



**STATE OF HAWAII
OFFICE OF ELECTIONS**

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
elections.hawaii.gov

SCOTT T. NAGO
CHIEF ELECTION OFFICER

TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
ON HOUSE BILL NO. 1883
RELATING TO ELECTIONS

February 3, 2022

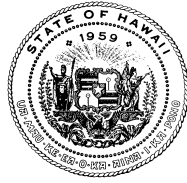
Chair Nakashima and members of the House Committee on Judiciary & Hawaiian Affairs, thank you for the opportunity to provide comments on House Bill No. 1883. This bill requires the exterior of the envelope containing the ballot package to include instructions on how to obtain language translation services in Hawaiian and certain foreign languages.

We would ask that the effective date for this measure start with the 2024 Primary Election. We have started printing the envelopes for the 2022 Elections and would not be able to make the modification in time. For the 2022 Elections, we have printed the covered languages, Chinese and Ilocano, identified by the Department of Justice pursuant to Section 203 of the Voting Rights Act on the exterior envelope of the ballot packet, instructing voters on how to obtain language translation services by contacting the Office of Elections.

We would also like to note the size constraints of the envelope, as the translations could only be printed on the flap side of the exterior number 11 sized envelope.

Thank you for the opportunity to provide comments on House Bill No. 1883.

DAVID Y. IGE
GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
OFFICE OF LANGUAGE ACCESS
1177 Alakea Street, Room B-100
Honolulu, HI 96801-3378
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APHIRAK BAMRUNGRUAN
EXECUTIVE DIRECTOR

**Testimony in SUPPORT of HB 1883
RELATING TO ELECTION.**

REPRESENTATIVE MARK M. NAKASHIMA, CHAIR
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Hearing Date: 2/3/2021

Room Number: Via Videoconference

1 **Agency Position:** The Office of Language Access (OLA) supports the intent of this measure, as
2 it requires the exterior of the envelope containing the ballot package to include instructions on
3 how to obtain language translation services in Hawaiian and, at minimum, the five most utilized
4 foreign languages by Limited English Proficient (LEP) persons in the State.

5 **Agency Testimony:** OLA notes that the aspirational and exploratory goal of this measure are in
6 line with the mission of OLA, which is to address the language access needs of LEP persons.
7 OLA's task is to provide technical assistance and coordinate resources to reduce the burden of
8 meeting language access obligations. OLA is charged with providing oversight, central
9 coordination, and technical assistance to all state and state-funded agencies in their
10 implementation of language access compliance.

11 Voting in an election is one of the most important rights and responsibilities of US citizens.
12 However, LEP persons may not be able to fully participate in voting due to their limited ability
13 to understand English. This measure could provide an important component of language access
14 implementation by providing notice about the availability of language assistance services. This is
15 an important step to ensure meaningful access for LEP persons.

16 Thank you for the opportunity to submit testimony on this measure.



530 S KING ST RM 100
HONOLULU HI 96813
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TESTIMONY OF REX QUIDILLA
ELECTIONS ADMINISTRATOR,
CITY AND COUNTY OF HONOLULU
TO THE HOUSE COMMITTEE ON JUDICIARY
& HAWAIIAN AFFAIRS
ON HOUSE BILL NO. 1883
RELATING TO ELECTIONS

February 3, 2022

Chair Nakashima and Committee members:

Thank you for the opportunity to provide comments on House Bill No. 1883 that proposes to include instructions on how to obtain language translation service in Hawaiian and, at a minimum the five most utilized foreign languages by limited English proficient persons in the State.

Past efforts to provide multilingual support focused solely on “covered” languages pursuant to the Federal Voting Rights Act (VRA). Since 2011 (and subsequently reaffirmed by 2020 Census data), the covered languages are Chinese and Filipino (Ilocano). To that end, the City mailed packets which included translated ballot instructions and return envelopes in language. As part of the State’s VRA effort, the City was able to include Chinese and Ilocano translated ballots to voters. Translated ballot packets are mailed to voters by request. In the 2020 General Election, approximately 1,102 and 682 ballot packets were mailed to Chinese and Ilocano voters, respectively.

With the transition to universal vote by mail in 2020, the Honolulu Elections Division believed it would be beneficial to provide essential voter information primer in a broader range of languages not covered by the VRA. We developed a primer on voting that was translated into 17 languages. These languages are: Cebuano, Chuukese, Hawaiian, Ilocano, Japanese, Korean, Kosraean, Lao, Marshallese, Pohnpeian, Samoan, Spanish, Tagalog, Thai, Tongan, Traditional Chinese, and Vietnamese.





