



**STATE OF HAWAII
OFFICE OF ELECTIONS**

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

SCOTT T. NAGO
CHIEF ELECTION OFFICER

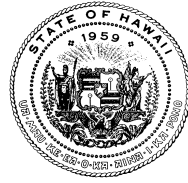
TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE SENATE COMMITTEE ON HUMAN SERVICES
ON SENATE BILL NO. 2161
RELATING TO ELECTIONS

February 15, 2022

Chair San Buenaventura and members of the Senate Committee on Human Services, thank you for the opportunity to provide comments on Senate Bill No. 2161. 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 support the intent of this measure but would ask that the effective date be amended to begin with the 2024 Primary Election. Due to supply chain issues, we have already 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 a statement in Chinese, Ilocano, and Tagalog, which are covered pursuant to Section 203 of the Voting Rights Act, on the exterior envelope of the ballot packet offering translation services and assistance.

Thank you for the opportunity to provide comments on Senate Bill No. 2161.



STATE OF HAWAII
DEPARTMENT OF HEALTH
OFFICE OF LANGUAGE ACCESS
1177 Alakea Street, Room B-100
Honolulu, HI 96801-3378
doh.ola@doh.hawaii.gov

APHIRAK BAMRUNGRUAN
EXECUTIVE DIRECTOR

**Testimony in SUPPORT of SB 2161
RELATING TO ELECTION**

SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HUMAN SERVICES

Hearing Date: 2/15/2022

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.



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TESTIMONY OF REX QUIDILLA
ELECTIONS ADMINISTRATOR,
CITY AND COUNTY OF HONOLULU
TO THE SENATE COMMITTEE ON HUMAN SERVICES
ON SENATE BILL NO. 2161
RELATING TO ELECTIONS

February 15, 2022

Chair San Buenaventura and Committee members:

Thank you for the opportunity to provide comments on Senate Bill No. 2161 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). The covered languages for Honolulu are Chinese and Filipino (Ilocano, Tagalog). The County of Maui is covered under Filipino. The Counties of Kauai and Hawaii are not covered by any language under the VRA.

VRA compliance entails the translation of the full suite of voter information available to English speaking voters. This includes brochures, forms, signage, website, and most importantly, the ballot. Support for languages not covered by the VRA is left to the discretion of the various elections offices and their respective resources.

To that end, the City mailed packets which included translated the ballot, ballot instructions, and return envelopes in the VRA-covered languages. The 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.





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For the 2020 elections, recognizing the significant change in election scheme, the City produced a primer explaining the mechanics of voting. The primer was not only translated in the 2 languages required by the VRA but we added 15 additional language translations, one of which was Hawaiian. We think this effort was positive first step in enhancing accessibility to the elections process

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 SB 2161 and will work with the State Office of Elections on the exterior of the ballot packet envelope.

Thank you for the opportunity to testify on SB 2161.





TESTIMONY IN SUPPORT OF SENATE BILL 2161
Relating to Elections

COMMITTEE ON HUMAN SERVICES
Senator Joy A. San Buenaventura, Chair
Senator Les Ihara, Jr., Vice Chair

Date: February 15, 2022 Place: Videoconference

Chair Buenaventura, Vice-Chair Ihara, and Members of the Committee,

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,

Amy Agbayani, Co-Chair
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).



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**Testimony in SUPPORT of SB 2161
RELATING TO ELECTIONS**

COMMITTEE ON HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair

Senator Les Ihara, Jr., Vice Chair

Hearing Date: 2/15/2022

Room Number: Via Videoconference

Dear Committee Members,

We write to SUPPORT SB 2161 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

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-termination-file.html> (last accessed Feb. 2, 2022).



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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 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

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

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).

Statement Before The
SENATE COMMITTEE ON HUMAN SERVICES
Tuesday, February 15, 2022
3:10 pm
Via Video Conference and Conference Room 225

in consideration of
SB 2161
RELATING TO ELECTIONS.

Chair SAN BUENAVENTURA, Vice Chair IHARA, and Members of the Senate Human Services Committee

Common Cause Hawaii supports SB 2161, 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 203 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 SB 2161 will help to achieve that. We should also endeavor to provide more than the minimum language translations required by law to ensure that all our limited English proficient citizens may fully engage in the electoral process.

