

SB 1288

Measure Title:	RELATING TO CONDOMINIUM VOTING.
Report Title:	Condominiums; Voting; Electronic Voting Device; Associations
Description:	Provides for the use of an electronic voting device in condominium association meetings. Requires a condominium board to take reasonable steps to ensure secrecy and integrity of the votes, and that an audit trail be available after the meeting.
Companion:	HB1316
Package:	None
Current Referral:	CPH
Introducer(s):	MORIWAKI, K. RHOADS, Baker, S. Chang, Dela Cruz, Fevella, Ihara, Inouye, Kanuha, Nishihara, Riviere, Ruderman, Shimabukuro, L. Thielen

SB-1288

Submitted on: 2/12/2019 11:03:08 AM

Testimony for CPH on 2/15/2019 9:30:00 AM

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

Comments:

Larger associations can benefit by modern technology to allow faster more accurate voting. It is optional thus no impact on those associations that do not want to use it.

SB-1288

Submitted on: 2/13/2019 11:27:18 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jane Sugimura	Testifying for HI Council of Assoc. of Apt. Owners a	Support	No

Comments:

Hawaii COUncil supports the intent and purpose of this bill and join in the position set out in Steve Glanstein's testimony.



**HAWAII STATE ASSOCIATION OF PARLIAMENTARIANS
LEGISLATIVE COMMITTEE
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February 12, 2019

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Stanley Chang, Vice-Chair
Senate Committee on Commerce, Consumer Protection, and Health (CPH)
Hawaii State Capitol, Room 230
415 South Beretania Street
Honolulu, HI 96813

**RE: Testimony in SUPPORT of SB1288; Hearing: February 15, 2019 at 9:30 a.m.
in Senate conference room 229; sent via Internet**

Aloha Chair Baker, Vice-Chair Chang, and Committee members,

Thank you for the opportunity to provide testimony on this bill. Unfortunately, I had a prior obligation in Wailea, Maui today so am unable to appear in person.

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 SB1288.

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 has 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. If ballots are missing, it's practically impossible to retrieve them from an unknown owner or proxy holder.
- 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 his or her ballots with somebody else. Only a few observant individuals would know that.
- e. Occasionally an owner will question the quorum and this would significantly delay the process. Proper use of electronic voting devices can verify a quorum in seconds.
- f. Professional managers usually have 7 ballots per owner at an association meeting. Most meetings use only one or two ballots. The rest of the ballots are discarded and there is no information regarding ballots that end up in a landfill or are recycled.

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 approving various amendments to the Declaration or Bylaws, approving lease rent negotiations, or retaining meeting ballots for later owner inspection.

The integrity of the secret ballot process is usually entrusted to property management. They 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 else has 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.

Owners 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. Alternatively, the exchange of an identification card with the electronic voting device ensures that the device inventory is always controlled.

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 from one company is on the last page of this testimony.

Proposed Bill (Section 4):

This section of SB1288 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.

Security concerns:

The current use of paper ballots is easily compromised using today's camera technology. Individuals may arrive at a meeting with paper copies of ballots and there is minimal protection during the meeting. A properly secured electronic voting device with a paper audit trail provides a much higher level of integrity than the use of paper. **It is far more difficult and expensive to compromise these devices than to use a color copier to compromise a ballot.**

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 SB1288.

If you require any additional information, your call is most welcome. I may be contacted via phone: 423-6766 or by e-mail: Steveghi@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



LATE

February 14, 2019

Via Internet

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Stanley Chang, Vice-Chair
Senate Committee on Commerce, Consumer Protection, and Health (CPH)

Hawaii State Capital, Room 230
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in SUPPORT of SB1288

Aloha Chair Baker, Vice Chair Chang, and Members Keohokalole, Nishihara,
Ruderman, Thielen, & Fevella:

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

I am a Delegate of the Community Associations Institute (CAI) Legislative Action Committee and current Treasurer of the of the CAI Hawaii Chapter Board of Directors. I am also currently the Vice President of Operations of Touchstone Properties, Ltd. I have been involved with association management for ten years, personally managed properties that vary in size and complexity, and filled senior executive positions with several of the largest property management firms in Hawaii.

This testimony is provided as part of CAI's effort to assist communities 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 SB1288.

Current Situation:

Numerous Hawaii condominium associations have a secret ballot requirement and currently utilize slips of paper to meet ballot requirements. Technology continues to improve but association governing documents and Hawaii statute has not been updated to utilize available technologies. There is no authority for condominium associations to use electronic voting devices when the bylaws require secret ballot.

