



House Judiciary Committee
Chair Karl Rhoads, Vice Chair Joy San Buenaventura

Thursday 2/12/2015 at 2:00 PM in Room 325
HB612 Relating to Elections

TESTIMONY OF SUPPORT
Carmille Lim, Executive Director, Common Cause Hawaii

Dear Chair Rhoads, Vice Chair San Buenaventura, and members of the House Judiciary Committee:

Common Cause Hawaii supports HB612, which would essentially prevent releasing ballot counts until all precincts are closed.

Two hurricanes (which were then recategorized as tropical storms) were set to hit Hawaii on primary election day – August 9, 2014. The Puna area of Hawaii Island was expected to be impacted the hardest by the storms. As a result, voting and two precincts in the Puna area were postponed. Meanwhile, election results for all races were released primarily election evening, which we believe undermined the outcome of our elections by influencing how certain candidates campaigned, and influencing how remaining voters cast their ballots.

In particular, the August 9, 2014 ballot results showed a narrow margin between the two Democratic party U.S. Senate candidates. The following week, both candidates were seen heavily campaigning in Puna. This included both candidates hosting their own “relief” efforts for citizens affected by the storms. By knowing their current status with voters, these candidates were given an unfair advantage to target their campaigns specifically toward the districts.

Releasing ballot results “early” also skews votes in another way: a voter may feel pressure to vote a certain way based on the viability on a candidate. S/he may also simply choose not to vote if the results are not to her/his liking.

AMENDMENT

We ask the committee to consider amending the bill to specify that **ballots should not be counted until a postponed precinct is closed**. This would prevent any potential ballot result “leaks” to the public.

To ensure fairness in our elections, and preserve its integrity, we must ensure that ballot results are not released until all votes are cast and all precincts are closed.

Thank you for the opportunity to offer testimony **supporting HB612**.



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COMMITTEE ON JUDICIARY
Thursday, February 12, 2015, 2:00 p.m., Room 325

HB 612 RELATING TO ELECTIONS
TESTIMONY

Janet Mason, Co-Chair, Legislative Committee, League of Women Voters of Hawaii

Chair Rhoads, Vice-Chair San Buenaventura, and Committee Members:

The League of Women Voters of Hawaii supports HB 612 which would prohibit the public disclosure of voting results from every precinct for any ballot contest or question affected by the postponement, until the closing of the polls for the postponed election.

Postponement of elections because of weather or other emergencies is not a hypothetical concern, as the dramatic postponement of the primary elections in Puna last summer demonstrated. At the outset of the 2014 primary election in Puna the Democratic primary race for the United States Senate was extremely close, demonstrating dramatically that “**every vote counts.**” Any reasonable person knows that such emergencies are inevitable and that we can learn from this event so that we are better prepared in the future.

The League has testified at the Election Commission that we already have a reasonable 21 day window in which to postpone and reschedule an election because of an emergency. We have also testified in strong support of SB 243 which would make clear which government official has the authority to determine whether to postpone an election or vote by absentee ballot in an election affected by a natural disaster. We sincerely hope SB 243 will be passed this year, so that this aspect of election preparedness is resolved.

The way we vote is changing. The League expects and supports statewide voting by mail in Hawaii. HB 612 can complement other election reforms currently underway. For this reason, we suggest an amendment to the bill in section (3) to indicate that the disposition of votes cast shall not be disclosed to the public “until voting for the postponed election has concluded.” That way, if there were no physical polls in the affected precincts or districts, election results could still be disclosed after the conclusion of voting.

It is true that the public has a right to prompt disclosure of the outcome of elections. This bill would permit the disclosure of election results for any candidate or question that does not appear on the ballots for precincts where an election was postponed. This appears to satisfy the reasonable expectation for prompt disclosure of most election results most of the time.

Ballot counting could begin as soon as ballots from postponed elections are received. But we agree that it can discourage voting in the precincts affected by a postponement if the outcome of that election is announced before voting has concluded in the districts postponed because of an emergency. For this reason we support the bill.



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We urge you to pass this bill. Thank you for the opportunity to submit testimony.



Committee: Committee on Judiciary
Hearing Date/Time: Thursday, February 12, 2015, 2:00 p.m.
Place: Conference Room 325
Re: Testimony of the ACLU of Hawaii **With Comments On H.B. 612,**
Relating to Elections

Dear Chair Rhoads and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes with comments on H.B. 612, Relating to Elections. At this time, the ACLU of Hawaii does not take a position on the content of the bill as currently written. However, the ACLU of Hawaii **strongly recommends amendments to Hawaii Revised Statutes (“HRS”) § 11-92.3 that better protect voters during and after natural disasters.** The Committee may wish to consider language in **S.B.243** (currently under consideration by the Senate Committee on Judiciary and Labor) Relating to Elections, in addition to testimony submitted thereto by the ACLU of Hawaii.

After Hurricane/Tropical Storm Iselle in August 2014, many voters in Hawai‘i County were denied the opportunity to cast their ballots in the primary election. The ACLU of Hawai‘i filed a case in the Hawai‘i Supreme Court, *Lathers v. Abercrombie*, asking the Court to address the deprivation of the fundamental right to vote. The Court declined to exercise jurisdiction over the case, which highlights the need for legislative action to ensure that the right to vote is both protected and preserved in the event of a future emergency or natural disaster.

Thank you for this opportunity to testify.

Daniel M. Gluck
Legal Director
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

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