

HCCA

Hawaii Council of Community
Associations
www.hawaiicouncil.com

January 31, 2022

Representative Aaron Johanson, Chair
Representative Lisa Kitagawa, Vice-Chair
House Committee on Consumer Protection and Commerce

Re: HB1583 Relating to Condominiums. Testimony in Support/with Comments
Thursday, February 3, 2022 at 2 p.m.

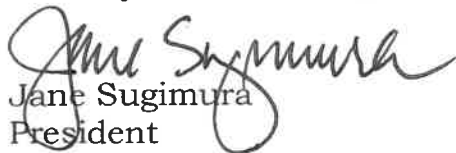
Chair Johanson, Vice-Chair Kitagawa and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCCA).

HCCA supports this bill and asks that this bill be passed out with the amendments proposed by CAI that the bill be amended to establish a task force to seek input from stakeholders and report back to the Committee with recommendations as to how to establish the parameters for remote meetings and online voting.

HCCA recognizes that online meetings and voting is probably the future based on the available technology; however, because the process is relative new and may be subject to abuse, we believe that obtaining information from stakeholders is absolutely necessary to ensure that the process preserves transparency and allows owners to fully participate in these meetings.

Thank you for allowing me to testify on this bill.


Jane Sugimura
President

HB-1583

Submitted on: 2/2/2022 9:46:25 AM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gary Zanercik	Sunset kahili AOAO	Oppose	No

Comments:

I am the President of a condo assn in kauai. Aautomaticlally (withour Board approval) allowing unit owner VOTING in non-emergency situations by mail or by internet will reesult in total chaos at owner meetings. You may not be involved in these meetigns directly, I am and have been for 20 years. It is difficult enough now to retain orderand get important business accomplished at condo owner meetings. the Baord is elected by the owners. let the Baord decide if such voting is appropriate under the circumstances of that particulat meeting!



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

February 2, 2022

Honorable Rep. Aaron Ling Johanson, Chair
Honorable Rep. Lisa Kitagawa, 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 OPPOSITION to HB1583; Hearing Date: February 2, 2022 at 2:00 p.m. in House conference room 329/videoconference; sent via Internet

Dear Rep. Johanson, Chairman; Rep. Kitagawa, Vice-Chair; Committee Members

Thank you for the opportunity to provide testimony on this bill. Unfortunately, I have a prior commitment this afternoon so may be unable to appear via videoconference, depending upon its completion.

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 (more than 2,000 meetings in 39 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 OPPOSITION to HB1583.

Summary of Bill:

This Bill briefly proposes to:

- (a) grant associations the power to order an electronic meeting and electronic, machine, or mail vote notwithstanding anything to the contrary in the association's declaration or bylaws; and
- (b) remove the requirement that there be an emergency situation to justify this expanded power.

The bill does not address whether this new power is to be exercised by the board of directors, one or more owners, or by a decision of owners at a meeting.

Discussion:

HRS §514B-108 requires that the method of conducting association business **be in the association's bylaws**. This continues a long mandate wherein a recorded document, available to all owners and prospective buyers, specifies the method for an association to conduct its business.

The method of conduction association business was **overridden for emergency purposes only** last year (2021 Act 83). The legislature recognized the emergency nature of the pandemic and provided for an exemption from the association's governing documents based on an emergency declaration.

We know of no public policy consideration that would support this override of the governing documents of thousands of owners **when an emergency no longer exists**.

We have some experience with the voting and meeting permitted by Act 83. The change has been beneficial to Associations. However, they still need time to adjust to the current law. Currently none of the large management companies in Hawaii have used it for more than a selected few of their clients.

PRIOR to the pandemic, the only legislative alternative was to provide for electronic voting at a meeting without internet, thus reducing the chance of outside interference or hacking.

PRIOR to the pandemic, there was no significant push for legislative action to override an association's documents regarding the conduct of a meeting or avoidance of a meeting with a mail ballot.

The purpose of Act 83 was to permit relief during an emergency. **Non-emergency use could represent a significant change to condominium operations.**

Condominium associations can amend their documents if they want to have alternate methods of conducting meetings and voting. It's not easy to amend the documents, especially for large associations. However, large associations have successfully amended their documents. It takes time and a serious desire on the part of most of the owners to change their documents.

If an association's documents are unduly burdensome, the association can apply to a court for relief. HRS §514B-111 titled, "Judicial power to excuse compliance with requirements of declaration or bylaws" provides for relief under certain conditions while protecting members or lenders holding security interests.

There is ambiguity between the authority of the Board of Directors and the membership at a meeting regarding the conduct of an online, mail, or voting system. **The unilateral dictate of using or mixing this system outside of an emergency can be subject to abuse.**

The potential for abuse is contrary to the entire principle of condominium management. We **will not** provide a detailed roadmap for such abuse in written testimony.

Recommendation:

We ask that the Committee defer or hold this bill. Should the Committee decide to create a task force, we ask that several stakeholders participate to review the unintended consequences that will occur with such legislation.

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

Sincerely,

Steve Glanstein

Steve Glanstein, Professional Registered Parliamentarian
Chair, HSAP Legislative Committee
SG:tbs

HB-1583

Submitted on: 2/2/2022 1:03:32 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Grant Oka	Kipuka at Hoakalei AOUO	Oppose	No

Comments:

Dear Representative Johanson, Chair, Representative Kitigawa, Vice Chair, and Members of the Committee:

I respectfully OPPOSE H.B.1583.

