



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

ON THE FOLLOWING MEASURE:
S.B. NO. 3226, RELATING TO ELECTIONS.

BEFORE THE:
SENATE COMMITTEE ON JUDICIARY

DATE: Friday, February 11, 2022 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General,
Reese Nakamura, Deputy Attorney General, or
Patricia Ohara, Deputy Attorney General

Chair Rhoads and Members of the Committee:

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

The purpose of the bill is to add to part VIII of chapter 11, Hawaii Revised Statutes (HRS), a new section requiring the Office of Elections to prepare and post a digital voter information guide on its website. The digital voter information guide shall include candidate photos, candidate statements, a statement by the Attorney General explaining each proposed constitutional amendment, county charter amendment, or proposed initiative or referendum issue, and a notice that a digital voter information guide may be found on the Office of Elections website.

The Department has concerns with the new section 11- (a)(3) set forth in section 1 on page 1, line 16, to page 2, line 2, of the bill, which requires the inclusion of "[a] clear and concise explanation drafted by the department of the attorney general of each proposed state constitutional amendment, county charter amendment, or proposed initiative or referendum issue."

The Department presently is required under section 11-118.5(b), HRS, to prepare a statement addressing the purpose, limitations, and effects of each proposed constitutional amendment. Section 11-118.5(b), however, only requires that the Attorney General's statement address constitutional amendments. It does not require

the Attorney General to address proposed county charter amendments, proposed initiatives, or referendum issues.

The Department, therefore, respectfully suggests it would be more appropriate for the counties' corporation counsels to draft the statements relating to any proposed county charter amendments, county-related initiatives, or county-related referendum issues, and respectfully recommends the bill be amended accordingly.

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 JUDICIARY
ON SENATE BILL NO. 3226
RELATING TO ELECTIONS

February 11, 2022

Chair Rhoads and members of the Senate Committee on Judiciary, thank you for the opportunity provide comments on Senate Bill No. 3226. This bill requires the Office of Elections to prepare a digital voter registration guide to be posted on its website; requires the Office of Election to mail a notice with each ballot notifying voters that a voter information guide may be found on its website; and makes an appropriation.

We believe an informed electorate is important for the health of our democracy, however, our office must remain apolitical. As such, we do not feel it would be appropriate for this office to write the candidate statements but would ask all candidates to submit a statement and photo to compile in a voter information guide when they file their nomination paper.

After the candidate filing deadline, we would translate and compile these statements to post on our website. The voter information guide would need to be available at least 45 days before each election to coincide with ballots being sent to uniformed and overseas voters. Our cost estimate is \$95,000 to provide a voter information guide in this manner including translations, printing, and inserting.

We would also ask that the effective date for this measure be amended to January 1, 2023 for the 2024 Elections. The candidate filing deadline would have passed and the ballot packets for the 2022 Primary Election will be in the process of being assembled at the July 1, 2022 effective date.

Thank you for the opportunity to provide comments on Senate Bill No. 3226.

Statement Before The
SENATE COMMITTEE ON JUDICIARY

Friday, February 11, 2022

9:30 AM

Via Videoconference

in consideration of
SB 3226**RELATING TO ELECTIONS.**

Chair RHOADS, Vice Chair KEOHOKALOLE, and Members of the Senate Judiciary Committee

Common Cause Hawaii supports SB 3226, which (1) requires the Office of Elections to prepare a digital voter registration guide to be posted on its website, (2) requires the Office of Election to mail a notice with each ballot notifying voters that a voter information guide may be found on its website, and (3) makes an appropriation

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 secretaries 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 (retrieved Jan. 28, 2022); see also <https://www.ncsl.org/research/elections-and-campaigns/fiscal-impact-statements.aspx> (retrieved Jan. 28, 2022).

For voter information guides to be trusted and useful to the public, they must:

- Be neutral and written in plain language. Limiting information contained in the guide to less than 150 words per candidate may make the information less than helpful and provide only cursory, superficial information. See SB 3226, at page 1, lines 8-15.
- 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 offices, and other locations where people are likely to gather. Further, it is unclear why the voter information guide is not just preemptively mailed to voters with the primary ballot package and just the notice of the guide is mailed with the ballot package. See SB 3226 at page 2, lines 3-6.
- 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_A

[pril 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 our disability community.
- Include county ballot initiatives and charter amendments and constitutional amendments and not be limited to candidates.

