



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2022**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2210, S.D. 1, RELATING TO ELECTIONS.

**BEFORE THE:**

SENATE COMMITTEE ON WAYS AND MEANS

**DATE:** Tuesday, February 22, 2022      **TIME:** 10:00 a.m.

**LOCATION:** State Capitol, Room 211, Via Videoconference

**TESTIFIER(S):**      **WRITTEN TESTIMONY ONLY.**

(For more information, contact Reese Nakamura,  
Deputy Attorney General, at 586-1316 or  
Patricia Ohara, Deputy Attorney General, at 586-0618)

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Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments.

The purpose of the bill is to assist registered voters in making informed decisions when casting their ballots by: (1) requiring the Chief Election Officer to publish and distribute to registered voters a pamphlet for each election; and (2) appropriating funds to allow the Chief Election Officer to publish and distribute a voters' pamphlet for each election.

While we appreciate the intent of this bill, we have concerns the bill may create confusion in the implementation of its provisions. For example, the Department is concerned that its proposed role in drafting an "explanatory statement" for each statewide ballot issue and a "fiscal impact statement" for inclusion in the voters' pamphlet may be misconstrued by voters as a legal endorsement by the Department when the statement's content will be prescribed by the Chief Election Officer. See page 5, lines 16-17.

Section 11-B(b)(3)(B), at page 2, lines 11-14, provides that the voters' pamphlet shall contain:

- (B) An explanatory statement prepared in accordance with section 11-D, by the attorney general for a statewide

ballot issue or corporation counsel or county attorney  
for a countywide ballot issue;

Another section that may be problematic is section 11-H at page 9, line 11, through page 11, line 17. It requires that if the Chief Elections Officer determines that proposed candidate submissions for the voters' pamphlet contain obscene or otherwise legally prohibited material, or if a candidate believes that false or defamatory information may be included in the voters' pamphlet, either may petition the circuit court for a judicial determination. However, section 11-H continues that if a petition is filed, the court is prohibited from issuing an order unless the court determines the statement is obscene, otherwise legally prohibited by law for distribution, false, or the petitioner has a very substantial likelihood of prevailing in a defamation action. See page 9, line 20, to page 10, line 2, and page 10, lines 7-10. This could be construed to mean that the court cannot issue an order if the statement is legally permissible. The lack of an order would create ambiguity and prolong the dispute because the parties and the Chief Elections Officer would be unable to take further action without a determination from the court.

Section 11-H(b), at page 10, lines 13-17, highlights some of the possible confusion: "The State and counties shall not be liable for damages resulting from the publication of the argument, rebuttal, or candidate statement unless the chief election officer or county clerks publish the statement in violation of the order entered under this subsection." This wording appears to require that the court issue an order. If an order does not issue, the Chief Elections Officer will not know whether to publish certain material and may deprive a candidate who prevailed in court from having truthful information published. The delay that may be caused by waiting for an order that may never be issued would also compromise the timely issuance of a voters' pamphlet.

The Department further recommends the deletion of section 11-H(d), at page 11, lines 10-17. It provides: "[t]he chief election officer shall be a nominal party to an action brought under subsection (b) solely for the purpose of determining the content of the voters' pamphlet." Under Hawaii Rules of Civil Procedure Rule 17, every action shall be prosecuted in the name of the real party in interest. Because any dispute arising under

this statute would be between other parties, the Chief Election Officer is not a real party in interest as required by the court rules.

Finally, notwithstanding the above, the new responsibilities and obligations required of the Chief Elections Officer, Office of Elections, and others, are broadly described. The Department believes that the adoption of rules to clearly delineate the requirements of the respective parties' new responsibilities prior to the implementation of this bill would be greatly beneficial.

The Department therefore respectfully recommends that the bill be amended to delete sections 11-B(b)(3)(B), 11-D, and 11-H(d). The Department also recommends that section 11-H be amended to clarify the procedure to address disputes or issues regarding potentially obscene, or otherwise illegal, or defamatory material in candidate arguments or statements, and that section 11-K and the effective date of the bill be amended to require rules to be adopted prior to the implementation of this new part to chapter 11.

Thank you for the opportunity to provide these comments.