In 2021, the legislature amended HRS Section 514B-121 to allow for electronic meetings and electronic, machine, or mail voting during periods of emergencies and when permitted by the declaration or bylaws. That change has worked well. HB1583 will change the statute to allow members or proxies of members to vote my mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology without restriction, so long as the member s can view and hear the proceedings, vote on matter, pose questions, and make comments. This change will dictate that these additional methods of voting be allowed in non-emergency situations even if they are not preferred by the membership at large. It is better to leave the decision to the members by permitting them to amend their declaration or bylaws to allow for other methods of voting during non-emergency situations. For this reason, I urge the committee to defer the bill. However, if this bill is to move forward, it should be amended.

While this provision appears to have been fashioned after HRS Section 414D-101(g) and Section 414D-102(f), it is missing the critical language of those two statutory sections which provides that these alternative methods of voting may be used **“if authorized by the board in its sole discretion.”** Without the board having some control over the method of voting, there could be total chaos because this bill does not require that only a single method be used, nor does it state how the method will be determined. It appears to allow a hodgepodge of voting methods all at the same time. Without the board having some control over this, on any particular issue, some owners may insist on participating by internet, others may argue that accommodations must be made for them to participate by telephone, yet others may demand mail ballots, and some may

demand to appear in person. It will be impossible to manage a voting by different methods all at the same time. This will undoubtedly lead to conflicts, disputes, and litigation.

I would also note that voting by mail and at a meeting for the same matter is prohibited by Robert's Rules of Order, Newly Revised. Section 45:56 of Robert's provides that "[a]n organization should never adopt a bylaw permitting a question to be decided by a voting procedure in which the votes of persons who attend a meeting are counted together with ballots mailed in by absentees."

I urge the committee to defer this bill, but if it is to be considered for adoption, at the very least, subsection (e) should be revised to state in relevant part:

"... Notwithstanding any provision to the contrary in the association's declaration or bylaws or in subsection (b), if authorized by the board of directors in its sole discretion, members of the association or proxies of members [shall be allowed to] may vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology in a manner that allows members the opportunity to: ...

A member of the association or proxy of a member participating in a meeting by means of internet, teleconference, or other electronic transmission technology shall be deemed to be present in person at the meeting. The association shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of the internet, teleconference, or other electronic transmission technology is a member of the association or proxy of a member.

This change will make the provision more consistent with HRS Sections 101(f) and 102(g). Giving the power to select the voting method to the board will also enable the board to ensure an orderly method of voting, consistent with Robert's Rules of Order, Newly Revised.

Respectfully submitted,

Grant Oka

President, Kipuka at Hoakalei AOOU

HB-1583

Submitted on: 2/2/2022 1:24:41 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Marilyn Joyce Oka	Kekuilani Villas	Oppose	No

Comments:

Dear Representative Johanson, Chair, Representative Kitigawa, Vice Chair, and Members of the Committee:

I respectfully OPPOSE H.B.1583.

In 2021, the legislature amended HRS Section 514B-121 to allow for electronic meetings and electronic, machine, or mail voting during periods of emergencies and when permitted by the declaration or bylaws. That change has worked well. HB1583 will change the statute to allow members or proxies of members to vote my mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology without restriction, so long as the member s can view and hear the proceedings, vote on matter, pose questions, and make comments. This change will dictate that these additional methods of voting be allowed in non-emergency situations even if they are not preferred by the membership at large. It is better to leave the decision to the members by permitting them to amend their declaration or bylaws to allow for other methods of voting during non-emergency situations. For this reason, I urge the committee to defer the bill. However, if this bill is to move forward, it should be amended.

While this provision appears to have been fashioned after HRS Section 414D-101(g) and Section 414D-102(f), it is missing the critical language of those two statutory sections which provides that these alternative methods of voting may be used “**if authorized by the board in its sole discretion.**” Without the board having some control over the method of voting, there could be total chaos because this bill does not require that only a single method be used, nor does it state how the method will be determined. It appears to allow a hodgepodge of voting methods all at the same time. Without the board having some control over this, on any particular issue, some owners may insist on participating by internet, others may argue that accommodations must be made for them to participate by telephone, yet others may demand mail ballots, and some may demand to appear in person. It will be impossible to manage a voting by different methods all at the same time. This will undoubtedly lead to conflicts, disputes, and litigation.

I would also note that voting by mail and at a meeting for the same matter is prohibited by Robert's Rules of Order, Newly Revised. Section 45:56 of Robert's provides that "[a]n organization should never adopt a bylaw permitting a question to be decided by a voting procedure in which the votes of persons who attend a meeting are counted together with ballots mailed in by absentees."

I urge the committee to defer this bill, but if it is to be considered for adoption, at the very least, subsection (e) should be revised to state in relevant part:

"... Notwithstanding any provision to the contrary in the association's declaration or bylaws or in subsection (b), if authorized by the board of directors in its sole discretion, members of the association or proxies of members [shall be allowed to] may vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology in a manner that allows members the opportunity to: ...

A member of the association or proxy of a member participating in a meeting by means of internet, teleconference, or other electronic transmission technology shall be deemed to be present in person at the meeting. The association shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of the internet, teleconference, or other electronic transmission technology is a member of the association or proxy of a member.

This change will make the provision more consistent with HRS Sections 101(f) and 102(g). Giving the power to select the voting method to the board will also enable the board to ensure an orderly method of voting, consistent with Robert's Rules of Order, Newly Revised.

Respectfully submitted,

Marilyn Joyce Oka

Dear Representative Johanson, Chair, Representative Kitigawa, Vice Chair, and Members of the Committee:

I respectfully OPPOSE H.B.1583.

