common Cause Hawaii

LATE

HB-1248

Submitted on: 1/31/2019 12:28:08 PM

Testimony for JUD on 1/31/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Smart	Individual	Oppose	No

Comments:

This method of voting has been proven to be riddled with voter fraud opportunities. Vote harvesting and rejection of an individual's signature when valid and acceptance of invalid signatures have occurred. California has approximately 1.5 million registered voters over and above the number of citizens of voting age. That is a lot of voter fraud that can occur and can certainly change the outcome of an election. Do not pass this bill.