Common Cause Hawaii supports SB 3226 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 3226. If you have any questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii



National Federation of the Blind of Hawaii
Testimony before the Committee on Judiciary (JDC)
Hawaii State Senate
Thirty-First Legislature, Regular Session of 2022
February 11, 2022, 9:30 AM, hearing on SB3226

Good morning chair, vice chair, and members. I am James Gashel, representing the National Federation of the Blind of Hawaii, fully supporting SB3226 and suggesting two important but simple amendments.

This bill calls for creation of a digital voter information guide to be posted on the Office of Elections website. The bill specifies that the guide is to have text information and a photo for each candidate for public office. The guide will also include brief summaries of proposed constitutional amendments and other public questions. We entirely support the objectives of this bill.

Members of the National Federation of the Blind (NFB) of Hawaii are blind. By definition we can not see or read the information on computer screens. We can not see the information posted on a website. We can read the information, however, provided the information is prepared in a format accessible to the electronic screen reading technology we use. Not all digital formats are accessible to screen readers.

Our first amendment suggests a solution to this by adding a few words to section 1, subsection (a), before clause (1), adding the following new sentence after "website." "The guide shall be posted in a screen reader accessible format for voters with special needs unable to read standard print due to a disability."

Regarding this language, complying would not impose a burden on the Office of Elections. The Office could choose the format, but standard HTML would almost certainly be best. PDF would definitely not be the best as far as screen reader accessibility is concerned. However, our experience is that documents, such as a voter information guide with pictures and text are more likely than not to be posted as PDF files best used for printing and distribution. This would be fine, but a non-PDF format should also be posted.

Subsection (b) of section 1 would require the Office of Elections to mail a notice to inform voters of the digital voter information guide. The notice would be mailed along with each voter's printed ballot. This is fine, but it completely misses the point for voters with special needs unable to read the printed notice. Whenever I get such papers in the mail, I call them "unidentified print objects."

This leads to our second suggested amendment. The vote by mail law as passed in 2019 and amended last year gives voters with special needs the opportunity to request an electronic alternate format ballot at the time of registration or later. The voter registered for an electronic alternate format ballot receives the ballot as an email attachment.

In view of this, the amendment we suggest is to add the following amendment language to subsection (b) to be inserted after "website." "The notice shall be sent by email to all voters with special needs who have registered to receive electronic alternate format ballots."

That's it; very important new language but very simple. The point of our position is to be sure that blind voters and others with special needs do not end up on the wrong side of the digital divide if the legislature directs the Office of Elections to create and post a digital voter information guide. Mahalo for your consideration of the two amendments we suggest.



Committee on Judiciary
Chair Karl Rhoads, Vice Chair Jarrett Kaohokalole

Friday, February 11, 2022, 9:30 a.m. Via Videoconference

SB 3226 RELATING TO ELECTIONS

TESTIMONY

Janet Mason, Legislative Committee, League of Women Voters of Hawaii

Chair Rhoads, Vice Chair Kaohokalole, and Committee Members:

The League of Women Voters of Hawaii strongly supports SB 3226 that requires the Office of Elections to prepare a digital voter registration guide to be posted on its website and requires the Office of Elections to mail a notice with each ballot notifying voters that a voter information guide may be found on its website.

Regarding content of the guide, the most important topics are referred to in the bill, namely candidate statements and an explanation of any ballot questions. However, our examination of digital voter education in four other states suggests that a link to relevant campaign finance information is also common, as is a pro/con analysis of ballot proposals; we believe these features should be included in the voter guide. Also, a sample ballot is especially important if Hawaii introduces the ranked choice voting method for certain elections.

We notice the Office of Elections website has begun providing its own YouTube videos for its voter education efforts, and we heartily endorse this effort. We hope all topics included in the digital voter registration guide are also addressed in these videos. Certain logistical education can continue to be included with mailed instructions, such as deadlines, ballot drop-off locations and voter service center locations.

That leaves the question of how to reach eligible voters who don't have access to the internet (or are not willing to use the internet). It is worth permitting such voters to request a paper version of the voter guide by contacting the Office of Elections. We say this recognizing production and distribution of a paper guide is much more expensive than digital. Would it be difficult to estimate this cost? Unfortunately, without a printed option, certain voters will not have the same access to voter information.

The bill needs to be amended to clarify how responsibility for voter education in Federal, State, and local elections is to be divided among the State and Counties. The cost should be shared accordingly. For example, if the election is at the County-level only, why would the State Office of Elections undertake the voter education?

We are hopeful State and County election officials will testify on this measure.

Thank you for the opportunity to submit testimony.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON JUDICIARY
ON
SENATE BILL NO. 3226

February 11, 2022
9:30 a.m.
Via Videoconference

RELATING TO ELECTIONS

The Department of Budget and Finance (B&F) offers comments on Senate Bill (S.B.) No. 3226.

S.B. No. 3226 requires the Office of Elections (OE) to: 1) prepare a digital voter registration guide to be posted on its website; and 2) mail a notice with each ballot notifying voters that a voter information guide may be found on its website. The measure also appropriates unspecified general funds in FY 23 to OE for this purpose.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and

- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Friday, February 11, 2022

9:30 AM

SB 3226 – SUPPORT w/ SUGGESTIONS FOR VOTER EDUCATION GUIDE

Aloha Chair Rhoads, Vice Chair Keohokalole and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai`i for more than two decades. This testimony is respectfully offered on behalf of the more than 4,103 Hawai`i individuals living behind bars or under the “care and custody” of the Department of Public Safety or the corporate vendor on any given day. We are always mindful that 1,113 of Hawai`i’s imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons supports giving voters as much information as possible, however, we are concerned about the digital divide in Hawai`i and people with no access to the internet. A vibrant democracy depends on an informed electorate. A responsible and responsive democracy is inclusive and accessible.

We respectfully share some important things to think about when developing this guide.

- Ensure that it is nonpartisan, written in plain language, and is accessible to all.
- To ensure wide user-ability, the guide must be translated into the languages spoken in Hawai`i including, but not limited to, Chuukese, Chinese, Hawaiian, Ilokano, Japanese, Samoan, Tagalog, Tongan, Vietnamese, etc.
- To ensure wide accessibility, besides the normal channels, newspapers, websites, social media, community newsletters, the guide should be available at local businesses and places where people gather - banks, grocery stores, libraries, community centers, government buildings, jails, etc.

Many states have voter guides and many have them translated into the languages spoken by their people. A quick look showed that Alaska’s guide is translated into 12 different languages! Community Alliance on Prisons looks forward to the day when incarcerated persons will be treated as citizens and afforded the right to vote! Please pass this measure.

Mahalo for the opportunity to testify.

Nothing can stop the power of an informed citizenry when it is empowered, organized, and motivated.

Ralph Nader



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

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		

February 8 , 2022

TO: Chair Rhoads and Members of the JDC Committee

RE: SB 3226 Relating to Elections

Support for a Hearing on February 11

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.

Americans for Democratic Action Hawaii supports this bill as it would require the Office of Elections to prepare a digital voter registration guide to be posted on its website and would require the Office of Election to mail a notice with each ballot notifying voters that a voter information guide may be found on its website. We value informed voters. This guide would help.

Thank you for your consideration.

Sincerely,

John Bickel, President



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
Ph. (808) 586-8121 (V) • Fax (808) 586-8129

February 11, 2022

TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY

Senate Bill 3226 – Relating to Elections

The Disability and Communication Access Board (DCAB) is providing comments on Senate Bill 3226. This bill would require the Office of Elections to prepare a digital voter registration guide and post it on their website, and to inform each voter that it can be found online.

It is important that any digital information is accessible for persons with disabilities to comply with federal laws and upon request, an alternate format is readily available.

Thank you for the opportunity to provide comments.

Respectfully submitted,

Kirstine Pagano
for KIRBY L. SHAW
Executive Director