In 2021, the legislature amended HRS Section 514B-121 to allow for electronic meetings and electronic, machine, or mail voting during periods of emergencies and when permitted by the declaration or bylaws. That change has worked well. HB1583 will change the statute to allow members or proxies of members to vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology without restriction, so long as the members can view and hear the proceedings, vote on matter, pose questions, and make comments. This change will dictate that these additional methods of voting be allowed in non-emergency situations even if they are not preferred by the membership at large. It is better to leave the decision to the members by permitting them to amend their declaration or bylaws to allow for other methods of voting during non-emergency situations. For this reason, I urge the committee to defer the bill. However, if this bill is to move forward, it should be amended.

While this provision appears to have been fashioned after HRS Section 414D-101(g) and Section 414D-102(f), it is missing the critical language of those two statutory sections which provides that these alternative methods of voting may be used **“if authorized by the board in its sole discretion.”** Without the board having some control over the method of voting, there could be total chaos because this bill does not require that only a single method be used, nor does it state how the method will be determined. It appears to allow a hodgepodge of voting methods all at the same time. Without the board having some control over this, on any particular issue, some owners may insist on participating by internet, others may argue that accommodations must be made for them to participate by telephone, yet others may demand mail ballots, and some may demand to appear in person. It will be impossible to manage a voting by different methods all at the same time. This will undoubtedly lead to conflicts, disputes, and litigation.

I would also note that voting by mail and at a meeting for the same matter is prohibited by Robert’s Rules of Order, Newly Revised. Section 45:56 of Robert’s provides that “[a]n organization should never adopt a bylaw permitting a question to be decided by a voting procedure in which the votes of persons who attend a meeting are counted together with ballots mailed in by absentees.”

I urge the committee to defer this bill, but if it is to be considered for adoption, at the very least, subsection (e) should be revised to state in relevant part:

“... Notwithstanding any provision to the contrary in the association’s declaration or bylaws or in subsection (b), if authorized by the board of directors in its sole discretion, members of the association or proxies of members [shall be allowed to] may vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology in a manner that allows members the opportunity to: ...

A member of the association or proxy of a member participating in a meeting by means of internet, teleconference, or other electronic transmission technology shall be deemed to be present in person at the meeting. The association shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of the internet, teleconference, or other electronic transmission technology is a member of the association or proxy of a member.

This change will make the provision more consistent with HRS Sections 101(f) and 102(g). Giving the power to select the voting method to the board will also enable the board to ensure an orderly method of voting, consistent with Robert's Rules of Order, Newly Revised.

Respectfully submitted,

Primrose K. Leong-Nakamoto (S)
Property Manager
Nakamoto Realty, LLC

HB-1583

Submitted on: 2/2/2022 1:47:06 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lourdes Scheibert	Kokua Council, Participant of Hui 'Oia' 'i' o	Support	Yes

Comments:

To: Chair Aaron Ling Johanson

Re: HB1583, Relating to Condominiums

Aloha Chair Johanson, Vice-Chair Kitagawa, and Members of the Committee,

I am Lourdes Scheibert, director of Kokua Council, one of Hawaii’s oldest advocacy groups. We focus on policies and practices which can impact the well-being of seniors and our community. I’m a participant of Hui ‘Oia’ i’o. Support HB1583

I support HB1583 with the following suggestion: rather than to encourage the use of proxies which do not provide the proxy-assignor the assurance that the proxy-assignee will vote as instructed, as the proxies used in associations are not limited proxies, **give owners the opportunity to vote directly for their candidates and for whatever matters may be addressed on the meeting agenda.**

Additionally, Robert’s Rules of Order Newly Revised which is recognized in HRS5214B for procedural guidance does not condone the use of proxies nor absentee ballots:

RONR (12th ed.) 45:2 “One Person, One Vote...An individual member’s right to vote may not be transferred to another person (for example, by the use of proxies)”

RONR (12th ed.) 56:56 “Absentee Voting. It is a fundamental principle of parliamentary law that the right to vote is limited to the members of an organization who are actually present at the time the vote is taken in a regular or properly called meeting...The votes of those present could be affected by debate, by amendments, and perhaps by the need for repeated balloting, while those absent would be unable to adjust their votes to reflect these factors. Consequently, the absentee ballots would in most cases be on a somewhat different question than that on which those present were voting, leading to confusion, unfairness, and inaccuracy in determining the result.”

RONR (12 ed.) 45:60 “Proxy Voting...Ordinarily [proxy voting] should neither be allowed or required, because proxy voting is incompatible with the essential characteristics of a deliberative assembly in which membership is individual, personal, and nontransferable.”

Over the last two years, because of the use of Zoom or other electronic meeting formats, owners across the world now participate directly in their associations' meetings and are able cast their own votes, nullifying the need for absentee ballots or proxies.

Thank-you

HB-1583

Submitted on: 2/1/2022 5:51:04 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
lynne matusow	Individual	Oppose	No

Comments:

As a condo owner, resident and board member I am submitting testimony in opposition to this bill. We needed help holding association meetings during COVID restrictions, and ACT 83 helped with that. However, we are not in a state of emergency and the owners should not have something as drastic as this rammed down their throats. Many of us are used to in person meetings, where nominations can be made from the floor, ballots are collected and counted, and the results announced. We are not used to mail in only ballots that do not give us flexibility. Many owners do not own computers, smart phones, go on the web., etc. I have no objection to the provisions of this bill IF, AND ONLY IF, these changes are made by bylaws amendments, subscribed to by at least 67% of the membership. Otherwise some owners will be disenfranchised. This is not fair. It should not be a fait accompli ordained by the legislature. Please let nature take its course via normal bylaw amendments and kill this bill. Also objectionable is the fact that outside companies may have to be hired to run these elections, an added cost to associations, which should be approved by the membership and not government.

House of Representatives
Committee on Consumer Protection and Commerce
Thursday, February 3, 2022
2:00 p.m.