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For the 2022 Elections, the Honolulu Elections Division will continue to support language access by providing Over the Phone Interpretation (OPI) to voters who call our office as well as Video Remote Interpretation (VRI) for voters at the Voter Service Center. Additionally, the City will be expanding the written translated materials available to voters.

The City and County of Honolulu supports HB 1883 and understands the importance of providing multilingual support to the eligible voting population. We will continue to work with the State Office of Elections to see what can be done to include instructions for translation services on the exterior of the ballot packet envelope.

Thank you for the opportunity to testify on HB1883.



Statement Before The
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Thursday, February 3, 2022

2:00 PM

Via Video Conference and Conference Room 325

in consideration of
HB 1883
RELATING TO ELECTIONS.

Chair NAKASHIMA, Vice Chair MATAYOSHI, and Members of the House Judiciary & Hawaiian Affairs Committee

Common Cause Hawaii supports HB 1883, which requires the exterior of the envelope containing the ballot package to include instructions on how to obtain language translation services in Hawaiian and certain foreign languages.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening our representative democracy by improving and modernizing our voting and elections systems to ensure that they are equitable and work for everyone.

Section 203 of the Voting Rights Act (VRA) requires that, once determinations are met¹, state and counties must provide language assistance during elections for certain language minority groups who are unable to speak or understand English adequately enough to participate in the electoral process. Under Section 203 of the VRA, according to the calculations recently released on Dec. 8, 2021 in the Federal Register, Honolulu County must provide translation services in Chinese (including Taiwanese) and Filipino and Maui County must provide translation services in Filipino. 86 Fed. Reg. 69611 (Dec. 8, 2021).

While this is a good start for Hawaii, this is insufficient, and Hawaii must do better for our voting limited English proficient citizens. The recent Decennial Census shows that Hawaii is the most diverse state in the nation with a diversity index of 76.0%. See <https://www.census.gov/library/visualizations/interactive/racial-and-ethnic-diversity-in-the-united-states-2010-and-2020-census.html> (retrieved Jan. 31, 2022). The April 2016 DBEDT Research and Economic Analysis Division report on Non-English Speaking Population in Hawaii indicates that non-English speakers at home in Hawaii increased by 44% from 1980 to 2014. See

¹ “Section 203 mandates that a state or political subdivision must provide language assistance to voters if more than five (5) percent of voting-age citizens are members of a single-language minority group and do not ‘speak or understand English adequately enough to participate in the electoral process,’ and if the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting-age citizens who have not completed the fifth grade. When a state is covered for a particular language minority group, an exception is made for any political subdivision in which less than five (5) percent of the voting-age citizens are members of the minority group and are limited in English proficiency, unless the political subdivision is covered independently. A political subdivision is also covered if more than 10,000 of the voting-age citizens are members of a single-language minority group, do not ‘speak or understand English adequately enough to participate in the electoral process,’ and the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting-age citizens who have not completed the fifth grade.” See <https://www.federalregister.gov/documents/2021/12/08/2021-26547/voting-rights-act-amendments-of-2006-determinations-under-section-203> (retrieved Jan. 31, 2022).

https://files.hawaii.gov/dbedt/economic/data_reports/Non_English_Speaking_Population_in_Hawaii_April_2016.pdf at Executive Summary (retrieved Jan. 31, 2022). Ilocano, Tagalog, and Japanese were the top three most common non-English languages spoken at home in Hawaii. *Id.* However, English proficiency among the non-English speaking population varied substantially by language with proficiency being low -- less than 40% of the Korean, Vietnamese, Chinese and Ilocano speaking population speak English very well. *Id.*

Voting “is regarded as a fundamental political right [] preservative of all rights.” *Yick Wo v. Hopkins*, 118 US 356, 370 (1886). A voting citizen’s right to notice of ballot translation services should not be dependent, especially here in Hawaii, on which county the person resides, especially when printing of ballots and translation services are provided by the State Office of Elections.

Further, amendments to the Hawaii State Constitution in 1978, including the reinclusion of the Hawaiian language as an official language of the state of Hawaii, were intended to require the State to institute measures that are reasonably calculated to revive the Hawaiian language. *See Clarabal v. Department of Education*, 145 Haw. 69, 446 P.3d 986 (2019); Haw. Const. art. XV, § 4. Providing notice of translation services on voting materials in the Hawaiian language is long overdue and would be an important step in recognizing the equal dignity of Hawaiians and their language in Hawaii.

