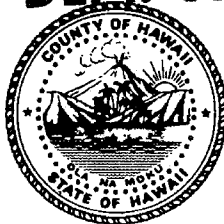


KENNETH G. GOODENOW
County Clerk

DEPT. COMM. NO. 59



RODNEY OSHIRO
Deputy County Clerk

Mailing Address:
(Former County Building)
25 Aupuni Street
Hilo, Hawai'i 96720

Business Address:
333 Kilauea Avenue, Second Floor
Ben Franklin Building
Hilo, Hawai'i 96720

County of Hawai'i
Office of the County Clerk

Telephone: (808) 961-8255 Facsimile: (808) 961-8912

February 2, 2009

The Honorable Colleen Hanabusa
President of the Senate
State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Senator Hanabusa:

As directed in Resolution 29-09 (Draft 2), which was adopted by the Council of the County of Hawai'i on January 23, 2009, I am forwarding a certified copy.

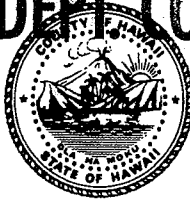
Yours very truly,

Kenneth G. Goodenow
County Clerk

KGG/dt

Enclosure

COUNTY OF HAWAI'I



STATE OF HAWAI'I

RESOLUTION NO. 29 09

(DRAFT 2)

A RESOLUTION REQUESTING THE LEGISLATURE OF THE STATE OF HAWAI'I TO ENACT A BILL TO ESTABLISH A PILOT PROGRAM FOR VOTE BY MAIL FOR ALL FEDERAL, STATE, AND COUNTY PRIMARY, GENERAL, AND SPECIAL ELECTIONS IN THE COUNTY OF HAWAI'I, AND TO MAKE AN APPROPRIATION FOR THIS PILOT PROGRAM.

WHEREAS, the State of Hawai'i has historically one of the lowest voter turnouts in the country, and additionally, in 2006, the County of Hawai'i had 173,057 residents and 131,203 residents who were 18-years-of-age or older (76% of the population), but only 42.6% of the registered voters voted; and

WHEREAS, in Hawai'i County, the percentage of voters in the Primary Election consistently dropped from a high of 88.6% in 1959 to 41.8% in 2008, and the percentage of voters for the General Election consistently dropped from a high of 94.3% in 1959 to 67.7% in 2008 with the lowest year being 2006 at 53.2%. In 2008, Hawai'i County had 99,337 registered voters, but only 67,258 actually voted (67.7%) in the General Election which was also a presidential election year; and

WHEREAS, absentee ballots (combination of mail-in and walk-in) in Hawai'i County Primary Elections have increased from 1988 (9.8%) through 2008 (40.2%). Absentee ballots in Hawai'i County General Elections have increased from 9.3% in 1988 to 43.0% in 2008; and

WHEREAS, Oregon has had Vote By Mail elections since 1998. The 2004 Oregon election was one of the most contentious and closely scrutinized elections in Oregon history, and Oregon had the third highest voter turnout in the nation at 86.48% of registered voters. Of the five states with the highest voter turnout in 2004, Oregon was the only state without same-day voter registration. In 2008, Oregon achieved 85.7% voter turnout; and

WHEREAS, Vote By Mail maximizes voter convenience because voters do not have to stand in lines at the polls, take time off from work, drive in bad weather to precincts, wait for their turn at a limited number of polling booths, or have an illness or personal emergency on Election Day that prevents them from voting; and

WHEREAS, fraud can be protected against by utilizing the Vote By Mail program used in Oregon, to which every signature is verified to ensure that that voter is who they claim to be; and

I HEREBY CERTIFY that above is a true and correct copy of the original now on file in my office.