To: Chair Aaron Ling Johanson
Re: HB1583, Relating to Condominiums

Aloha Chair Johanson, Vice-Chair Kitagawa, and Members of the Committee,

I am Lila Mower, president of Kokua Council, one of Hawaii's oldest advocacy groups. We focus on policies and practices which can impact the well-being of seniors and our community.

I am also the leader of Hui 'Oia'i'o, informally known as "COCO," a coalition of over three hundred property owners--mostly seniors--from over 150 common-interest associations in Hawaii. With colleagues, I have personally participated in over ten election records reviews and found that proxies are misunderstood, misused, sometimes voided when valid, and sometimes deemed valid when actually invalid. During one of my earliest election records reviews, the election facilitator (typically the property management company) had, by their own count, different results for each of their ten attempts in interpreting and validating proxy assignments and tallying votes.

I **support HB1583** with the following suggestion: rather than to encourage the use of proxies which do not provide the proxy-assignor the assurance that the proxy-assignee will vote as instructed, as the proxies used in associations are not limited proxies, **give owners the opportunity to vote directly for their candidates and for whatever matters may be addressed on the meeting agenda.**

Additionally, Robert's Rules of Order Newly Revised which is recognized in HRS5214B for procedural guidance does not condone the use of proxies nor absentee ballots:

RONR (12th ed.) 45:2 "One Person, One Vote...An individual member's right to vote may not be transferred to another person (for example, by the use of proxies)"

RONR (12th ed.) 56:56 "Absentee Voting. It is a fundamental principle of parliamentary law that the right to vote is limited to the members of an organization who are actually present at the time the vote is taken in a regular or properly called meeting...The votes of those present could be affected by debate, by amendments, and perhaps by the need for repeated balloting, while those absent would be unable to adjust their votes to reflect these factors. Consequently, the absentee ballots would in most cases be on a somewhat different question than that on which those present were voting, leading to confusion, unfairness, and inaccuracy in determining the result."

RONR (12 ed.) 45:60 "Proxy Voting...Ordinarily [proxy voting] should neither be allowed or required, because proxy voting is incompatible with the essential characteristics of a deliberative assembly in which membership is individual, personal, and nontransferable."

Over the last two years, because of the use of Zoom or other electronic meeting formats, owners across the world now participate directly in their associations' meetings and are able cast their own votes, nullifying the need for absentee ballots or proxies.

HB-1583

Submitted on: 2/1/2022 6:18:08 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jeff Sadino	Individual	Support	No

Comments:

I SUPPORT HB1583.

In a State that is made up of islands in the middle of the ocean where many Owners do not live within driving distance of their Property, being able to vote using a method that does not require the Owner to be physically present seems like such an obvious thing to do. Our voting methods in our Community Associations should be brought current with the technological times.

Over the past two years, my condo Association has conducted both Board Meetings and Association meetings using remote technology such as Zoom. While there were minor technology issues, on the whole, the benefits of people being able to participate no matter where they live in the country far outweighed any concerns of the technology.

Thank you for the opportunity to testify,

Jeff Sadino

RE: Committee on Consumer Protection & Commerce

February 3, 2022

HB-1583

Submitted on: 2/1/2022 9:42:32 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Marcia Kimura	Individual	Support	No

Comments:

I support this bill to broaden opportunities for owners who are not able to be present for association meetings, to vote. This would minimize the possibilities that standing board members can monopolize the vote. Further, I am in favor of the audit trail for voting, in order to keep the elections honest and transparent.

I also believe it would be beneficial to the condominium's community to either hire a third party to count and audit voting, or to form a committee of non board member owners who oversee not only elections, but also project decision processes of boards.

Aloha Hawaii State House of Representatives Committee on Consumer Protection and Commerce :

A. Regarding **HB1583** to permit owners of properties in Home Owners Association, and for condominium complexes known as Associations of Unit Owners, I am testifying in **SUPPORT** of it. For, the following reasons -

#1. *I requested this Bill after residing in a condominium complex for **34 years and 10 months**, and with more than a decade of that on its Board of Directors. Presently, about **70%** of over **170,000 condominium dwellings** are investor owned, which means owner-occupants are the minority. When the state promulgated **Hawaii Revised Statute 514b-123**, it specified an owner must be present at a meeting in order to cast their own vote. For me it was unpleasant to get phone calls from mainland based owners, who pay their Hawaii property taxes, and rental income taxes, then be asked, "**Dale, why can't I cast my own vote**"? Trying to explain to them that none of our Hawaii Legislators have ever spoken up about this, is not well received. Simple math shows 70% of the 170,000 condos is **119,000**. Yes, that many non-resident HOA owners under Hawaii law are **blocked** from casting their own vote.*

#2. *Presently, Hawaii is now just one of four states to allow voting by mail in statewide elections, effective 2020. Allowing usage of US Mail has increased turnout dramatically. Voting in Hawaii for local and national elections for **2018 was 52.7%** of registered voters (source - US News & World Report article dated June 26, 2019). For 2020 it jumped to **69.9%** (source - Hawaii News Now report dated November 4, 2020). Of the Hawaii votes cast for 2020, **66.1%** were mailed, while **3.5%** voted in person. *State Chief Election Officer Scott Nago reported **579,165** ballots were cast. Quite outstanding!! (Humor - Hawaii gained statehood in 1959. Voting by Mail could have been allowed decades ago, and, it was a six years long struggle in our Legislature to get it done by 2020).**

