

1 (4) Instructions.

2 (b) Except as provided in subsections (c), (d), and (e)
3 the county clerk shall mail by nonforwardable mail a ballot
4 package to each registered voter between eighteen and fourteen
5 days before the date of the election; provided that the
6 deadlines established under chapter 15D shall apply to the
7 covered voters, as that term is defined in section 15D-2.

8 (c) If the county clerk determines that a voter does not
9 receive daily mail service from the United States Postal
10 Service, the county clerk shall mail by nonforwardable mail a
11 ballot package to the voter between twenty days and eighteen
12 days before the date of the election.

13 (d) If the voter requests that a ballot package be mailed
14 outside of the State, the county clerk shall mail by
15 nonforwardable mail a ballot package to the voter not later than
16 the twenty-ninth day before the election.

17 (e) Notwithstanding subsections (b), (c), and (d), ballot
18 packages may be delivered or made available to voters who are
19 unable to receive ballot packages by mail and who request a
20 ballot package be delivered or made available for pick-up by the
21 voter. A ballot package that is made available to a voter shall



1 be made available in a manner and by a method that will ensure
2 confidentiality as provided in section 11-14.5. The receipt of
3 the ballot package by pick-up shall be available to the voter
4 until three days before the election to enable the voter to vote
5 on or before the date of the election.

6 (f) To complete the ballot package following receipt by
7 mail, delivery, or pick-up, the voter shall:

8 (1) Mark the ballot;

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

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

12 The voter may return the marked ballot to the county clerk by
13 the United States Postal Service or by depositing the ballot at
14 any precinct designated by the chief election officer or county
15 clerk no later than the time stated in section 11-131 on the
16 date of the election.

17 **§11- Instructions.** (a) The instructions shall include
18 directions on marking the ballot, inserting the marked ballot in
19 the secrecy envelope, inserting the secrecy envelope with the
20 marked ballot in the return identification envelope, and signing
21 the return identification envelope before mailing or delivering



1 the return identification envelope containing the secrecy
2 envelope with the marked ballot.

3 (b) The instructions shall include information on election
4 fraud and voter fraud as provided in sections 19-3(5) and 19-
5 3.5, and state that a violation of either section may subject
6 the voter, upon conviction, to imprisonment, a fine, or both.

7 §11- Public notice of distribution. Public notice of
8 any date on which ballot packages are mailed, delivered, or made
9 available shall be provided by the chief election officer and
10 all county election offices when all ballot packages have been
11 mailed, delivered, and made available to voters. Public notices
12 required under this section shall be executed in accordance with
13 sections 1-28.5 and 15D-15.

14 §11- Replacement ballots. (a) A voter may obtain a
15 replacement ballot if the ballot is destroyed, spoiled, lost, or
16 not received by the clerk. To vote by replacement ballot, the
17 voter shall complete and sign a replacement ballot request form.
18 The request for a replacement ballot may be made by mail, in
19 person, or by other means in accordance with rules adopted by
20 the chief election officer.



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

(1) Verify the registration of the voter and ensure that another ballot has not been returned to the voter;

(2) Note on the list of registered voters that the voter has requested a replacement ballot;

(3) Mark the return identification envelope so that it may be identified as a replacement ballot; and

(4) Issue a replacement ballot.

§11- Counting of ballots. (a) The method of preparing ballots for counting may begin no sooner than the seventh day before the election. 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 conducted in accordance with procedures prescribed by the chief election officer by rule.

(b) A mailed ballot shall be counted if:

(1) It is received by the county clerk not later than the end of the period determined by the chief election officer;

(2) It is received in the return identification envelope;



1 (3) The envelope is signed by the voter to whom the ballot
2 is issued; and

3 (4) The signature of the voter is verified pursuant to
4 subsection (c).

5 (c) The county clerk, or a designee appointed by the
6 county clerk, shall verify the signature on the return
7 identification envelope in accordance with procedures prescribed
8 by the chief election officer by rule.