Thus, according to Section 2 of the VRA, Honolulu and Maui counties must provide electoral “information that is provided in English . . . in the minority language as well. This covers not only the ballot, but all election information - voter registration, candidate qualifying, polling place notices, sample ballots, instructional forms, voter information pamphlets, and absentee and regular ballots - from details about voter registration through the actual casting of the ballot, and the questions that regularly come up in the polling place.” *See* <https://www.justice.gov/crt/language-minority-citizens> (retrieved Jan. 31, 2022). Hawaii’s voting citizens on Kauai and Hawaii counties should also be informed of language access rights, and HB 1883 will help achieve that. We should also endeavor to provide more than the minimum language translations required by law to ensure that our limited English proficient citizens may fully engage in the electoral process.

For these reasons, Common Cause Hawaii supports HB 1883 and respectfully urges the committee members to pass HB 1883 out of your Committee. If you have questions for me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii



HB-1883

Submitted on: 2/1/2022 9:20:04 AM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michael Golojuch Jr	Stonewall Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Representatives,

The Stonewall Caucus of the Democratic Party of Hawai'i (formerly the LGBT Caucus) Hawai'i's oldest and largest policy and political LGBTQIA+ focused organization fully supports HB 1883.

We hope you all will support this important piece of legislation.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair and SCC Representative
Stonewall Caucus for the DPH

HB-1883

Submitted on: 2/1/2022 9:44:54 AM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
tlaloc tokuda	Individual	Support	No

Comments:

i am a member of Common Cause HI and i agree with their positon on HB1883.

The latest census found that Hawaii has the greatest diversity of ethnicity. Therefore HB1883 is an important bill because it can provide ballot translation. . We need to make it easy for people of non English speaking backgrounds to understant what and who they are voting for.

Voting is a fundamental right preservative of all other rights.(however the Republicans are trying to make sure people of color don't get to excercise that right!).

Amendments to the Hawaii State Constitution in 1978, including the reinclusion of the Hawaiian language as an official language of the state of Hawaii, were intended to require the State to institute measures to revive the Hawaiian language.

HB 1883 will help our limited English proficient citizens more fully participate in the electoral process. So please pass this bill.

Mahalo,

tlaloc tokuda

Kailia Kona HI 96740



TESTIMONY IN SUPPORT OF HOUSE BILL 1883
Relating to Elections

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice-Chair

Video Conference Hearing Date: February 3, 2022

Room Number: 325

The Hawai'i Friends of Civil Rights supports the inclusion of the Hawaiian language and the addition of the five most foreign languages spoken by limited English proficient persons to the exterior of ballot envelopes mailed to voters to the extent that the amendments do not supplant the protections of Section 203 of the federal Voting Rights Act (VRA).

Section 203 of the federal VRA requires states and counties to provide language assistance during elections for certain languages once the federal threshold is triggered.¹ Language assistance, as defined under Section 203 of the VRA means, “[a]ll information that is provided in English.” This includes voter registration materials, polling place notices, sample ballots, instructional forms, voter information pamphlets, **and ballots**. As such, the state Office

¹ “Section 203 mandates that a state or political subdivision must provide language assistance to voters if more than five (5) percent of voting-age citizens are members of a single-language minority group and do not ‘speak or understand English adequately enough to participate in the electoral process,’ and if the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting-age citizens who have not completed the fifth grade. When a state is covered for a particular language minority group, an exception is made for any political subdivision in which less than five (5) percent of the voting-age citizens are minority groups who are unable to speak or understand English adequately enough to participate in the electoral process. Under Section 203 of the VRA, according to the calculations recently released on Dec. 8, 2021, in the Federal Register, Honolulu County must provide translation services in Chinese (including Taiwanese) and Filipino and Maui County must provide translation services in Filipino. 86 Fed. Reg. 69611 (Dec. 8, 2021).

of Elections is **required** to provide **mail-in ballots** in “Chinese including Taiwanese” and “Filipino” for Oahu County and in “Filipino” for Maui County, in addition to English ballots.