#3. *During my years on a Board of Directors, I was keenly aware that owners who cannot attend a meeting in person are instead provided with a Proxy rather than a Voting Ballot. Whereas in different years I might receive **44, 63**, or even **74** of such Proxies from owners, other candidates for election would usually receive far less. Unfortunately, oftentimes there would be manipulation of Proxies by management in order to alter the outcome of the vote, thereby keeping the Board 'stacked' with people whom otherwise would not have won a Board seat. This is less than ethical. Only by allowing owners to cast their own vote can such intrigues be eliminated. It surely is a conflict of interest for a company to handle both monies and elections. There should be a 'firewall' to prevent this, in my opinion. For anyone who doubts what I am saying here, ask to see Official Minutes and an Election Certificate of an HOA election. Information not recorded on them is how many Proxies were received and which candidates were gifted with same by the Manager. Why the state allows this is a mystery. It is both anti-consumer and anti-voting rights. Awarding of Proxies to preferred candidates without a proper announcement and recorded Motion is improper. An unrecorded Motion is invalid.*

B. Please defend Democracy, Voting Rights, and Consumer Protection by passing **HB1583**.

Mahalo Nui Loa - Dale A. Head [dale.head@aol.com] (808) 836-1016 Home (808) 228-8508 Cell/Text

PS - Surely some parties will say this to be 'burdensome' on small HOAs. Have it apply for those with 10 or more units. Smaller units could then opt into it if so desired. Wednesday 2 February 2022

HB-1583

Submitted on: 2/2/2022 9:51:13 AM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Laura Bearden	Individual	Oppose	No

Comments:

Dear Representative Johanson, Chair, Representative Kitigawa, Vice Chair, and Members of the Committee:

I respectfully OPPOSE H.B.1583.

1. 2021, the legislature amended HRS Section 514B-121 to allow for electronic meetings and electronic, machine, or mail voting during periods of emergencies and when permitted by the declaration or bylaws. That change has worked well. HB1583 will change the statute to allow members or proxies of members to vote my mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology without restriction, so long as the member s can view and hear the proceedings, vote on matter, pose questions, and make comments. This change will dictate that these additional methods of voting be allowed in non-emergency situations even if they are not preferred by the membership at large. It is better to leave the decision to the members by permitting them to amend their declaration or bylaws to allow for other methods of voting during non-emergency situations. For this reason, I urge the committee to defer the bill. However, if this bill is to move forward, it should be amended.

1. this provision appears to have been fashioned after HRS Section 414D-101(g) and Section 414D-102(f), it is missing the critical language of those two statutory sections which provides that these alternative methods of voting may be used **“if authorized by the board in its sole discretion.”** Without the board having some control over the method of voting, there could be total chaos because this bill does not require that only a single method be used, nor does it state how the method will be determined. It appears to allow a hodgepodge of voting methods all at the same time. Without the board having some control over this, on any particular issue, some owners may insist on participating by internet, others may argue that accommodations must be made for them to participate by telephone, yet others may demand mail ballots, and some may demand to appear in

person. It will be impossible to manage a voting by different methods all at the same time. This will undoubtedly lead to conflicts, disputes, and litigation.

I would also note that voting by mail and at a meeting for the same matter is prohibited by Robert's Rules of Order, Newly Revised. Section 45:56 of Robert's provides that "[a]n organization should never adopt a bylaw permitting a question to be decided by a voting procedure in which the votes of persons who attend a meeting are counted together with ballots mailed in by absentees."

I urge the committee to defer this bill, but if it is to be considered for adoption, at the very least, subsection (e) should be revised to state in relevant part:

"... Notwithstanding any provision to the contrary in the association's declaration or bylaws or in subsection (b), if authorized by the board of directors in its sole discretion, members of the association or proxies of members [shall be allowed to] may vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology in a manner that allows members the opportunity to: ...

A member of the association or proxy of a member participating in a meeting by means of internet, teleconference, or other electronic transmission technology shall be deemed to be present in person at the meeting. The association shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of the internet, teleconference, or other electronic transmission technology is a member of the association or proxy of a member.

This change will make the provision more consistent with HRS Sections 101(f) and 102(g). Giving the power to select the voting method to the board will also enable the board to ensure an orderly method of voting, consistent with Robert's Rules of Order, Newly Revised.

Respectfully submitted,

Laura Bearden

HB-1583

Submitted on: 2/2/2022 10:25:08 AM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Philip Nerney	Individual	Comments	No

Comments:

This bill is conceptually sound. Further study is appropriate to ensure against unintended consequences. A task force may be appropriate to carefully evaluate appropriate implementation.

Dear Representative Johanson, Chair, Representative Kitigawa, Vice Chair, and Members of the Committee:

I respectfully OPPOSE H.B.1583.

In 2021, the legislature amended HRS Section 514B-121 to allow for electronic meetings and electronic, machine, or mail voting during periods of emergencies and when permitted by the declaration or bylaws. That change has worked well. HB1583 will change the statute to allow members or proxies of members to vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology without restriction, so long as the members can view and hear the proceedings, vote on matter, pose questions, and make comments. This change will dictate that these additional methods of voting be allowed in non-emergency situations even if they are not preferred by the membership at large. It is better to leave the decision to the members by permitting them to amend their declaration or bylaws to allow for other methods of voting during non-emergency situations. For this reason, I urge the committee to defer the bill. However, if this bill is to move forward, it should be amended.

While this provision appears to have been fashioned after HRS Section 414D-101(g) and Section 414D-102(f), it is missing the critical language of those two statutory sections which provides that these alternative methods of voting may be used **“if authorized by the board in its sole discretion.”**

Without the board having some control over the method of voting, there could be total chaos because this bill does not require that only a single method be used, nor does it state how the method will be determined. It appears to allow a hodgepodge of voting methods all at the same time. Without the board having some control over this, on any particular issue, some owners may insist on participating by internet, others may argue that accommodations must be made for them to participate by telephone, yet others may demand mail ballots, and some may demand to appear in person. It will be impossible to manage a voting by different methods all at the same time. This will undoubtedly lead to conflicts, disputes, and litigation.