Current board elections take too long and oftentimes results are inaccurate due to human error in the counting process. Inaccurate results have been found and oftentimes cause

question of the validity of the sitting board. Potentially all decisions that Board makes could be challenged and cause costly litigious matters.

Current concerns regarding the use of paper ballots:

- a. They are susceptible to fraud due to the ease of photocopying and color printing prior to the meeting.
- b. Property management and Tellers must keep careful control of the ballots and if any ballots are missing, its practically impossible to retrieve it from an unknown owner. Having multiple people collecting and counting ballots makes it difficult to control the ballot collection and counting process.
- 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.

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. Amending the bylaws is costly and time consuming. Oftentimes after spending thousands of dollars and hours of time, approval of the bylaw amendments falls short of the required percentage to approve an amendment.
- b. Implement scanning technology with a form of machine-readable bar code. Unfortunately, it has been proven that the counting process can still take over an hour, paper jams, and the ballot with the bar code can still be provided to another individual present at the meeting.

Technological Options Available but Incompatible with Ballot Requirements:

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 real-time and accurate.

Benefits of an electronic voting device:

- a. Provides voting results in real time therefore shorting the time and expense of an annual meeting.
- b. Eliminates human error during the counting process and eliminates the accuracy of the counting process. Owners can rest assured that the election process is accurate and therefore reduces the risk of potential litigious matters.
- c. Results can still be produced and made available for review by Owners.
- d. If additional motions are made during the meeting, the time to process and make results available will be within minutes rather than potentially a hour or more.
- e. Ensure each owner vote is counted. An owner could not leave the meeting and give the device to another owner to cast their vote.

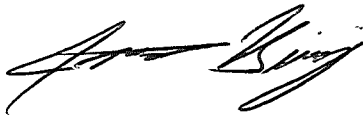
Conclusion:

The proposed legislation provides for electronic voting devices as well as providing a requirement for reasonable procedures for security and integrity. Electronic voting is more accurate, more secure, and timelier than the use of paper ballots. The legislation will not be mandatory, each association can decide for themselves if they prefer to use technology that already exists. This legislation simply provides more options to improve the election and voting process.

CAI LAC ask that you approve SB1288.

If you require any additional information, your call is most welcome. I may be contacted via phone: 566-4107 or by e-mail: Jonathan@touchstoneproperties-hawaii.com. Thank you for the opportunity to present this testimony.

Sincerely,



Jonathan Billings,
Community Associations Institute
Legislative Action Committee
Delegate

SB-1288

Submitted on: 2/11/2019 8:19:38 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

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

Comments:

Please accept this as testimony opposed to this bill. While the intent is laudable, it will create problems for associations. In my asociation we often spend 15 minutes explaining, and reexplaining and reexplaining how to fill in the ballot. That process will be more cumbersome as we try to explain to the owners how to vote electronically.

As Russia and other countries are trying to access our internet, hack electric companies, banks, etc. there is no reason why will too will not be affected. All you need is one instance and hell will freeze over.

lynne matusow

SB-1288

Submitted on: 2/12/2019 11:39:19 AM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marcia Kimura	Individual	Oppose	No

Comments:

I oppose this measure because of its provision for an electronic, but non internet connected device which leaves too many opportunities for management to meddle or tamper with election vote counting, by providing its own "device." An impartial, nonmanagement affiliated party needs to oversee the voting results.

Association boards and management should recognize that no illegitimate voting manipulation can stand, long term.

SB-1288

Submitted on: 2/12/2019 11:21:34 AM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Philip Nerney	Individual	Support	No

Comments:

SB-1288

Submitted on: 2/14/2019 8:58:12 AM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lourdes Scheibert	Individual	Support	No

Comments:

SB-1288

Submitted on: 2/14/2019 1:16:10 PM

Testimony for CPH on 2/15/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
JOY SCHOENECKER	Individual	Support	Yes

Comments:

Useful for large annual meeting attendees

SB-1288

Submitted on: 2/14/2019 1:41:30 PM

Testimony for CPH on 2/15/2019 9:30:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Anne Anderson	Individual	Support	No

Comments:

Dear Senator Baker, Chair, Senator Stanley Chang, Vice Chair, and Members of the Committee:

I support the intent of S.B. 1288. However, I suggest that it be revised to clarify that electronic voting devices are allowed at all association meetings. As currently written, it references only meetings at which a secret ballot is required or used.

Respectfully submitted,

M. Anne Anderson