For these reasons, Common Cause Hawaii supports SB 2161 and respectfully urges the committee members to pass SB 2161 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





LATE

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For Children in Hawai'i

Garret Sugai

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State of Hawai'i, Deputy Public Defender

HIPHI Initiatives

Coalition for a
Tobacco-Free Hawai'i

Community Health
Worker Initiative

COVID-19 Response

Hawai'i Drug & Alcohol Free
Coalitions

Hawai'i Farm to School Hui

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Kūpuna Food Security Coalition

Date: February 14, 2022

To: Senator Joy A. San Buenaventura, Chair
Senator Les Ihara, Jr., Vice Chair
Members of the Committee on Human Services


Re: Support for SB 2161, Relating to Elections

Hrg: February 15, 2022 at 3:10 PM via videoconference

The Hawai'i Public Health Institute (HIPHI) is in **support of SB 2161**, which requires the ballot envelopes to include instructions on how to obtain language translation services in Hawaiian and certain other languages.

Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

One in nine people living in Hawai'i has limited English proficiency and a lack of language access creates dangerous barriers to meaningful civic engagement and participation. HIPHI supports increasing civic engagement and believes providing information on ballots about how to obtain language translation services will reduce barriers to participation in the democratic process. Thank you for the opportunity to provide testimony.

Mahalo,

Amanda Fernandes, JD
Policy and Advocacy Director

SB-2161

Submitted on: 2/12/2022 5:39:49 PM

Testimony for HMS on 2/15/2022 3:10:00 PM

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

Comments:

Aloha HMS Chair and Committee,

We living in Hawaii have known what 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 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. See https://files.hawaii.gov/dbedt/economic/data_reports/Non_English_Speaking_Population_in_Hawaii_April_2016.pdf at Executive Summary (retrieved Jan. 31, 2022).

Voting “is regarded as a fundamental political right [] preservative of all rights.” *Yick Wo v. Hopkins*, 118 US 356, 370 (1886).

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.

The federal Voting Rights Act also requires 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.

Limited English Proficient voting citizens should be informed of language access rights, and SB 2161 will help to achieve that.

- Mahalo,

tlaloc tokuda

Kailua Kona, HI 96740

SB-2161

Submitted on: 2/13/2022 6:17:21 AM

Testimony for HMS on 2/15/2022 3:10:00 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.

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.

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.

The federal Voting Rights Act also requires 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.

Limited English Proficient voting citizens should be informed of language access rights, and SB 2161 will help to achieve that.

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

SB-2161

Submitted on: 2/13/2022 12:14:33 PM

Testimony for HMS on 2/15/2022 3:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michele Mitsumori	Individual	Support	No

Comments:

Hawaii is not only the most diverse state in the nation, with a diversity index of 76% based on the 2020 Census, but our non-English speakers at home increased by 44% from 1980 to 2014. Ilocano, Tagalog and Japanese were the top three most common non-English languages spoken at home, while less than 40% of the Korean, Vietnamese, Chinese and Ilocano speaking population speak English very well.

Voting is a fundamental political right, but it is difficult to vote if the ballot and instructions can't be understood. SB 2161, relating to Elections, 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. This requirement is vital to removing barriers to voting and helping more voters make their voices heard, regardless of English proficiency.

Further, amendments to the Hawaii State Constitution in 1978, including the reinclusion of the Hawaiian language as the 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. Providing notice of translation services on voting materials in the Hawaiian language is overdue and would be an important step in recognizing the equal dignity of Hawaiians and their language in Hawaii.

SB-2161

Submitted on: 2/13/2022 9:33:57 PM

Testimony for HMS on 2/15/2022 3:10:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Donna Ambrose	Individual	Support	No

Comments:

Citizens whose first language is Vietnamese, Korean, Ilocano or anything other than English find it difficult to participate in our democratic processes when they can't read voting materials. SB2161 will enable English-language-challenged individuals to obtain those materials in their native language. Please provide access to translation services by passing this bill. Mahalo.

I agree with Common Cause Hawaii on this important bill.