I would also note that voting by mail and at a meeting for the same matter is prohibited by Robert's Rules of Order, Newly Revised. Section 45:56 of Robert's provides that “[a]n organization should never adopt a bylaw permitting a question to be decided by a voting procedure in which the votes of persons who attend a meeting are counted together with ballots mailed in by absentees.”

I urge the committee to defer this bill, but if it is to be considered for adoption, at the very least, subsection (e) should be revised to state in relevant part:

“... Notwithstanding an provision to the contrary in the association’s declaration or bylaws or in subsection (b), if authorized by the board of directors in its sole discretion, members of the association or proxies of members [shall be allowed to] may vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology in a manner that allows members the opportunity to: ...

A member of the association or proxy of a member participating in a meeting by means of internet, teleconference, or other electronic transmission technology shall be deemed to be present in person at the meeting. The association shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of the internet, teleconference, or other electronic transmission technology is a member of the association or proxy of a member.

This change will make the provision more consistent with HRS Sections 101(f) and 102(g). Giving the power to select the voting method to the board will also enable the board to ensure an orderly method of voting, consistent with Robert's Rules of Order, Newly Revised.

Respectfully submitted,



M. Anne Anderson

HB-1583

Submitted on: 2/2/2022 12:07:45 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kathy Kosec	Individual	Oppose	No

Comments:

I respectfully OPPOSE H.B.1583.

1. 2021, the legislature amended HRS Section 514B-121 to allow for electronic meetings and electronic, machine, or mail voting during periods of emergencies and when permitted by the declaration or bylaws. That change has worked well. HB1583 will change the statute to allow members or proxies of members to vote my mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology without restriction, so long as the member s can view and hear the proceedings, vote on matter, pose questions, and make comments. This change will dictate that these additional methods of voting be allowed in non-emergency situations even if they are not preferred by the membership at large. It is better to leave the decision to the members by permitting them to amend their declaration or bylaws to allow for other methods of voting during non-emergency situations. For this reason, I urge the committee to defer the bill. However, if this bill is to move forward, it should be amended.

While this provision appears to have been fashioned after HRS Section 414D-101(g) and Section 414D-102(f), it is missing the critical language of those two statutory sections which provides that these alternative methods of voting may be used **“if authorized by the board in its sole discretion.”** Without the board having some control over the method of voting, there could be total chaos because this bill does not require that only a single method be used, nor does it state how the method will be determined. It appears to allow a hodgepodge of voting methods all at the same time. Without the board having some control over this, on any particular issue, some owners may insist on participating by internet, others may argue that accommodations must be made for them to participate by telephone, yet others may demand mail ballots, and some may demand to appear in person. It will be impossible to manage a voting by different methods all at the same time. This will undoubtedly lead to conflicts, disputes, and litigation.

I would also note that voting by mail and at a meeting for the same matter is prohibited by Robert's Rules of Order, Newly Revised. Section 45:56 of Robert's provides that "[a]n organization should never adopt a bylaw permitting a question to be decided by a voting procedure in which the votes of persons who attend a meeting are counted together with ballots mailed in by absentees."

I urge the committee to defer this bill, but if it is to be considered for adoption, at the very least, subsection (e) should be revised to state in relevant part:

"... Notwithstanding any provision to the contrary in the association's declaration or bylaws or in subsection (b), if authorized by the board of directors in its sole discretion, members of the association or proxies of members [shall be allowed to] may vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology in a manner that allows members the opportunity to: ...

A member of the association or proxy of a member participating in a meeting by means of internet, teleconference, or other electronic transmission technology shall be deemed to be present in person at the meeting. The association shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of the internet, teleconference, or other electronic transmission technology is a member of the association or proxy of a member.

This change will make the provision more consistent with HRS Sections 101(f) and 102(g). Giving the power to select the voting method to the board will also enable the board to ensure an orderly method of voting, consistent with Robert's Rules of Order, Newly Revised.

Respectfully submitted,

Kathy Kosec, Kailua-Kona, HI

HB-1583

Submitted on: 2/2/2022 12:19:41 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Paul A. Ireland Koftinow	Individual	Oppose	No

Comments:

Dear Representative Johanson, Chair, Representative Kitigawa, Vice Chair, and Members of the Committee:

I respectfully OPPOSE H.B.1583.

2021, the legislature amended HRS Section 514B-121 to allow for electronic meetings and electronic, machine, or mail voting during periods of emergencies and when permitted by the declaration or bylaws. That change has worked well. HB1583 will change the statute to allow members or proxies of members to vote my mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology without restriction, so long as the member s can view and hear the proceedings, vote on matter, pose questions, and make comments. This change will dictate that these additional methods of voting be allowed in non-emergency situations even if they are not preferred by the membership at large. It is better to leave the decision to the members by permitting them to amend their declaration or bylaws to allow for other methods of voting during non-emergency situations. For this reason, I urge the committee to defer the bill. However, if this bill is to move forward, it should be amended.

While this provision appears to have been fashioned after HRS Section 414D-101(g) and Section 414D-102(f), it is missing the critical language of those two statutory sections which provides that these alternative methods of voting may be used “if authorized by the board in its sole discretion.” Without the board having some control over the method of voting, there could be total chaos because this bill does not require that only a single method be used, nor does it state how the method will be determined. It appears to allow a hodgepodge of voting methods all at the same time. Without the board having some control over this, on any particular issue, some owners may insist on participating by internet, others may argue that accommodations must be made for them to participate by telephone, yet others may demand mail ballots, and some may demand to appear in person. It will be impossible to manage a voting by different methods all at the same time. This will undoubtedly lead to conflicts, disputes, and litigation.