9 (d) Upon receipt of a marked replacement ballot, the
10 county clerk or a designated appointee shall verify that a
11 completed and signed replacement ballot request form has been
12 received by the county clerk or is included with the marked
13 replacement ballot. If a request form has been completed and
14 signed by the voter and received by the county clerk, the county
15 clerk or a designated appointee shall process the ballot. If
16 the replacement ballot request form is not completed or signed
17 by the voter or not received by the county clerk, the county
18 clerk or a designated appointee shall not process the ballot.

19 §11- Uniform Military and Overseas Voters Act;
20 application. To the extent that this part and chapter 15D
21 conflict with regard to the application of any requirement



1 established pursuant to this part to a covered voter, as that
2 term is defined in section 15D-2, chapter 15D shall govern."

3 SECTION 2. Section 11-1, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By adding a new definition to be appropriately inserted
6 and to read:

7 "Election by mail" means an election conducted principally
8 by mail."

9 2. By amending the definition of "ballot" to read:

10 "Ballot", a ballot including a ballot used in an election
11 conducted by mail and an absentee ballot, is a written or
12 printed, or partly written and partly printed paper or papers
13 containing the names of persons to be voted for, the office to
14 be filled, and the questions or issues to be voted on. A ballot
15 may consist of one or more cards or pieces of paper, or one face
16 of a card or piece of paper, or a portion of the face of a card
17 or piece of paper, depending on the number of offices,
18 candidates to be elected thereto, questions or issues to be
19 voted on, and the voting system in use. It shall also include
20 the face of the mechanical voting machine when arranged with



1 cardboard or other material within the ballot frames, containing
2 the names of the candidates and questions to be voted on."

3 3. By amending the definition of "voting system" to read:

4 "Voting system", the use of paper ballots, electronic
5 ballot cards, voting machines, voting by mail, or any system by
6 which votes are cast and counted."

7 SECTION 3. Section 11-4, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§11-4 Rules [~~and regulations~~]. The chief election
10 officer may make, amend, and repeal [~~such~~] rules [~~and~~
11 ~~regulations~~] governing elections held under this title, election
12 procedures, and the selection, establishment, use, and operation
13 of all voting systems now in use or to be adopted in the State,
14 and all other similar matters relating thereto as in the chief
15 election officer's judgment shall be necessary to carry out this
16 title.

17 In making, amending, and repealing rules [~~and regulations~~]
18 for voters who cannot [~~vote at the polls in person~~] receive or
19 return ballots by mail, and all other voters, the chief election
20 officer shall provide for voting by [~~such~~] these persons in
21 [~~such~~] a manner [~~as to insure~~] that ensures secrecy of the



1 ballot and [~~to preclude~~] precludes tampering with the ballots of
2 these voters and other election frauds. [~~Such~~] These rules [~~and~~
3 ~~regulations~~], when adopted in conformity with chapter 91 and
4 upon approval by the governor, shall have the force and effect
5 of law."

6 SECTION 4. Section 11-17, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) The clerk, not later than 4:30 p.m. on the sixtieth
9 day after every general election, shall remove the name of any
10 registered voter who did not vote in that general election, and
11 also did not vote in the primary election preceding that general
12 election, and also did not vote in the previous general
13 election, and also did not vote in the primary election
14 preceding that general election, and also did not vote in the
15 regularly scheduled special elections held in conjunction with
16 those primary and general elections, if any, with the exception
17 of:

- 18 (1) Those who submitted written requests for absentee
19 ballots as provided in section 15-4; or
20 (2) Anyone who preregistered pursuant to section 11-12(b).



1 If a person voted, at least once, in any of the above-mentioned
2 elections, the person's name shall remain on the list of
3 registered voters. For this purpose, "vote" means the
4 depositing of the ballot in the ballot box whether the ballot is
5 blank or later rejected for any reason. In the case of voting
6 machines, "vote" means the voter has activated the proper
7 mechanism and fed the vote into the machine. In the case of an
8 election by mail pursuant to part _____, "vote" means the voter
9 has returned the ballot to the chief election officer or county
10 clerk by the United States Postal Service or by depositing the
11 ballot at a precinct designated for ballot deposit by the chief
12 election officer or county clerk."

