

SB-1288-SD-1

Submitted on: 3/25/2019 9:52:23 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jane Sugimura	HI Council of Assoc. of Apt. Owners a	Support	No

Comments:



**HAWAII STATE ASSOCIATION OF PARLIAMENTARIANS
LEGISLATIVE COMMITTEE
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March 25, 2019

Honorable Rep. Sylvia Luke, Chair
Honorable Rep. Ty J.K. Cullen, Vice Chair
House Committee on Finance (FIN)
Hawaii State Capitol, Room 306
415 South Beretania Street
Honolulu, HI 96813

**RE: Testimony in SUPPORT of SB1288 SD1; Hearing: March 27, 2019 at 2:30 p.m.
in House conference room 308; sent via Internet**

Dear Rep. Luke, Chair; Rep. Cullen, Vice-Chair; Committee Members:

Thank you for the opportunity to provide testimony on this bill. Unfortunately, I had a prior meeting obligation today so am unable to appear in person.

The Hawaii State Association of Parliamentarians ("HSAP") has been providing professional parliamentary expertise to Hawaii since 1964.

I am the chair of the HSAP Legislative Committee. I'm also an experienced Professional Registered Parliamentarian who has worked with condominium and community associations every year since I began my parliamentary practice in 1983 (over 1,700 meetings in 35 years). I was also a member of the Blue Ribbon Recodification Advisory Committee that presented the recodification of Chapter 514B to the legislature in 2004.

This testimony is provided as part of HSAP's effort to assist the community based upon our collective experiences with the bylaws and meetings of numerous condominiums, cooperatives, and planned community associations.

This testimony is presented in SUPPORT of SB1288 SD1.

Current Situation:

Today, numerous Hawaii condominium associations have a secret ballot requirement. Pursuant to the parliamentary authority for these meetings, the secret ballot requirement is met by using slips of paper. **There is no authority for condominium associations to use electronic voting devices when the bylaws require secret ballot.**

For many years condominium associations have conducted elections at meetings that simply took too long to count. Some results were later found inaccurate because paper ballots with multiple percentages were susceptible to error.

Longer wait times were experienced if additional motions were presented and needed to be voted. In an extreme case (and not humorous at the time), a simple motion to extend a speaker's time by 3 minutes required a ballot vote due to the different percentages of common interest. 15 minutes later, the association voted not to extend the time, hardly a productive use of owners' time.

Some associations may have over 50 different common interests, including percentages with long digits such as 0.3411716763% for a 2 bedroom apartment. The mandatory use of longer digits is cumbersome and time consuming. It is compounded if the vote must be divided among 7-9 directors. If there is any miscalculation or imbalance, it can take several hours or the meeting would be adjourned to meet the next day with the results.

In one case, the results were incorrect, which led to an expensive special meeting to authorize a recount. In several other cases, paper ballots were counted incorrectly, electing directors to incorrect terms and damaging the association's confidence in the election system as well as property management. In still another case, an improperly elected director simply resigned in order to save the association the cost for a meeting to authorize a recount.

The use of paper ballots creates several issues, including the following:

- a. They are susceptible to fraud due to the ease of photocopying and color printing prior to the meeting.
- b. Property management must keep careful control of the ballots. If ballots are missing, it's practically impossible to retrieve them from an unknown owner or proxy holder.
- c. An owner can provide the owner's ballots to another owner and leave the meeting, thus providing the equivalent of unauthorized and unregulated proxy voting.
- d. The quorum may be lost due to an owner leaving the meeting after leaving his or her ballots with somebody else. Only a few observant individuals would know that.
- e. Occasionally an owner will question the quorum and this would significantly delay the process.
- f. Professional managers usually have 7 ballots per owner at an association meeting. Most meetings use only one or two ballots. The rest of the ballots are discarded and there is no information regarding ballots that end up in a landfill or are recycled.

The Condominium Property Act has no requirement nor regulation regarding "secret ballot". The word "ballot" appears in the Condominium Property Act, mainly in the context of mailing one to owners for approving various amendments to the Declaration or Bylaws, approving lease rent negotiations, or retaining meeting ballots for later owner inspection.

The integrity of the secret ballot process is usually entrusted to property management. They control the ballot packet distribution and ensure owners sign for their ballot packet before receiving it. Property management would distribute ballots authorized by proxy after everybody else has checked-in.

In contentious meetings, property management has required a photo identification card and ballot receipt signature before receiving the ballots and entering the meeting room.