**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 WAYS AND MEANS  
ON SENATE BILL NO. 2210, SD 1  
RELATING TO ELECTIONS

February 22, 2022

Chair Dela Cruz and members of the Senate Committee on Ways and Means, thank you for the opportunity to provide comments on Senate Bill No. 2210, SD1. This bill requires the Chief Election Officer, with assistance from the county clerks for elections that involve county offices and countywide ballot issues, to publish and distribute a voters' pamphlet; and takes effect 7/30/75.

We believe an informed electorate is important for the health of our democracy, however, our office must remain apolitical. To produce a voters' pamphlet, we would ask all candidates to submit a photo and statement when they file their nomination paper. After the candidate filing deadline, we would translate and compile the statements and materials to print and disseminate to voters. The voters' pamphlet would be disseminated at least 45 days before each election to coincide with ballots being sent to uniformed and overseas voters.

Following the hearing on this measure by the Senate Committee on Judiciary, we have reached out to our counterparts in other jurisdictions that produce a similar pamphlet and reviewed our initial cost estimates and the logistics of disseminating the voters' pamphlet. The table below represents our updated estimate providing an English language version, and a dual language version in English and each of the covered languages - Chinese, Ilocano, and Tagalog, to send to targeted voters, libraries, voter service centers, and online. Additionally, we propose amending the bill to publish ads in the newspapers on multiple dates reminding voters that the pamphlet has been mailed to them and where it is available, rather than publishing the full voters' pamphlet once.

For mailing, the current estimate of active registered voters is 783,000. We would note that costs would also decrease if this bill was amended to send the voters' pamphlet to households. The U.S. Census Bureau states that between 2015-2019, there were 459,424 households statewide.

For a primary election, we approximate 95 pages accounting for 320 candidates and voter information. For a general election, we estimate the pamphlet would be 86 pages.

	Primary	General	Total
Printing	\$614,295.75	\$614,295.75	\$1,228,591.50
Translation	\$39,690	\$14,580.00	\$54,270.00
Mailing	\$533,264.54	\$533,264.54	\$1,066,529.08
Publishing	\$17,400.00	\$17,400.00	\$34,800.00
Accessibility	\$13,780.00	\$13,780.00	\$27,560.00
Total	<b>\$1,218,430.29</b>	<b>\$1,193,320.29</b>	<b>\$2,411,750.58</b>

We would also ask that the effective date start with the 2024 Elections.

Thank you for the opportunity to provide comments on Senate Bill No. 2210, SD1.



AMERICANS FOR DEMOCRATIC ACTION

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OFFICERS	DIRECTORS		MAILING ADDRESS	
John Bickel, President	Melodie Aduja	Jan Lubin	Bill South	P.O. Box 23404
Alan Burdick, Vice President	Keola Akana	John Miller	Zahava Zaidoff	Honolulu
Dave Nagajji, Treasurer	Juliet Begley	Jenny Nomura		Hawaii 96823
Doug Pyle, Secretary	Stephanie Fitzpatrick	Stephen O'Harrow		

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February 17, 2022

TO: Chair Dela Cruz and members of the WAM Committee

RE: SB 2210 SD1 Relating to Elections

Support for hearing on February 22

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support this bill as we support more information for voters. If passed, this bill would require the Chief Election Officer, with assistance from the county clerks for elections that involve county offices and countywide ballot issues, to publish and distribute a voters' pamphlet. Often times voters know some about the top of the ticket but little about down-ticket races. This would help.

Thank you for your favorable consideration.

Sincerely,

John Bickel, President

Statement Before The  
**SENATE COMMITTEE ON WAYS AND MEANS**  
Tuesday, February 22, 2022  
10:00 AM  
Conference Room 211 and Videoconference

in consideration of  
**SB 2210, SD1**  
**RELATING TO ELECTIONS.**

Chair DELA CRUZ, Vice Chair KEITH-AGARAN, and Members of the Senate Ways and Means Committee

Common Cause Hawaii supports SB 2210, SD1, which requires the Chief Election Officer, with assistance from the county clerks for elections that involve county offices and countywide ballot issues, to publish and distribute a voters' pamphlet.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to upholding the core values of our representative democracy through efforts that increase civic engagement, voter turnout, and voter participation in our democratic processes.

A voter information guide would create a more informed voting public and hopefully increase voter participation in our elections. A significant number of states have official voter guides published by the state secretary of state, which is equivalent to our State Office of Elections. See [https://ballotpedia.org/Features\\_of\\_official\\_voter\\_guides,\\_compared\\_by\\_state#Comparison\\_of\\_voter\\_guides](https://ballotpedia.org/Features_of_official_voter_guides,_compared_by_state#Comparison_of_voter_guides) (retrieved Jan. 28, 2022); see also <https://www.ncsl.org/research/elections-and-campaigns/fiscal-impact-statements.aspx> (retrieved Jan. 28, 2022).

Common Cause Hawaii understands that SB 2210, SD1, at page 9, lines 19-21, provides that candidates are to submit their own statements for placement in a voter information guide. We suggest that candidates be required to pay for its placement in the guide. California and Alaska's voter information guides operate in in this manner. See <https://vig.cdn.sos.ca.gov/2021/pdf/complete-vig.pdf> (retrieved Feb. 19, 2022) and [https://www.elections.alaska.gov/election/2020/General/OEPBooks/2020%20AK%20Region%20I%20pamphlet\\_FINAL-web.pdf](https://www.elections.alaska.gov/election/2020/General/OEPBooks/2020%20AK%20Region%20I%20pamphlet_FINAL-web.pdf) (retrieved Feb. 19, 2022).

Common Cause Hawaii further understands that for voter information guides to be trusted and useful to the public, they must:

- Be neutral and written in plain language.
- Be readily available to the public. They should not be disseminated by one means only, such as via electronic means, mail, or in the newspaper. As the current pandemic has revealed, many people do not have access to broadband and/or reliable mail delivery. Voter information guides must be made available at banks, grocery stores, community centers, public libraries, government buildings, and other locations where people are likely to gather.
- Be translated into different languages for all of Hawaii's citizens to be able to access. Hawaii is the most diverse state in the nation with a diversity index of 76% according to the 2020 U.S. Census. 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](https://files.hawaii.gov/dbedt/economic/data_reports/Non_English_Speaking_Population_in_Hawaii_April_2016.pdf) at Executive Summary pg. i (retrieved Jan. 28, 2022). Ilocano, Tagalog, and Japanese were the top three most common non-English languages spoken at home in Hawaii. *Id.*

- Be accessible to all our various disability communities.

Common Cause Hawaii supports SB 2210, SD1 in creating voter information guides for a more informed and engaged public for the betterment of our representative democracy.

Thank you for the opportunity to testify in support of SB 2210, SD1. If you have any questions of me, please contact me at [sma@commoncause.org](mailto:sma@commoncause.org).

Very respectfully yours,

Sandy Ma  
Executive Director, Common Cause Hawaii





**SB-2210-SD-1**

Submitted on: 2/19/2022 1:44:49 PM

Testimony for WAM on 2/22/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Barbara Best	Individual	Support	No

Comments:

This would make for a more informed citizenry and could increase voter participations.

If candidates submit statements, they should probably pay for that. SB2210, SD1 would improve our democracy.

The guide should be neutral, in plain language, translated in languages used in Hawaii,, and be accessible where people congregate.

Mahalo

**SB-2210-SD-1**

Submitted on: 2/20/2022 6:23:23 AM

Testimony for WAM on 2/22/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
David Anderson	Individual	Support	No

Comments:

A voter information guide would create a more informed voting public and hopefully increase voter participation in our elections. A significant number of states have official voter guides published by the state secretary of state, which is equivalent to our State Office of Elections.

If candidates are to submit their own statements for a voter information guide, per SB 2210, SD1, at page 9, lines 19-21, I suggest that they be required to pay for its placement in the guide. California and Alaska’s voter information guides operate in in this manner.

For a voter information guide to be trusted and useful to the public, it is suggested that it:

- Be neutral and written in plain language.
- Be readily available to the public. They should not be disseminated by one means only, such as via electronic means, mail, or in the newspaper. As the current pandemic has revealed, many people do not have access to broadband and/or reliable mail delivery. Voter information guides must be made available at banks, grocery stores, community centers, public libraries, government buildings, and other locations where people are likely to gather.
- Be translated into different languages for all of Hawaii’s citizens to be able to access. Hawaii is the most diverse state in the nation with a diversity index of 76% according to the 2020 U.S. Census. 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.
- Be accessible to all our various disability communities.

Thank you for the opportunity to submit testimony in support of SB 2210, SD1 in creating voter information guides for a more informed and engaged public for the betterment of our representative democracy.