County Clerk

WHEREAS, Vote By Mail improves accuracy of voter rolls because mailed ballots are not forwarded by the United States Postal Service but are returned to the county office of elections where voter rolls are accurately kept without the risk of inappropriate purges; and

WHEREAS, Vote By Mail improves uniformity because there is centralized supervision of ballot processing in the county office of elections, instead of in dispersed polling places. This maintains uniformity and strict compliance with law; and

WHEREAS, Vote By Mail promotes voter confidence by providing a paper trail where the accuracy and fairness of election results are provable, and the ballots can be recounted, by hand if necessary, to prove to voters that each and every vote was properly counted; and

WHEREAS, Vote By Mail can cost one-third less than polling place elections for the County of Hawaii, due to the decrease in cost of training and employment of officials for 67 precincts; and

WHEREAS, Vote By Mail increases voter participation even in small local elections where increased turnouts were seen when voters are provided with an easy and convenient way to vote. With several weeks in which to conduct get-out-the-vote activities, every citizen will be reminded to mail their ballot in plenty of time; and

WHEREAS, Vote By Mail creates a significant gain in informed voting because voters can do their research and think about choices while sitting at home with their Voters' Pamphlet and any other information that they want to use to make reasoned decisions; and

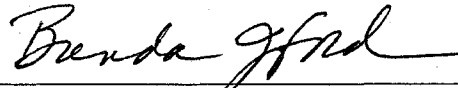
WHEREAS, change often frightens people and the fear of extending the potential of voting to a larger voting population increases fear. While it is the business of government to empower more people to vote, Professor James D. Moore, a professor of political science at the University of Portland said, "Controlling who votes is fundamental in politics... every change made to election rules alters to some degree, the voting population... That's why, throughout our country's history, 'blood has been shed' over extending the vote---to women, to blacks, to 18-year-olds and to the poor." The poorest people in Hawai'i county may not have transportation to the precincts; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI'I that the Legislature of the State of Hawai'i is requested to create a pilot program for all federal, state, and county primary, general, and special elections based on the State of Oregon Vote By Mail program as the exclusive method for casting ballots in the County of Hawai'i beginning with the 2010 Primary election and all other elections in the year 2010, all elections in 2012, and continuing through all elections including the General Election in 2014, if feasible or as soon as possible thereafter. This provides three full election cycles in which to determine the advantages of Vote By Mail in the County of Hawai'i; and

BE IT FINALLY RESOLVED that the County Clerk shall forward certified copies of this Resolution, together with the proposed bill marked as Exhibit "A-1", Absentee Ballot Statistics marked as Exhibit "B", and a copy of the current State of Oregon "*Vote By Mail Procedures Manual*" marked as Exhibit "C" to the Mayor of the County of Hawai'i, to the Chairperson of the Hawai'i State Senate, and to the Chairperson of the State House of Representatives, and to the Chief Election Officer for the State of Hawai'i.

Dated at Kona, Hawai'i, this 23rd day of January, 2009.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

COUNTY COUNCIL
County of Hawai'i
Hilo, Hawai'i

I hereby certify that the foregoing RESOLUTION was by the vote indicated to the right hereof adopted by the COUNCIL of the County of Hawai'i on January 23, 2009.

ATTEST:

 
COUNTY CLERK CHAIRPERSON & PRESIDING OFFICER

ROLL CALL VOTE

	AYES	NOES	ABS	EX
ENRIQUES		X		
FORD	X			
GREENWELL	X			
HOFFMANN	X			
IKEDA		X		
NAEOLE	X			
ONISHI		X		
YAGONG	X			
YOSHIMOTO		X		
	5	4	0	0

Reference: C-61.10/Waived PWIRC
RESOLUTION NO. 29 09 (Draft 2)

Report Title:

Voting; Vote by Mail

Description:

Establishes a Vote By Mail election program for all federal, state, and county primary, general, and special elections in the County of Hawai'i. Makes appropriation for a pilot program.

THE SENATE

TWENTY-____ LEGISLATURE, 2009

STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

relating to voting.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF
HAWAII:**

SECTION 1. In the 2004 presidential election, 19,117 (21.8%) voters cast absentee ballots in Hawai'i County. In the 2008 presidential election, a record number of voters cast absentee ballots (29.1%) in Hawai'i County. This trend demonstrates that more voters are finding Vote By Mail to be an easier option than voting at the polls on the day of the election.

Other states, such as Oregon (entire state) and Colorado (37 of 39 counties), have used Vote By Mail as the exclusive method for casting ballots. From their experience with Vote By Mail, these states have found that:

- (a) Vote By Mail increases voter participation because it makes it easier for people to vote; and
- (b) Vote By Mail increases voter convenience because weather, natural disasters, driving, cost of gasoline, work, child care, illness, and long lines are no longer an issue; and
- (c) Vote By Mail increases confidence in the accuracy and fairness of election results because there is as a paper ballot that is verifiable and may be audited; and

- (d) Vote By Mail reduces fears of fraud because the county office of elections will verify the signature of every voter before the ballot is opened or counted, and
- (e) Vote By Mail improves accuracy in the general county register because mailed ballots are not forwarded by the post office but are returned to the county office of elections; therefore, the general county register is kept accurately without the risk of inappropriate purges; and
- (f) Vote By Mail maintains uniformity because centralized supervision of ballot processing in strict compliance with the law; and
- (g) Vote By Mail allows voters to keep their ballots for a longer period of time to study their choices and to research their questions before casting their votes; and
- (h) Vote By Mail is cost effective because there is a reduced number of precinct officials, less training of precinct officials and captains, and lower lease costs for expensive electronic equipment.

The purpose of this Act is to establish a Vote By Mail pilot program in the County of Hawai'i to be utilized as the exclusive means of casting a ballot for a federal, state, and county primary, general, or special election.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"Chapter __

Vote By Mail

§ -1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Ballot" shall have the same meaning as defined in HRS section 11-1.

"Ballot package" means a nonforwardable, mailed package containing: an official ballot, a return identification envelope, a secrecy envelope, a Voters' Pamphlet, instructions on Vote By Mail and any other information that the county office of elections official deems appropriate.

"Chief election officer" means the individual defined in HRS section 11-1.

"County" shall have the same meaning as defined in HRS section 11-1.

"Drop site" means a location where a ballot may be returned in person without postage.

"Election" shall have the same meaning as defined in HRS section 11-1.

"Official observer" means an individual designated by the chief elections officer of the state or the county clerk to observe the election process in the counting center.

"Vote By Mail" means an election conducted exclusively by mail.

"Voter" shall have the same meaning as defined in HRS section 11-1.

"Voters' Pamphlet" means a printed insert provided by the county clerk that contains a concise, impartial explanation of each question or ballot measure and its major effects, and a single, concise pro and con statement of less than 250 words each. Candidates for elected office are not included in the Voters' Pamphlet.

§ -2 Vote By Mail; determination. (a) Vote By Mail elections shall be conducted by the chief election officer as a pilot project for all federal, state, and county primary, general, and special elections based on the State of Oregon Vote By Mail program for the County of Hawai'i as the exclusive method for casting ballots in the County of Hawai'i beginning with the 2010 Primary election and all other elections in the year 2010, all elections in 2012, and continuing through all elections including the General Election in 2014.

(b) The chief election officer shall provide notice pursuant to HRS section 1-28.5 no later than sixty days before the election in two daily newspapers in the County of Hawai'i, that a Vote By Mail election shall be conducted and the only precincts open on the day of the election shall be the multiple county offices of elections sites. There shall be a dropsite at all of the county office of elections and a minimum of additional dropsites throughout the county to equal one dropsite for approximately 20,000 registered voters. (The total number of dropsites, including the offices of elections, shall be the approximate number of registered voters divided by 20,000.) This information shall also be published and mailed to each voter with the ballot package.

(c) The Direct Record Electronic voting machines will be located at the offices of elections sites for use by voters meeting requirements under the Help America Vote Act (HAVA).

§ -3 Procedures for conducting Vote By Mail. (a) Except as provided in subsections (b) and (c), the county clerk shall mail by nonforwardable mail to each registered voter between thirty-five days and twenty-one days before the date of the election:

- (1) An official ballot;
- (2) A return identification envelope that shall be printed with the monetary amount of postage to be applied to the envelope by the voter and a message: "To return ballot by mail, voter must apply \$ __ postage."
 - (A) a bar code containing sufficient voter information from the general county register to identify that voter without opening the envelope. This will allow the county office of elections to match the voter to the general county register and verify that the signature of the voter is authentic;
 - (B) a signature box on the return identification envelope; a written warning near the signature box on the return identification envelope stating: "WARNING! Signing another person's signature to this envelope is class C felony", and an affirmation declaration: "I hereby affirm that I am the registered voter whose name is on the envelope. I am a resident of the precinct and representative

district as indicated on the envelope. I am entitled to vote. I understand that signing another person's signature is a class C felony."