Current Options with Secret Ballot:

Today, associations with a secret ballot requirement who want to use modern technology need to do either one of the following:

- a. Amend the bylaws to remove the secret ballot requirement.
- b. Implement scanning technology with a form of machine readable bar code and make sure the paper ballot redacts the name of the owner.

a. Amend the Bylaws:

A bylaw amendment is always possible, although quite difficult due to the high vote required.

Owner apathy has made a bylaw amendment of this type quite impractical because most condominium owners in my experience do not attend association meetings.

Owners leave it up to proxy-holders or other owners who attend to make decisions.

Therefore, many owners simply wouldn't be concerned with this issue because they don't go to association meetings. This apathy makes it difficult to amend the bylaws.

b. Implement Scanning Technology:

My experience with this scanning technology has been with several association meetings on Maui and a few associations on Oahu. It still takes a long time to visually check, stamp an audit number, and count, sometimes over an hour. Paper has been known to jam, thus requiring manual revisions, adding to the time requirements. Also, the scanning form is easily copied which creates an enhanced potential for fraud.

Technological Options:

Technology has been available for some time to provide an electronic voting device to owners upon check-in and retrieve them before they leave. An owner could be required to provide a photo identification card in order to obtain a uniquely identified electronic voting device. The device would be surrendered and the photo identification card returned.

Each electronic voting device has a unique number that would allow voting by pressing buttons and confirming the vote on the screen. The computer would provide voting results in less than a minute.

The surrendering of the electronic voting device upon leaving would also help to ensure that quorum calculations are realtime and accurate. Proper use of electronic voting devices can verify a quorum in seconds. Alternatively, the exchange of an identification card with the electronic voting device ensures that the device inventory is always controlled.

The first time I saw the use of electronic voting devices was in 1998 with over 900 people at a convention on Maui. It took about 15 seconds to count the vote! I've also used the devices successfully for several years as a member at a national convention with over 300 people present. The voting is open for 15 seconds, which could be extended, and the results are practically instantaneous.

The 3 companies I've researched require no internet access for their electronic voting devices. A visual example of the process from one company is on the last page of this testimony.

Proposed Bill (Section 4):

This section of SB1288 SD1 **allows** condominium associations to use electronic voting as an alternative method of voting at a meeting. It **does not mandate** their use.

This section has 4 basic requirements:

- a. It requires that the board establish reasonable procedures to provide for the secrecy and integrity of the unit owners' votes, including isolation from external networks, including the Internet.
- b. It requires availability of a printed audit trail containing the reference number of the electronic voting device, each common interest voted, and the vote that was tabulated
- c. It also requires that the printed audit trail be available to owners in the same manner as meeting records are currently available.
- d. It requires that the procedures established by the board be: (a) available to owners at no charge, and (b) available at any meeting at which the electronic voting device is used.

Security concerns:

The current use of paper ballots is easily compromised using today's camera technology. Individuals may arrive at a meeting with paper copies of ballots and there is minimal protection during the meeting. A properly secured electronic voting device with a paper audit trail provides a much higher level of integrity than the use of paper.

It is far more difficult and expensive to compromise an electronic voting device than to use a color copier to compromise today's paper ballots.

Conclusion:

The proposed legislation provides for electronic voting devices as well as providing a requirement for reasonable procedures for security and integrity. This is a more accurate and potentially more secure than any other meeting method used in Hawaii condominiums today.

The bill simply permits condominium associations to utilize this technology as additional option. It is not mandatory; it simply provides an additional tool for more efficient meetings.

Should there be a legislative need to codify more definitive procedures as part of this legislation, I would be happy to assist.

We ask that you approve SB1288 SD1.

If you require any additional information, your call is most welcome. I may be contacted via phone: 423-6766 or by e-mail: Steveghi@gmail.com. Thank you for the opportunity to present this testimony.

Sincerely,

Steve Glanstein, Professional Registered Parliamentarian
Chair, HSAP Legislative Committee

SG:tbs/Attachment

Sample of Electronic Voting Device Usage





March 25, 2019

Via Internet

Honorable Rep. Sylvia Luke, Chair
Honorable Rep Ty J.K. Cullen, Vice-Chair
House Committee on Finance (FIN)

Hawaii State Capital, Room 306
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in SUPPORT of SB1288 SD1 – Hearing: March 27, 2019

Aloha Chair Luke, Vice Chair Cullen, and Committee Members:

Thank you for the opportunity to provide testimony on this bill.