I would also note that voting by mail and at a meeting for the same matter is prohibited by Robert’s Rules of Order, Newly Revised. Section 45:56 of Robert’s provides that “[a]n organization should never adopt a bylaw permitting a question to be decided by a voting procedure in which the votes of persons who attend a meeting are counted together with ballots mailed in by absentees.”

I urge the committee to defer this bill, but if it is to be considered for adoption, at the very least, subsection (e) should be revised to state in relevant part:

“... Notwithstanding any provision to the contrary in the association’s declaration or bylaws or in subsection (b), if authorized by the board of directors in its sole discretion, members of the association or proxies of members [shall be allowed to] may vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology in a manner that allows members the opportunity to: ...

A member of the association or proxy of a member participating in a meeting by means of internet, teleconference, or other electronic transmission technology shall be deemed to be present in person at the meeting. The association shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of the internet, teleconference, or other electronic transmission technology is a member of the association or proxy of a member.

This change will make the provision more consistent with HRS Sections 101(f) and 102(g). Giving the power to select the voting method to the board will also enable the board to ensure an orderly method of voting, consistent with Robert’s Rules of Order, Newly Revised.

Respectfully submitted,

Paul A. Ireland Koftnow

HB-1583

Submitted on: 2/2/2022 12:53:04 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Joshua Hanzel	Individual	Oppose	No

Comments:

Dear Representative Johanson, Chair, Representative Kitigawa, Vice Chair, and Members of the Committee:

I respectfully OPPOSE H.B.1583.

In 2021, the legislature amended HRS Section 514B-121 to allow for electronic meetings and electronic, machine, or mail voting during periods of emergencies and when permitted by the declaration or bylaws. That change has worked well. HB1583 will change the statute to allow members or proxies of members to vote my mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology without restriction, so long as the member s can view and hear the proceedings, vote on matter, pose questions, and make comments. This change will dictate that these additional methods of voting be allowed in non-emergency situations even if they are not preferred by the membership at large. It is better to leave the decision to the members by permitting them to amend their declaration or bylaws to allow for other methods of voting during non-emergency situations. For this reason, I urge the committee to defer the bill. However, if this bill is to move forward, it should be amended.

While this provision appears to have been fashioned after HRS Section 414D-101(g) and Section 414D-102(f), it is missing the critical language of those two statutory sections which provides that these alternative methods of voting may be used “**if authorized by the board in its sole discretion.**” Without the board having some control over the method of voting, there could be total chaos because this bill does not require that only a single method be used, nor does it state how the method will be determined. It appears to allow a hodgepodge of voting methods all at the same time. Without the board having some control over this, on any particular issue, some owners may insist on participating by internet, others may argue that accommodations must be made for them to participate by telephone, yet others may demand mail ballots, and some may demand to appear in person. It will be impossible to manage a voting by different methods all at the same time. This will undoubtedly lead to conflicts, disputes, and litigation.

I would also note that voting by mail and at a meeting for the same matter is prohibited by Robert's Rules of Order, Newly Revised. Section 45:56 of Robert's provides that "[a]n organization should never adopt a bylaw permitting a question to be decided by a voting procedure in which the votes of persons who attend a meeting are counted together with ballots mailed in by absentees."

I urge the committee to defer this bill, but if it is to be considered for adoption, at the very least, subsection (e) should be revised to state in relevant part:

"... Notwithstanding any provision to the contrary in the association's declaration or bylaws or in subsection (b), if authorized by the board of directors in its sole discretion, members of the association or proxies of members [shall be allowed to] may vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology in a manner that allows members the opportunity to: ...

A member of the association or proxy of a member participating in a meeting by means of internet, teleconference, or other electronic transmission technology shall be deemed to be present in person at the meeting. The association shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of the internet, teleconference, or other electronic transmission technology is a member of the association or proxy of a member.

This change will make the provision more consistent with HRS Sections 101(f) and 102(g). Giving the power to select the voting method to the board will also enable the board to ensure an orderly method of voting, consistent with Robert's Rules of Order, Newly Revised.

Respectfully submitted,

Joshua Hanzel

HB-1583

Submitted on: 2/2/2022 1:10:45 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
R Laree McGuire	Individual	Comments	No

Comments:

Please establish a task force to study the measure for future passage of this or similarly worded Bill. Mahalo.

HB-1583

Submitted on: 2/2/2022 1:23:07 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lance S. Fujisaki	Individual	Oppose	No

Comments:

Dear Representative Johanson, Chair, Representative Kitigawa, Vice Chair, and Members of the Committee:

I respectfully OPPOSE H.B.1583.

In 2021, the legislature amended HRS Section 514B-121 to allow for electronic meetings and electronic, machine, or mail voting during periods of emergencies and when permitted by the declaration or bylaws. That change has worked well. HB1583 will change the statute to allow members or proxies of members to vote my mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology without restriction, so long as the member s can view and hear the proceedings, vote on matter, pose questions, and make comments. This change will dictate that these additional methods of voting be allowed in non-emergency situations even if they are not preferred by the membership at large. It is better to leave the decision to the members by permitting them to amend their declaration or bylaws to allow for other methods of voting during non-emergency situations. For this reason, I urge the committee to defer the bill. However, if this bill is to move forward, it should be amended.

While this provision appears to have been fashioned after HRS Section 414D-101(g) and Section 414D-102(f), it is missing the critical language of those two statutory sections which provides that these alternative methods of voting may be used “**if authorized by the board in its sole discretion.**” Without the board having some control over the method of voting, there could be total chaos because this bill does not require that only a single method be used, nor does it state how the method will be determined. It appears to allow a hodgepodge of voting methods all at the same time. Without the board having some control over this, on any particular issue, some owners may insist on participating by internet, others may argue that accommodations must be made for them to participate by telephone, yet others may demand mail ballots, and some may demand to appear in person. It will be impossible to manage a voting by different methods all at the same time. This will undoubtedly lead to conflicts, disputes, and litigation.