(3) A secrecy envelope;

(4) An instruction sheet on how to complete Vote By Mail that includes the instruction that the ballot must be returned to a designated dropsite or a county office of elections by 6:00 p.m. on election day or the ballot will not be counted; and

(5) A voters' pamphlet that is a printed insert provided by the county clerk that contains a summary of each ballot question or measure, a concise, impartial explanation of each question or ballot measure and its major effects and a single, concise pro and con statement of less than 250 words for each ballot question or measure to be voted on.

(b) If the county clerk determines that a voter does not receive daily mail service from the United States Postal Service, the county clerk shall mail by another nonforwardable mail service the same ballot package described in section __-3 above to each registered voter between thirty-five and twenty-one days before the date of the election.

(c) If the voter requests a ballot be mailed outside of the State, the county clerk shall mail by nonforwardable mail the same ballot package described in section __-3 above to each registered voter between thirty-five and twenty-one days before the election.

(d) Upon receipt of a ballot by mail, the voter may:

(1) Mark the ballot;

(2) Sign the return identification envelope supplied with the ballot; and

(3) Comply with the instructions provided with the ballot.

(e) The voter may return the marked ballot to the county office of elections by United States Postal Service or by depositing the ballot at any dropsite designated by the county clerk. All postage for ballots returned by the United States Postal Service shall be provided by the voter.

§ -4 Voters' Pamphlet. (a) A voters' pamphlet is a printed insert provided by the county clerk that contains a summary of each ballot question or measure, a concise, impartial explanation of each question or ballot measure and its major effects, and single, concise pro and con statement of 250 or fewer words each on every ballot question or measure to be voted on.

(b) The single pro statement shall be provided by a person, organization, council member, state, or group that initiates the ballot question or measure. It shall contain a concise pro statement of 250 or fewer words. Only one pro statement shall be allowed in the voters' pamphlet.

(c) The single con statement may be written by a person, organization, council member, state, or group that opposes the ballot question or measure. It shall contain a concise con statement of 250 or fewer words. Only one con statement shall be allowed in the voters' pamphlet.

- (1) If no one chooses to write a con statement, the voters' pamphlet may be printed with the statement that "No con statement was provided" for that particular question or measure.
- (2) A maximum of one con statement shall be allowed in the voters' pamphlet.
- (3) If multiple con statements are received by the county clerk by the deadline established by the county clerk, the prosecuting attorney for the County of Hawai'i shall select three people to choose the single con statement that will be used in the voters' pamphlet.
- (d) No statement regarding a candidate for elected office shall be included in the voters' pamphlet.

§ -5 **Public notice of mailing.** Public notice of the date or dates that ballot packages are mailed, delivered, and made available shall be given by the chief election officer and all county election offices when all ballot packages have been mailed, delivered, and made available to voters. Notice shall be published in a minimum of two daily newspapers in the County of Hawai'i on the twenty-eighth and twenty-first day prior to the day of election.

§ -6 **Undeliverable ballot packages.** (a) Ballot packages that are mailed or delivered shall not be forwardable or deliverable beyond the address of the voter as shown in the general county register established and maintained by the county clerk.

(b) A ballot package that is mailed or delivered and is determined to be undeliverable by mail or other means to the voter at the address shown in the register that is established and maintained by the clerk of a county because of the death of the voter, refusal of any person living at that address, or because the voter moved and is no longer residing at that address shall be returned to the county clerk who initiated the mailing.

(c) If a voter has moved, the county clerk shall mail, deliver, or make available the ballot package to the voter after the voter has provided their new address.

§ -7 **Help America Vote Act.** Each county office of elections shall have Direct Record Electronic voting machine to assist those voters qualifying under the Help America Vote Act.