I am a Delegate of the Community Associations Institute (CAI) Legislative Action Committee and current Treasurer of the of the CAI Hawaii Chapter Board of Directors. I am also currently the Vice President of Operations of Touchstone Properties, Ltd. I have been involved with association management for ten years, personally managed properties that vary in size and complexity, and filled senior executive positions with several of the largest property management firms in Hawaii.

This testimony is presented in SUPPORT of SB1288 SD1

Numerous Hawaii condominium associations have a secret ballot requirement and currently utilize slips of paper to meet ballot requirements. Technology continues to improve but association governing documents and Hawaii statute have not been updated to utilize available technologies. There is no authority for condominium associations to use electronic voting devices when the bylaws require secret ballot.

Current board elections take too long and oftentimes results are inaccurate due to human error in the counting process. Inaccurate results have been found and oftentimes cause question of the validity of the sitting board. Potentially all decisions that Board makes could be challenged and cause costly litigious matters.

Current concerns regarding the use of paper ballots:

- a. They are susceptible to fraud due to the ease of photocopying and color printing prior to the meeting.
- b. Property management and Tellers must keep careful control of the ballots and if any ballots are missing, its practically impossible to retrieve it from an unknown

owner. Having multiple people collecting and counting ballots makes it difficult to control the ballot collection and counting process.

- c. An owner can provide the owner's ballots to another owner and leave the meeting, thus providing the equivalent of unauthorized and unregulated proxy voting.
- d. The quorum may be lost due to an owner leaving the meeting after leaving her ballots with somebody else. Only a few observant individuals would know that.

The Condominium Property Act has no requirement nor regulation regarding "secret ballot". The word "ballot" appears in the Condominium Property Act, mainly in the context of mailing one to owners for approval, approving lease rent negotiations, or retaining the secret ballots for later inspection.

Today, associations with a secret ballot requirement who want to use modern technology need to do either one of the following:

- a. Amend the bylaws to remove the secret ballot requirement. Amending the bylaws is costly and time consuming. Oftentimes after spending thousands of dollars and hours of time, approval of the bylaw amendments falls short of the required percentage to approve an amendment.
- b. Implement scanning technology with a form of machine-readable bar code. Unfortunately, it has been proven that the counting process can still take over an hour, paper jams, and the ballot with the bar code can still be provided to another individual present at the meeting.

Technological Options Available but Incompatible with Ballot Requirements:

The technology is available to provide an electronic voting device to owners upon check-in and retrieve them before they leave. An owner could be required to provide a photo identification card in order to obtain a uniquely identified electronic voting device. The device would be surrendered, and the photo identification card returned.

Each electronic voting device has a unique number that would allow voting by pressing buttons and confirming the vote on the screen. The computer would provide voting results in less than a minute!

The surrendering of the electronic voting device upon leaving would also help to ensure that quorum calculations are real-time and accurate.

Benefits of an electronic voting device:

- a. Provides voting results in real time therefore shortening the time and expense of an annual meeting.
- b. Eliminates human error during the counting process and eliminates the accuracy of the counting process. Owners can rest assured that the election process is accurate and therefore reduces the risk of potential litigious matters.
- c. Results can still be produced and made available for review by Owners.
- d. If additional motions are made during the meeting, the time to process and make results available will be within minutes rather than potentially a hour or more.
- e. Ensure each owner vote is counted. An owner could not leave the meeting and give the device to another owner to cast their vote.

Conclusion:

The proposed legislation provides for electronic voting devices as well as providing a requirement for reasonable procedures for security and integrity. Electronic voting is more accurate, more secure, and timelier than the use of paper ballots. The legislation will not be mandatory, each association can decide for themselves if they prefer to use technology that already exists. This legislation simply provides more options to improve the election and voting process.

CAI LAC ask that you approve SB1288 SD1.

If you require any additional information, your call is most welcome. I may be contacted via phone: 566-4107 or by e-mail: Jonathan@touchstoneproperties-hawaii.com. Thank you for the opportunity to present this testimony.

Sincerely,



Jonathan Billings,
Community Associations Institute
Legislative Action Committee
Delegate

SB-1288-SD-1

Submitted on: 3/25/2019 12:17:54 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Glenn S. Horio	Anderson Lahne & Fujisaki	Support	No

Comments:

Dear Representative Luke, Chair, Representative Cullen, Vice Chair, and Members of the Committee:

I support S.B. 1288, S.D.1. It often takes a great deal of time to count ballots at elections held at condominium association annual meetings. This is especially true for condominium associations that have numerous different common interests allocations and/or where more than one election must be held because directors are elected by class. Electronic voting devices will not only speed up the election process, but such devices should help to ensure the accuracy of the vote count.