I would also note that voting by mail and at a meeting for the same matter is prohibited by Robert’s Rules of Order, Newly Revised. Section 45:56 of Robert’s provides that “[a]n organization should never adopt a bylaw permitting a question to be decided by a voting procedure in which the votes of persons who attend a meeting are counted together with ballots mailed in by absentees.”

I urge the committee to defer this bill, but if it is to be considered for adoption, at the very least, subsection (e) should be revised to state in relevant part:

“... Notwithstanding any provision to the contrary in the association’s declaration or bylaws or in subsection (b), **if authorized by the board of directors in its sole discretion**, members of the association or proxies of members [shall be allowed to] **may** vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology in a manner that allows members the opportunity to: ...

A member of the association or proxy of a member participating in a meeting by means of internet, teleconference, or other electronic transmission technology shall be deemed to be present in person at the meeting. The association shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of the internet, teleconference, or other electronic transmission technology is a member of the association or proxy of a member."

This change will make the provision more consistent with HRS Sections 101(f) and 102(g). Giving the power to select the voting method to the board will also enable the board to ensure an orderly method of voting, consistent with Robert’s Rules of Order, Newly Revised.

Respectfully submitted,

Lance Fujisaki

HB-1583

Submitted on: 2/2/2022 2:29:32 PM

Testimony for CPC on 2/3/2022 2:00:00 PM



Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dante Carpenter	Vice-Pres., Country Club Village, Phase 2, AOA (469 Units)	Oppose	No

Comments:

Rep. Johanson, Chair; Rep. Kitagawa, V-C; and Members of the CPN Committee:

I respectfully oppose HB 1583.

Last year, 2021, the Legislature amended HRS Section 514B-121 to allow for electronic meetings and electronic, machine, or mail voting during periods of emergencies and when permitted by the declaration or bylaws. That change has worked very well. HB1583 will change the statute to allow members or proxies of members to vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology without restriction, so long as the members can view and hear the proceedings, vote on matters, pose questions, and make comments. This change will dictate that these additional methods of voting be allowed in non-emergency situations even if they are not preferred by the membership at large!

I believe it is better to leave the decision to the members by permitting them to amend their declaration or bylaws for other methods of voting during non-emergency situations.

Therefore, I urge the CPN Committee to defer - or preferably, File this Bill.

Respectfully submitted,

Dante Carpenter, Vice-Pres. CCV, Phase 2, AOA (469 Units)

LATE

HB-1583

Submitted on: 2/2/2022 2:33:15 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Laurence Sussman	Individual	Oppose	No

Comments:

Dear Representative Johanson, Chair, Representative Kitigawa, Vice Chair, and Members of the Committee:

I respectfully OPPOSE H.B.1583.

1. 2021, the legislature amended HRS Section 514B-121 to allow for electronic meetings and electronic, machine, or mail voting during periods of emergencies and when permitted by the declaration or bylaws. That change has worked well. HB1583 will change the statute to allow members or proxies of members to vote my mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology without restriction, so long as the member s can view and hear the proceedings, vote on matter, pose questions, and make comments. This change will dictate that these additional methods of voting be allowed in non-emergency situations even if they are not preferred by the membership at large. It is better to leave the decision to the members by permitting them to amend their declaration or bylaws to allow for other methods of voting during non-emergency situations. For this reason, I urge the committee to defer the bill. However, if this bill is to move forward, it should be amended.
1. this provision appears to have been fashioned after HRS Section 414D-101(g) and Section 414D-102(f), it is missing the critical language of those two statutory sections which provides that these alternative methods of voting may be used **“if authorized by the board in its sole discretion.”** Without the board having some control over the method of voting, there could be total chaos because this bill does not require that only a single method be used, nor does it state how the method will be determined. It appears to allow a hodgepodge of voting methods all at the same time. Without the board having some control over this, on any particular issue, some owners may insist on participating by internet, others may argue that accommodations must be made for them to participate by telephone, yet others may demand mail ballots, and some may demand to appear in

person. It will be impossible to manage a voting by different methods all at the same time. This will undoubtedly lead to conflicts, disputes, and litigation.

I would also note that voting by mail and at a meeting for the same matter is prohibited by Robert's Rules of Order, Newly Revised. Section 45:56 of Robert's provides that "[a]n organization should never adopt a bylaw permitting a question to be decided by a voting procedure in which the votes of persons who attend a meeting are counted together with ballots mailed in by absentees."

I urge the committee to defer this bill, but if it is to be considered for adoption, at the very least, subsection (e) should be revised to state in relevant part:

"... Notwithstanding any provision to the contrary in the association's declaration or bylaws or in subsection (b), if authorized by the board of directors in its sole discretion, members of the association or proxies of members [shall be allowed to] may vote by mail and participate in any association meeting by means of the internet, teleconference, or other electronic transmission technology in a manner that allows members the opportunity to: ...

A member of the association or proxy of a member participating in a meeting by means of internet, teleconference, or other electronic transmission technology shall be deemed to be present in person at the meeting. The association shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of the internet, teleconference, or other electronic transmission technology is a member of the association or proxy of a member.

This change will make the provision more consistent with HRS Sections 101(f) and 102(g). Giving the power to select the voting method to the board will also enable the board to ensure an orderly method of voting, consistent with Robert's Rules of Order, Newly Revised.

Respectfully submitted,

Laurence Sussman