**SB-2210-SD-1**

Submitted on: 2/20/2022 5:42:41 PM

Testimony for WAM on 2/22/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Rosemarie Muller	Individual	Support	No

Comments:

My name is Rosemarie Muller and I live in Keaau, Hawaii. I fully support the passing of SB2210. A voter information guide will create a more informed and engaged public for the betterment of our democracy.

Please pass this bill

Mahalo

Rosemarie Muller

**LATE**

Testimony from Susan Dursin on SB2210: Voter Information Guide

Please support SB2210, which would create a voter information guide. Hawai'i has done a good job protecting and extending voting rights but is deficient in making information on candidates and issues easily accessible to voters.

For about twenty years, the Legislature has received regular requests for a voter information guide. In many states, including those with far-flung populations like Alaska, a state-sponsored guide has helped residents understand what they would see on their ballots. Now is the time for Hawai'i to join those states that believe in disseminating neutral and easily understandable voter information.

VOTE411, the Hawai'i League of Women Voters' website, has become the only single website where voters can view neutral information about candidates and issues. Voters praise the site highly. However, it requires hundreds of volunteer hours and some organizational expense to post the information. As much as LWVHI tries to publicize the site, many voters do not hear of it and vote blindly. Furthermore, a number of voters do not have access to the internet.

The responsibility for a voter guide disseminated through various avenues belongs to the state. Please support SB2210.

**SB-2210-SD-1**

Submitted on: 2/21/2022 11:43:52 AM

Testimony for WAM on 2/22/2022 10:00:00 AM



<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Barbara J. Service	Individual	Support	No

Comments:

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and committee members!

Please support SB2210, to require the Chief Elections Officer to publish and distribute voters' pamphlets for county offices.

Voters need to know what they are voting on and ballots are not apt to contain enough information.

Mahalo for allowing me to provide testimony.

Barbara J. Service. MSW (ret.)

Kupuna Advocate and advocate for fair and transparent government.

**LATE**

**SB-2210-SD-1**

Submitted on: 2/21/2022 1:41:37 PM

Testimony for WAM on 2/22/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Michele Mitsumori	Individual	Support	No

Comments:

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Committee Members,

I'm writing to support SB2210, Relating to Elections, which requires the Chief Election Officer and others to publish and distribute a voters' pamphlet.

An informed electorate is foundational to a strong and vibrant democracy, yet voters can be overwhelmed by inflammatory or misleading sources, inaccessible language, and other barriers. A voter information guide would create a more informed voting public and contribute to increasing voter participation in our elections. Several states already have official voter guides published by the equivalent of our State Office of Elections.

As a volunteer with the League of Women Voters of Hawai'i County, I've seen firsthand the difference a clear and relevant guide written in neutral and accessible language can be. Our league published a guide to the 2020 Constitutional Amendments and also raised awareness of the guide, such as by being interviewed on local radio programs. These guides and other election resources raise awareness of candidates and issues, and empowered voters in their ability to understand and make decisions.

For voter information to be trusted and useful to the public, it may also be helpful if it is:

- written in neutral and plain/accessible language.
- readily available to the public in a variety of formats. While it may feel cost-efficient to make resources available online, the current pandemic has revealed how many people do not have access to broadband and/or reliable mail delivery. Voter information guides should be available at banks, grocery stores, community centers, government buildings, and other locations where people are likely to gather.
- translated into different languages for all of Hawai'i's citizens to be able to access.

I heartily support SB2210, SD1 in creating voter information guides for a more informed and engaged public for the betterment of our representative democracy. Thank you.

**SB-2210-SD-1**

Submitted on: 2/22/2022 6:12:37 AM

Testimony for WAM on 2/22/2022 10:00:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Linda Morgan	Individual	Support	No

Comments:

I strongly support SB2210 SD1. We need voter information pamphlets distributed to all registered voters, as well as being available online, to improve democracy in Hawaii. When I moved here 20 years ago, I kept waiting for a voter pamphlet to help me decide for whom to vote. I still find it difficult to get neutral information about candidates and issues on the ballot. This bill would encourage a better informed public that is more likely to vote. Please pass SB2210 SD1.

**SB-2210-SD-1**

Submitted on: 2/22/2022 10:01:01 AM

Testimony for WAM on 2/22/2022 10:00:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Kathy Jaycox	Individual	Support	No

Comments:

It is more important now than ever before for voters to have access to objective information.