§ -8 **Replacement ballots.** (a) For Vote By Mail, a voter may obtain a replacement ballot from the county clerk if their ballot is destroyed, spoiled, lost, or not received by completing and signing a replacement ballot request form. The request for a replacement ballot may be made by mail, in person, or by other means designated by the chief election officer according to the procedures provided by the rules adopted by the chief election officer pursuant to chapter 91.

(b) Upon receipt of a request for a replacement ballot, the county clerk or a designee appointed by the county clerk shall:

- (1) The registration of the voter shall be verified and the database checked to ensure that another ballot has not been returned by the voter;

- (2) The original ballot shall be invalidated before the replacement ballot is issued.
- (3) A notation will be made in the database that the voter has requested a replacement ballot;
- (4) The return identification envelope shall be marked so that it may be identified as a replacement ballot; and
- (5) A replacement ballot will be issued.
- (6) Upon receipt of a voted replacement ballot, the county clerk or a designated appointee shall verify that a completed and signed replacement ballot request form has been received by the county clerk or is included with the voted replacement ballot. If a request form has been completed and signed by the voter and received by the county clerk, the county clerk or a designated appointee shall process the ballot. If the replacement ballot request form is not completed or signed by the voter or not received by the county clerk, the county clerk or a designated appointee shall not process the ballot.

§ -9 Verification of signatures. (a) Verification of signatures may begin immediately from the time that ballots are mailed to registered voters.

(b) Signature verification may be made electronically, visually, or by both methods.

(c) When a ballot has been returned by the voter and the signature is validated, the ballot is accepted. The ballot is included in the database for the election. If the return identification ballot envelope is unsigned and is returned to the voter for signature, the ballot is not received until the signed envelope is returned.

(d) Automated reports and computer programs may be used for the master list and for logs tracking reissued, replacement, and challenged ballots.

(e) Reissued and replacement ballots must be identified to ensure only the correct ballot is being counted.

(f) Challenged ballots must be processed separately.

(g) Check for valid signatures.

- (1) Compare voter's signature on the return ballot identification envelope to the signature on the voter's registration affidavit.
- (2) If the signature verification clerk is able to determine that the same person signed the return identification ballot envelope and the voter registration affidavit, the ballot may be processed.

- (3) If the signature does not match the voter registration affidavit and if it appears that another individual has signed for the registered voter on the ballot identification envelope, the ballot is invalidated.

§ -10 Counting of ballots. (a) For Vote By Mail, the method of preparation for counting ballots may begin at any time before the day of election. Preparation may include removal of the outer, return identification envelope, sorting by precinct, etc. The preparation shall not include removal of the secrecy envelope until seven days prior to the day of election.

(b) There shall be provision made to allow for attendance by official observers during all ballot processes. The county office of elections official will determine the number of official observers based on space and staff availability. One official observer may be selected from each qualified political party and other civic-minded groups as allowed by HRS statutes.

(c) In the presence of official observers, counting center employees may start to count the ballots on the day of the election. All handling and counting of the mailed-in ballots shall be according to the procedures provided by the rules adopted by the chief election officer pursuant to chapter 91.

(d) A mailed ballot shall be counted only if:

- (1) It reaches an official dropsite by 6:00 p.m. on the day of election to be transported to the county clerk or counting center employees;
- (2) It is received by mail by the county clerk not later than 6:00 p.m. or transport from a designated dropsite where the ballot was received on the day of the election. The refusal to receive ballots after 6:00 p.m. on the day of the election or tally the ballots may only be suspended with prior approval of the chief elections officer in an emergency situation;
- (3) It is received in the return identification envelope;
- (4) The return identification envelope is signed by the voter to whom the ballot is issued and verified according to the procedures provided by the rules adopted by the chief election officer pursuant to chapter 91. A faxed or emailed signature shall not be accepted for an unsigned return identification envelope; and
- (5) The signature of the voter is verified pursuant to section __ - 8.

§ -11 Contests for cause. (a) A contest for cause may be filed with respect to any election per HRS section 11-172.

(b) Contests for cause in primary, special primary elections, and county elections shall follow procedures described in HRS section 11-173.5.

