

Honolulu, Hawaii

APR 07 2017

RE: H.B. No. 1401
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Ways and Means, to which was referred H.B. No. 1401, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ELECTIONS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require all elections to be conducted by mail beginning with the 2020 primary election;
- (2) Establish procedures to conduct elections by mail, including requirements for ballots, replacement ballots, deficient return of ballots, electronic transmission of ballots under certain conditions, ballot counting, and election expenses and responsibilities;
- (3) Establish a limited number of voter service centers to receive personal delivery of mail-in ballots, accommodate voters with special needs, offer same day registration and voting, and provide other election services;
- (4) Allow for additional places of deposit for personal delivery of mail-in ballots;



- (5) Make conforming amendments to existing laws relating to elections to reflect and implement an election by mail system, including the laws relating to voter registration, precinct officials and watchers, election proclamations, postponement of elections due to natural disasters, ballots, voting procedures, ballot counting and election results;
- (6) Make conforming amendments to existing laws relating to absentee voting;
- (7) Appropriate funds for the preparation for and implementation and administration of elections by mail; and
- (8) Require the Office of Elections to submit a report to the Legislature prior to the convening of each Regular Session from 2019 to 2023, regarding the implementation and administration of the election by mail program.

Your Committees received testimony in support of this measure from the Office of Elections; Office of Hawaiian Affairs; Office of the City Clerk, City and County of Honolulu; Office of the County Clerk, County of Hawai'i; Office of the County Clerk, County of Kaua'i; Office of the County Clerk, County of Maui; League of Women Voters of Hawaii; Common Cause Hawaii; Americans for Democratic Action Hawai'i; Planned Parenthood Votes Northwest and Hawaii; and thirty-seven individuals. Your Committees received testimony in opposition to this measure from one individual. Your Committees received comments on this measure from the Disability and Communication Access Board and two individuals.

Your Committees find that the trend in Hawaii has been toward increased mail-in voting and that shifting to elections by mail would significantly reduce the logistical issues related to conducting elections. This measure uniformly implements an election by mail voting system for all elections beginning with the 2020 primary election.

Your Committees note that S.B. No. 334, S.D. 2 (Regular Session of 2017) contains language that is substantially similar to this measure, except for the following provisions of particular note, which:



- (1) Allow any election to be conducted by mail prior to the 2020 primary election, in whole or in part, as determined by the chief election officer or county clerk, as appropriate;
- (2) Clarify that the county clerks are primarily responsible for voting operations at voter service centers and places of deposit;
- (3) Delete references to "precinct" and replace them with "district" or "area", when appropriate;
- (4) Repeal language that would have had the inadvertent effect of requiring any person registering to vote at a voter service center before or on election day to affirm that the person will not vote in that election;
- (5) Delete references to "precinct official" and replace them with "election official", when appropriate;
- (6) Delete the section that would have repealed section 15-4, Hawaii Revised Statutes, relating to the request for an absentee ballot; and
- (7) Require the Office of Elections' reports to the Legislature to include any developments in assistive technology that may be implemented to ensure that persons with disabilities are not, on the whole, disadvantaged by the implementation of the election by mail program, including the costs associated with such technology.

Your Committees further note that this measure includes a blank appropriation for fiscal year 2018-2019, and that part of the sum appropriated is required to be distributed by the Office of Elections to each county for expenditure to begin implementation of voting by mail. To date, however, your Committees have not received detailed estimates or cost breakdowns from the Office of Elections or any of the counties of the amounts these offices will require to begin implementation during that period of time and subsequent years. Your Committees finally note that it is important to receive in advance as much information as



possible concerning the associated costs for not only public awareness and education, but also for any new facilities, equipment, processing services, software, and other items that may be necessary. Therefore, your Committees request that the Office of Elections submit estimates and cost breakdowns for the implementation of a vote by mail system as this measure moves through the legislative process.

Accordingly, your Committees have amended this measure by deleting its contents and inserting the contents of S.B. No. 334, S.D. 2 (Regular Session of 2017), and amending the language further by:

- (1) Making technical, nonsubstantive amendments to:
 - (A) Amend section 1 to accurately describe the components of the measure;
 - (B) Clarify that to cast a valid ballot, the voter is required to return the ballot by mail or electronic transmission, under certain circumstances, or by personal delivery to any voter service center no later than the closing hour, rather than closing time, provided in section 11-131, Hawaii Revised Statutes;
 - (C) Clarify the deadlines to cast a voted replacement ballot requested by electronic transmission via electronic transmission, mail, or personal delivery to any place of deposit or voter service center;
 - (D) Make additional conforming amendments regarding references to "precinct" and "polling place", when appropriate, and to distinguish the duties and responsibilities between the Chief Election Officer and county clerk with respect to proclamations, voter service centers, and watchers, when appropriate;
 - (E) Clarify the hours of voting at voter service centers under section 11-131, Hawaii Revised Statutes;



- (F) Make a conforming amendment to section 11-152, Hawaii Revised Statutes;
 - (G) Clarify the deadline by which absentee ballots are required to be delivered at a voter service center; and
 - (H) Repeal the definition of "absentee polling place" under section 15-1, Hawaii Revised Statutes, and repeal section 15-8, Hawaii Revised Statutes, relating to absentee ballot boxes, to reflect the amendments that replace absentee polling places with voter service centers;
- (2) Adding language to allow voters with special needs to request a ballot to be forwarded by electronic transmission;
 - (3) Inserting an effective date of January 1, 2020, and clarifying that nothing shall preclude the Chief Election Officer and the county clerk of a county from determining that an election may be conducted by mail, in whole or in part, using the procedures and facilities specified in section 2, beginning on January 1, 2018; and
 - (4) Making other technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1401, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1401, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Labor and Ways and Means,



JILL N. TOKUDA, Chair



GILBERT S.C. KEITH-AGARAN, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB 1401 HDI	Committee Referral: JDL/WAM	Date: 3/30/17
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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
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Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
TOTAL	5	0	0	0

Recommendation: Adopted Not Adopted

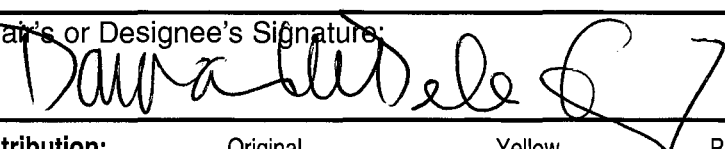
Chair's or Designee's Signature: *Kal Brook*

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*Only one measure per Record of Votes

The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* HB 1401, HD1	Committee Referral: SDL/WAM	Date: 3/30/17		
<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
TOKUDA, Jill N. (C)	/			
DELA CRUZ, Donovan M. (VC)	/			
ENGLISH, J. Kalani				/
GALUTERIA, Brickwood	/			
HARIMOTO, Breene	/			
INOUE, Lorraine R.	/			
KAHELE, Kaiali'i				/
RIVIERE, Gil	/			
SHIMABUKURO, Maile S.L.	/			/
TANIGUCHI, Brian T.	/			
WAKAI, Glenn	/			
TOTAL	8			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes