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TESTIMONY OF THE
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS
TO THE SENATE COMMITTEE ON JUDICIARY
ON HOUSE BILL NO. 1879, HD 1
RELATING TO THE DIGITAL VOTER INFORMATION GUIDE

March 14, 2024

Chair Rhoads and members of the Senate Committee on Judiciary, thank you for the opportunity to testify in support of House Bill No. 1879, HD 1. This bill provides that certain information to be included in any digital voter information guide shall not be released to any requestor in whole or in part before the public release of the entire guide.

This bill seeks to ensure the uniform, equitable, and coordinated release of information of the contents of the voter information guide. We are proposing this change to clarify that a candidate's statement should not be available ahead of the release of the digital voter information guide as it may provide an unfair advantage to the requestor which could impact the election. Currently, the law is unclear as to whether an open records request can be made for a candidate's statement before the actual guide is released or if it should be rejected on the grounds that if granted it would frustrate a legitimate government function by undermining one of the purposes of the voter information guide.

Thank you for the opportunity to testify in support of House Bill No. 1879, HD 1.

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To: Senate Committee on Judiciary

From: Cheryl Kakazu Park, Director

Date: March 14, 2024, 9:30 a.m.
State Capitol, Conference Room 016

Re: Testimony on H.B. No. 1879, H.D. 1
Relating to the Digital Voter Information Guide

Thank you for the opportunity to submit testimony on this bill, which would make draft versions of the digital voter information guide confidential prior to the guide's public release. The Office of Information Practices (OIP) takes no position on this bill, but offers comments.

In a 2018 opinion, the Hawaii Supreme Court held that Hawaii's Uniform Information Practices Act (UIPA), chapter 92F, HRS, does not authorize agencies to withhold internal pre-publication drafts or similar deliberative and pre-decisional materials under the UIPA's exception for records whose disclosure would frustrate a legitimate government function. Thus, a confidentiality provision for pre-publication drafts of the voter information guide would indeed be necessary for the Office of Elections to be able to deny public access to such drafts based on concerns about voter confusion or the potential for some candidates to gain an unfair advantage if drafts are released. OIP does not object to the proposed confidentiality provision, which would not apply to the final published voter information guide and is limited to the time period prior to the guide's public release.

Thank you for considering OIP's testimony.

HB-1879-HD-1

Submitted on: 3/8/2024 4:56:49 PM

Testimony for JDC on 3/14/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Scott Kidd	Individual	Support	Written Testimony Only

Comments:

I support this measure