(b) Contests for cause in general, special general, special, and runoff elections shall follow procedures described in HRS section 11-174.5.

§ -12 **Certification of the election.** Pursuant to HRS section 11-155, 11-173.5, and 11-174.5, certification of the election by the county clerk shall occur after the expiration of the time for bringing an election contest or the resolution of such an election contest. In the County of Hawai'i, certification of an election shall occur within ten (10) days after the later of either of the two aforementioned events.

§ -13 **Elections Fraud and Voter Fraud** (a) Elections fraud as described in HRS section 19-3, Election Frauds is prosecutable as a class C felony.

(b) Voter fraud as described in HRS section 19-3.5 is a class C felony."

SECTION 3. Section 11-91.5, Hawaii Revised Statutes, is amended by adding subsection (e) to read as follows:

"(e) Any federal, state, county or special election in the County of Hawai'i may be conducted by mail as provided in chapter ____."

SECTION 4. There is appropriated out of the general revenues of the State of Hawai'i the sum of \$, or so much thereof as may be necessary for fiscal years 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 for the purpose of implementing and administering the Vote By Mail pilot program in the County of Hawai'i.

SECTION 5. The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 6. This Act shall take effect on July 1, 2009.

**COUNTY OF HAWAII
ABSENTEE BALLOT STATISTICS**

Primary Election										
Year	Tot. Reg. Voters	Voter Turnout	% Voter Turnout	Total AB Mail-in	% Voters	Total AB Walk-in	% Voters	Total AB Vote	Total AB Vote %	Note
1988	49,510	32,921	66.5	876	2.7%	2,356	7.2%	3,232	9.8	*
1990	53,604	39,347	73.4	1,225	3.1%	3,454	8.8%	4,679	11.9	
1992	58,331	41,296	70.8	1,952	4.7%	4,614	11.2%	6,566	15.9	
1994	61,224	36,377	59.4	1,868	5.1%	5,302	14.6%	7,170	19.7	
1996	69,530	38,648	55.6	2,308	6.0%	6,602	17.1%	8,910	23.1	
1998	75,205	38,988	51.8	2,316	5.9%	6,868	17.6%	9,184	23.6	*
2000	83,052	36,027	43.4	2,458	6.8%	6,941	19.3%	9,399	26.1	
2002	88,499	35,647	40.3	3,802	10.7%	7,702	21.6%	11,504	32.3	
2004	85,183	33,324	39.1	5,241	15.7%	7,308	21.9%	12,549	37.7	*
2006	90,402	38,546	42.6	7,152	18.6%	8,171	21.2%	15,323	39.8	
2008	95,829	40,017	41.8	7,708	19.3%	8,374	20.9%	16,082	40.2	
General Election										
Year	Tot. Reg. Voters	Voter Turnout	% Voter Turnout	Total AB Mail-in	% Voters	Total AB Walk-in	% Voters	Total AB Vote	Total AB Vote %	
1988	52,221	44,195	84.6	1,549	3.5%	2,574	5.8%	4,123	9.3	
1990	55,940	44,799	80.1	1611	3.6%	3,122	7.0%	4,733	10.6	
1992	62,023	52,529	84.7	2,639	5.0%	4,797	9.1%	7,436	14.2	*
1994	63,677	48,907	76.8	3626	7.4%	5,689	11.6%	9,315	19.0	
1996	71,270	50,464	70.8	4,290	8.5%	7,350	14.6%	11,640	23.1	
1998	77,726	53,658	69.0	4,032	7.5%	8,168	15.2%	12,200	22.7	
2000	84,421	51,388	60.8	11,677	22.7%	7,268	14.1%	18,945	36.9	*
2002	89,478	50,368	56.3	6,615	13.1%	8,797	17.5%	15,412	30.6	
2004	87,812	57,994	66.0	8,511	14.7%	10,606	18.3%	19,117	33.0	
2006	91,596	48,684	53.2	8,946	18.4%	8,782	18.0%	17,728	36.4	
2008	99,337	67,258	67.7	11,799	17.5%	17,107	25.4%	28,906	43.0	*

* Note: When percentages do not add to the expected number, it is due to rounding.