13 SECTION 5. Section 11-92.1, Hawaii Revised Statutes, is
14 amended by amending the title and subsection (a) to read as
15 follows:

16 "~~§11-92.1 Election proclamation; [establishment of a new~~
17 ~~precinct.]~~ precincts. (a) The chief election officer shall
18 issue a proclamation whenever a new precinct is established in
19 any representative district. The chief election officer, or the
20 county clerk in a county election, shall provide a suitable
21 polling place for each precinct~~[-]~~ in a general election, and



1 for not less than one location in each representative district
2 in a primary election. Schools, recreational halls, park
3 facilities, and other publicly owned or controlled buildings,
4 whenever possible and convenient, shall be used as polling
5 places. The chief election officer, or the county clerk in a
6 county election, shall make arrangements for the rental or
7 erection of suitable shelter for this purpose whenever public
8 buildings are not available and shall cause these polling places
9 to be equipped with the necessary facilities for lighting,
10 ventilation, and equipment needed for elections on any island.
11 This proclamation may be issued jointly with the proclamation
12 required in section 11-91."

13 SECTION 6. Section 11-184, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§11-184 Election expenses and responsibilities in
16 combined state and county elections. Election expenses in
17 elections involving both state and county offices shall be
18 shared as set forth below:

19 (1) The State shall pay and be responsible for:

20 (A) Precinct officials;



- 1 (B) Instruction of precinct officials when initiated
2 or approved by the chief election officer;
3 (C) Boards of registration;
4 (D) Polling place costs other than supplies:
5 installation rentals, ballot boxes, voting
6 booths, custodians, telephones, and maintenance;
7 (E) Other equipment such as ballot transport
8 containers;
9 (F) Temporary election employees hired to do strictly
10 state work; and
11 (G) Extraordinary voter registration and voter
12 education costs when approved by the chief
13 election officer.
- 14 (2) The county shall pay and be responsible for:
15 (A) Normal voter registration, voters list
16 maintenance, and all printing connected with
17 voter registration, including printing of the
18 voters list;
19 (B) Temporary election employees hired to do strictly
20 county work;



1 (C) Maintenance of existing voting machines,
2 including parts, freight, storage, programming,
3 and personnel;

4 (D) Maintenance and storage of voting devices and
5 other equipment; and

6 (E) Employees assigned to conduct absentee or voting
7 by mail polling place functions.

8 (3) The remaining election expenses shall be divided in
9 half between the State and the counties. Each county
10 will pay a proration of expenses as a proportion of
11 the registered voters at the time of the general
12 election. These expenses shall include but not be
13 limited to:

14 (A) Polling place supplies;

15 (B) All printing, including ballots, but excluding
16 printing connected with voter registration;

17 (C) Temporary election employees not including voting
18 machine programmers doing work for both the State
19 and county;

20 (D) Ballot preparation and packing; and



1 (E) All other costs for which the State or county are
2 not specifically responsible relating to the
3 operation of voting machines, electronic voting
4 systems, and other voting systems except paper
5 ballots to include but not be limited to real
6 property rentals, equipment rentals, personnel,
7 mileage, telephones, supplies, publicity,
8 computer programming, and freight.

9 The responsibility for the above functions shall
10 be determined by the chief election officer where the
11 responsibility for such functions has not been
12 assigned by the legislature.

13 Any future expenses not presently incurred under any voting
14 system now in use or to be used shall be assigned to
15 [~~paragraphs~~] paragraph (1), (2), or (3) [~~above~~] by the chief
16 election officer upon agreement with the clerks or by the
17 legislature."

18 SECTION 7. Section 19-6, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§19-6 Misdemeanors.** The following persons shall be
21 guilty of a misdemeanor:



- 1 (1) Any person who offers any bribe or makes any promise
2 of gain, or with knowledge of the same permits any
3 person to offer any bribe or make any promise of gain
4 for the person's benefit to any voter to induce the
5 voter to sign a nomination paper, and any person who
6 accepts any bribe or promise of gain of any kind as
7 consideration for signing the same, whether the bribe
8 or promise of gain be offered or accepted before or
9 after the signing;
- 10 (2) Any person who wilfully tears down or destroys or
11 defaces any election proclamation or any poster or
12 notice or list of voters or visual aids or facsimile
13 ballot, issued or posted by authority of law;
- 14 (3) Any person printing or duplicating or causing to be
15 printed or duplicated any ballot, conforming as to the
16 size, weight, shape, thickness, or color to the
17 official ballot so that it could be cast or counted as
18 an official ballot in an election;
- 19 (4) Every person who is disorderly or creates a
20 disturbance whereby any meeting of the precinct
21 officials or the board of registration of voters



1 during an election is disturbed or interfered with; or
2 whereby any person who intends to be lawfully present
3 at any meeting or election is prevented from
4 attending; or who causes any disturbance at any
5 election; and every person assisting or aiding or
6 abetting any disturbance;

7 (5) Every person who, either in person or through another,
8 in any manner breaks up or prevents, or endeavors to
9 break up or prevent, the holding of any meeting of the
10 board of registration of voters, or in any manner
11 breaks up or prevents, or endeavors to break up or
12 prevent, the holding of any election;

13 (6) Any person, other than those designated by section
14 11-132, who remains or loiters within the area set
15 aside for voting as set forth in section 11-132 during
16 the time appointed for voting;

17 (7) Any person, including candidates carrying on any
18 campaign activities within the area described in
19 section 11-132 during the period of time starting one
20 hour before the polling place opens and ending when
21 the polling place closes for the purpose of



1 influencing votes. Campaign activities shall include
2 the following:

3 (A) Any distribution, circulation, carrying, holding,
4 posting, or staking of campaign cards, pamphlets,
5 posters and other literature;

6 (B) The use of public address systems and other
7 public communication media;

8 (C) The use of motor caravans or parades; and

9 (D) The use of entertainment troupes or the free
10 distribution of goods and services;

11 (8) Any person who opens a return envelope containing [~~an~~
12 absentee] :

13 (A) An absentee ballot voted under chapter 15 other
14 than those persons authorized to do so under
15 chapter 15; or

16 (B) A ballot voted by mail under part other than
17 those persons authorized to do so under part ;

18 (9) Any unauthorized person found in possession of any
19 voting machine or keys thereof; and



1 (10) Every person who wilfully violates or fails to obey
2 any of the provisions of law, punishment for which is
3 not otherwise in this chapter specially provided for."

4 SECTION 8. Section 11-91.5, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§11-91.5 Federal, state, and county elections by mail.~~

7 ~~(a) Any federal, state, or county election held other than on~~
8 ~~the date of a regularly scheduled primary or general election~~
9 ~~may be conducted by mail.~~

10 ~~(b) The chief election officer shall determine whether a~~
11 ~~federal or state election, other than a regularly scheduled~~
12 ~~primary or general election, may be conducted by mail or at~~
13 ~~polling places.~~

14 ~~(c) The county clerk shall determine whether a county~~
15 ~~election, held other than on the date of a regularly scheduled~~
16 ~~primary or general election, may be conducted by mail or at~~
17 ~~polling places. An election by mail in the county shall be~~
18 ~~under the supervision of the county clerk.~~

19 ~~(d) Any ballot cast by mail under this section shall be~~
20 ~~subject to the provisions applicable to absentee ballots under~~
21 ~~sections 11-139 and 15-6.~~



1 ~~(e) The chief election officer shall adopt rules pursuant~~
2 ~~to chapter 91 to provide for uniformity in the conduct of~~
3 ~~federal, state, and county elections by mail."~~]

4 SECTION 9. Section 11-92.3, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§11-92.3 Consolidated precincts; natural disasters;~~
7 ~~postponement; absentee voting required; special elections. (a)~~
8 ~~In the event of a flood, tsunami, earthquake, volcanic eruption,~~
9 ~~high wind, or other natural disaster, occurring prior to an~~
10 ~~election, that makes a precinct inaccessible, the chief election~~
11 ~~officer or county clerk in the case of county elections may~~
12 ~~consolidate precincts within a representative district. If the~~
13 ~~extent of damage caused by any natural disaster is such that the~~
14 ~~ability of voters, in any precinct, district, or county, to~~
15 ~~exercise their right to vote is substantially impaired, the~~
16 ~~chief election officer or county clerk in the case of county~~
17 ~~elections may require the registered voters of the affected~~
18 ~~precinct to vote by absentee ballot pursuant to section 15-2.5~~
19 ~~and may postpone the conducting of an election in the affected~~
20 ~~precinct for no more than twenty one days; provided that any~~
21 ~~such postponement shall not affect the conduct of the election,~~



~~tabulation, or distribution of results for those precincts,
districts, or counties not designated for postponement. The
chief election officer or county clerk in the case of county
elections shall give notice of the consolidation, postponement,
or requirement to vote by absentee ballot, in the affected
county or precinct prior to the opening of the precinct polling
place by whatever possible news or broadcast media are
available. Precinct officials and workers affected by any
consolidation shall not forfeit their pay.~~

~~(b) In the event the chief election officer or the county
clerk in a county election determines that the number of
candidates or issues on the ballot in a special, special
primary, or special general election does not require the full
number of established precincts, the precincts may be
consolidated for the purposes of the special, special primary,
or special general election into a small number of special,
special primary, or special general election precincts.~~

~~A special, special primary, or special general election
precinct shall be considered the same as an established precinct
for all purposes, including precinct official requirements
provided in section 11-71. Not later than 4:30 p.m. on the~~



~~tenth day prior to the special, special primary, or special general election, the chief election officer or the county clerk shall give public notice, in the area in which the special, special primary, or special general election is to be held, of the special, special primary, or special general election precincts and their polling places. Notices of the consolidation also shall be posted on election day at the established precinct polling places, giving the location of the special, special primary, or special general election precinct polling place."]~~

PART II

SECTION 10. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§11- Electronic poll books. (a) The chief election officer and each county clerk shall:

(1) Adopt the use of electronic poll books that have been certified for use in this State in accordance with the rules required under subsection (b); and

(2) Apply the use of electronic poll books to produce immediately updated information on voted ballots



1 during an election, including voter turnout numbers
2 and lists of persons who have voted in the election.

3 (b) The chief election officer shall adopt rules pursuant
4 to chapter 91 for the certification, examination, testing, and
5 use of electronic poll books required under subsection (a).

6 (c) As used in this section, "electronic poll book" means
7 hardware or software that allows election officials to view
8 electronic voter registration records and voting information
9 during an election."

10 PART III

11 SECTION 11. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2015-2016 and
14 the same sum or so much thereof as may be necessary for fiscal
15 year 2016-2017 for the purpose of implementing and administering
16 elections by mail pursuant to Part I of this Act.

17 The sums appropriated shall be expended by the office of
18 elections for the purposes of this Act.

19 SECTION 12. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2015-2016 and



1 the same sum or so much thereof as may be necessary for fiscal
2 year 2016-2017 for the purchase of electronic poll books
3 pursuant to Part II of this Act.

4 The sums appropriated shall be expended by the office of
5 elections for the purposes of this Act.

6 SECTION 13. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 14. This Act shall take effect on July 1, 2015.

9

INTRODUCED BY:

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JAN 28 2015



H.B. NO. 1211

Report Title:

Elections; Voting by Mail; Electronic Poll Books; Appropriation

Description:

Establishes an election by mail voting system for all elections. Requires the use of electronic poll books. Appropriates moneys for electronic poll books and to implement voting by mail.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