Respectfully submitted,

Glenn S. Horio

SB-1288-SD-1

Submitted on: 3/25/2019 3:01:12 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Agena	Hawaiian Properties, Ltd.	Support	No

Comments:

Electronic voting would greatly speed up the vote counting process and eliminate most vote counting errors (hand counting ballots, calculating the common area percentages, interpreting owner's handwriting, etc.). This bill would benefit large Associations or Associations with numerous unit percentages. As written, this bill would give Association another option, it is not mandatory.

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Submitted on: 3/25/2019 4:29:19 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Associa	Support	No

Comments:

This Bill simply allows large associations to voluntarily use modern electronic voting devices to improve the speed to tabulate votes accurately.

SB-1288-SD-1

Submitted on: 3/25/2019 1:00:20 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dante K. Carpenter	Individual	Support	No

Comments:

The Honorable Chair Rep. Luke, V. C. Rep. Cullen, and Committee Members:

My name is Dante Carpenter. I have been an elected member of the Board of Directors for Country Club Village, Phase 2 (469 Unit Condominium), in the Moanalua-Salt Lake Area for over 20 years.

I am in support of SB 1288 SD1. Having participated in many elections, I am well aware of the inordinate amount of time required to tally ballots at condominium association annual meetings. This is especially true of associations with numerous different common interests allocations and/or where more than one election must be held because directors are elected by class. Electronic voting devices will definitely help speed up the election process, and should help insure the accuracy of the vote count, as well!

Respectfully submitted,

Dante
Carpenter
ector, AOAOCV2

Dir

SB-1288-SD-1

Submitted on: 3/25/2019 11:55:58 AM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Anderson	Individual	Support	No

Comments:

Dear Representative Luke, Chair, Representative Cullen, Vice Chair, and Members of the Committee:

I support S.B. 1288, S.D.1. It often takes a great deal of time to count ballots at elections held at condominium association annual meetings. This is especially true for condominium associations that have numerous different common interests allocations and/or where more than one election must be held because directors are elected by class. Electronic voting devices will not only speed up the election process, but such devices should help to ensure the accuracy of the vote count.

Respectfully submitted,

M. Anne Anderson

SB-1288-SD-1

Submitted on: 3/25/2019 12:08:19 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Philip L. Lahne	Individual	Support	No

Comments:

Dear Representative Luke, Chair, Representative Cullen, Vice Chair, and Members of the Committee:

I support S.B. 1288, S.D.1. It often takes a great deal of time to count ballots for motions and elections at condominium association annual and special meetings. This is especially true for condominium associations that have numerous different common interest allocations and/or where more than one election must be held because directors are elected by class, or if multiple votes must be taken before all positions are filled. Electronic voting devices will not only speed up the voting process, but such devices should help to ensure the accuracy of the vote count and the need for tellers to laboriously hand count and tabulate paper ballots.

Respectfully submitted,

Philip L. Lahne

SB-1288-SD-1

Submitted on: 3/25/2019 2:39:15 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Philip Nerney	Individual	Support	No

Comments:

SB 1288 SD1 enables, but does not require, electronic voting; provided that sufficient security and integrity safeguards are in place. Electronic voting is technologically feasible and will be desirable for some condominiums. Enabling legislation is welcome and wanted.

SB-1288-SD-1

Submitted on: 3/25/2019 6:12:49 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan P. Armstrong	Individual	Support	No

Comments:

SB-1288-SD-1

Submitted on: 3/25/2019 7:43:22 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sandie Wong	Individual	Support	No

Comments:

I am a condo owner and a member of a condo Board. I support this bill.

LATE

SB-1288-SD-1

Submitted on: 3/26/2019 3:07:05 PM
Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Paul A. Ireland Koftinow	Individual	Support	No

Comments:

Dear Representative Luke, Chair, Representative Cullen, Vice Chair, and Members of the Committee:

I support S.B. 1288, S.D.1. It often takes a great deal of time to count ballots at elections held at condominium association annual meetings. This is especially true for condominium associations that have numerous different common interests allocations and/or where more than one election must be held because directors are elected by class. Electronic voting devices will not only speed up the election process, but such devices should help to ensure the accuracy of the vote count.

Respectfully submitted,

Paul A. Ireland Koftinow

LATE

SB-1288-SD-1

Submitted on: 3/27/2019 12:01:39 PM

Testimony for FIN on 3/27/2019 2:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
R Laree McGuire	Individual	Support	No

Comments: