

Honolulu, Hawaii

FEB 11 2016

RE: S.B. No. 2242  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred  
S.B. No. 2242 entitled:

"A BILL FOR AN ACT RELATING TO ELECTIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit any person, other than the voter, from wilfully exhibiting the voter's ballot or the voter's unvoted ballot in a special primary or primary election after the ballot has been marked, except under certain circumstances; and
- (2) Preserves the right for any voter to exhibit the voter's own marked ballot electronically or digitally to other persons, subject to certain conditions.

Your Committee received comments on this measure from the  
Office of Elections.

Your Committee finds that the prevalence of electronic mobile devices and social media applications and platforms increases the opportunities for people to display their marked ballot via social media. This measure clarifies that voters may disseminate images of their own ballots electronically or digitally.

Your Committee notes the comments from the Office of  
Elections that it may not be appropriate to amend section 11-137,



Hawaii Revised Statutes (HRS), because this section relates to the operation of a polling place. This measure would exempt a voter from the prohibitions against wilfully exhibiting the voter's own ballot in the polling place and leaving the polling place with the voter's own ballot before casting the ballot. The Office of Elections testified that these prohibitions are meant to prevent voters from declaring at the polling place how they voted and encouraging others in the polling place to vote in the same way.

Accordingly, your Committee has amended this measure by adopting the language suggested by the Office of Elections that deletes the language amending section 11-137, HRS, and inserts language that adds a new section to chapter 11, HRS, to:

- (1) Allow a voter to distribute or share an electronic or digital image of the voter's own marked ballot via social media or other means;
- (2) Establish that distributing or sharing the image of a voter's own marked ballot is not a defense for any election offense; and
- (3) Make a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2242, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2242, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary and  
Labor,

  
GILBERT S.C. KEITH-AGARAN, Chair



The Senate  
 Twenty-Eighth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>SB 2242</b>	Committee Referral: <b>JDL</b>	Date: <b>2/2/11</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
SLOM, Sam				✓
<b>TOTAL</b>	<b>5</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original    Yellow    Pink    Goldenrod File with Committee Report    Clerk's Office    Drafting Agency    Committee File Copy				

\*Only one measure per Record of Votes