More than 23 million U.S. naturalized immigrants were eligible to vote in the 2020 presidential election making up more than 10% of the nation’s overall electorate. And among eligible Asian voters in 2016, 52% of immigrants voted compared with 45% of the U.S.-born.²

Voting is a fundamental political right. See, *Yick Wo v. Hopkins*, 118 US 356, 370 (1886). Yet, Between January 1 and December 7, 2021, at least 19 states passed 34 laws restricting access to voting.³ Let’s not add Hawai’i to that list. A clear statement that the proposed amendments to Chapter 11, Hawaii Revised Statutes do not supplant the requirements of Section 203 of the federal Voting Rights Act (VRA) will avoid any confusion regarding legislative intent. See, *California Fed. S.L. Assn. V. Guerra*, 479 U.S. 272, 107 S.C. 683 (1987).

Thank you for the opportunity to testify on this measure,

Pat McManaman, Co-Chair
Barbara Yamashita, Co-Chair

² Naturalized Citizens Make-Up Record One in Ten U.S. Eligible Voters in 2020, Pew Research Center, <https://www.pewresearch.org/hispanic/2020/02/26/naturalized-citizens-make-up-record-one-in-ten-u-s-eligible-voters-in-2020/>, (Accessed 1/31/2022).

³ Voting Laws Roundup: December 2021, Brennan Center for Justice, <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>, (Accessed 1/31/2022).

HB-1883

Submitted on: 2/2/2022 10:44:04 AM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
amy agbayani	Filipina Advocacy Network FAN	Support	No

Comments:

Testimony in support of hb1883.

Submitted by Amy Agbayani, co-chair Filipina Advocacy Network (FAN).

Access to voting for qualified voters is fundamental to our democracy. FAN supports this bill with a statement that hb1883 does not supplant the requirements of Sec 203 of the federal Voting Rights Act.

Mahalo for your consideration

HB-1883

Submitted on: 2/2/2022 1:20:38 PM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Liza Ryan Gill	HI Coalition for Immigrant Rights	Support	Yes

Comments:

Chair Nakashima and Vice-Chair Matayoshi,

We write to SUPPORT HB 1883 and offer a suggestion. Voting is a fundamental right, and language access must not be a barrier. It is not only necessary as a matter of civil rights—it is also the federal law.

Many states and cities have successfully implented translated or language accessible ballots. This is a civil rights issue that has already been settled, it is just an issue of whether or not Hawai'i will be in compliance with that law.

Section 203 of the federal Voting Rights Act (VRA) requires that once language assistance determinations are met, state and counties must provide language assistance during elections for certain languages. As the Department of Justice has explained, Section 203 of the VRA requires that “[a]ll information that is provided in English.... covers not only the ballot, but all election information - voter registration, candidate qualifying, polling place notices, sample ballots, instructional forms, voter information pamphlets, and absentee and regular ballots.” (emphasis added).

Thus, under federal law, the Hawai`i state Office of Elections is required to provide all registered voters ballots in the required Section 203 languages (“Chinese including Taiwanese for Honolulu County and Filipino for Maui County”). This applies to all forms of balots, including absentee/mail-in ballots or regular ballots.

These requirements create a legal “floor” and Hawai`i must do at least these federal requirements to provide language assistance, whether or not the state have other measures to further language access. See California Fed. S.L. Assn. V. Guerra, 479 U.S. 272 (1987).

We suggest that language be inserted into the bill noting that the proposed legislation does not exempt or supplant the requirements of Section 203 of the federal Voting Rights Act.

Finally, in addition to federal requirements, this bill is important, because the entire electorate, including limited English proficient individuals, deserves to have their voices

heard. More than 23 million U.S. naturalized immigrants were eligible to vote in the 2020 presidential election making up more than 10% of the nation's overall electorate.

Thank you for your support and consideration.

Catherine Chen, Co-chair, Hawai'i Coalition for Immigrant Rights

Liza Ryan Gill, Co-chair, Hawai'i Coalition for Immigrant Rights



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hicoalitionforimmigrantrights@gmail.com

**Testimony in SUPPORT of HB 1883
RELATING TO IDENTIFICATION CARDS**

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Hearing Date: 2/3/2022

Room Number: 325

Chair Nakashima and Vice-Chair Matayoshi,

We write to SUPPORT HB 1883 and offer a suggestion. Voting is a fundamental right, and language access must not be a barrier. It is not only necessary as a matter of civil rights—it is also the federal law.

Section 203 of the federal Voting Rights Act (VRA) requires that once language assistance determinations are met, state and counties must provide language assistance during elections for certain languages.¹ As the Department of Justice has explained, Section 203 of the VRA requires that “[a]ll information that is provided in English... covers not only the ballot, but all election information - voter registration, candidate qualifying, polling place notices, sample ballots, instructional forms, voter information pamphlets, *and absentee and regular ballots.*” (emphasis added).²

Thus, under federal law, the Hawai‘i state Office of Elections is required to provide all registered voters ballots in the required Section 203 languages (“Chinese including Taiwanese for Honolulu

¹ Federal law mandates that a state or political subdivision must provide language assistance to voters if more than five (5) percent of voting-age citizens are members of a single-language minority group and do not “speak or understand English adequately enough to participate in the electoral process,” and if the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting-age citizens who have not completed the fifth grade. When a state is covered for a particular language minority group, an exception is made for any political subdivision in which less than five (5) percent of the voting-age citizens are minority groups who are unable to speak or understand English adequately enough to participate in the electoral process. *See Section 203 Language Determinations*, U.S. Census Bureau, <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/voting-rights-determination-file.html> (last accessed Feb. 2, 2022).

² *Language Minority Citizens*, U.S. Dept. of Justice, <https://www.justice.gov/crt/language-minority-citizens> (last accessed Feb. 2, 2022).



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County and Filipino for Maui County”).³ This applies to all forms of ballots, including absentee/mail-in ballots or regular ballots.

These requirements create a legal “floor” and Hawai`i must do at least these federal requirements to provide language assistance, whether or not the state have other measures to further language access. *See California Fed. S.L. Assn. V. Guerra*, 479 U.S. 272 (1987).

We suggest that language be inserted into the bill noting that the proposed legislation does not exempt or supplant the requirements of Section 203 of the federal Voting Rights Act.

Finally, in addition to federal requirements, this bill is important, because the entire electorate, including limited English proficient individuals, deserves to have their voices heard. More than 23 million U.S. naturalized immigrants were eligible to vote in the 2020 presidential election, making up more than 10% of the nation’s overall electorate.⁴

Thank you for your support and consideration.

Catherine Chen, Co-chair, Hawai`i Coalition for Immigrant Rights

Liza Ryan Gill, Co-chair, Hawai`i Coalition for Immigrant Rights

³ Under Section 203 of the VRA, according to the calculations recently released on Dec. 8, 2021 in the Federal Register, Honolulu County must provide translation services in Chinese (including Taiwanese) and Filipino and Maui County must provide translation services in Filipino. 86 Fed. Reg. 69611 (Dec. 8, 2021).

⁴ Naturalized Citizens Make-Up Record One in Ten U.S. Eligible Voters in 2020, Pew Research Center, <https://www.pewresearch.org/hispanic/2020/02/26/naturalized-citizens-make-up-record-one-in-ten-u-s-eligible-voters-in-2020/>, (Accessed 1/31/2022).

HB-1883

Submitted on: 2/1/2022 8:18:23 AM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Younghi Overly	Individual	Support	No

Comments:

Thank you for this opportunity to testify in support of HB1883 which would require the exterior of the envelope containing the ballot package to include instructions on how to obtain language translation services in Hawaiian and certain foreign languages.

HB-1883

Submitted on: 2/1/2022 8:36:44 AM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
David Anderson	Individual	Support	No

Comments:

The recent Decennial Census shows that Hawaii is the most diverse state in the nation with a diversity index of 76.0%.

The April 2016 DBEDT Research and Economic Analysis Division report on Non-English Speaking Population in Hawaii indicates that non-English speakers at home in Hawaii increased by 44% from 1980 to 2014. Ilocano, Tagalog, and Japanese were the top three most common non-English languages spoken at home in Hawaii. However, English proficiency among the non-English speaking population varied substantially by language with proficiency being low -- less than 40% of the Korean, Vietnamese, Chinese and Ilocano speaking population speak English very well. Voting is a fundamental right preservative of all other rights.

Amendments to the Hawaii State Constitution in 1978, including the reinclusion of the Hawaiian language as an official language of the state of Hawaii, were intended to require the State to institute measures to revive the Hawaiian language.

HB 1883 will help our limited English proficient citizens more fully participate in the electoral process.

Thank you for the opportunity to submit testimony in support of this bill.

HB-1883

Submitted on: 2/1/2022 2:37:16 PM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Barbara Best	Individual	Support	No

Comments:

HB1883 will help our citizens who are limited in English to participate in our democracy. Our state has the most diverse citizenry of all, so this is important.

Mahalo