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## A BILL FOR AN ACT

RELATING TO PRIMARY ELECTIONS.

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

1       SECTION 1. Chapter 12, Hawaii Revised Statutes, is amended  
2   by adding a new part to be appropriately designated and to read  
3   as follows:

4                       "PART       .   ELIGIBILITY TO VOTE

5       "§12-       Eligibility to vote in primary elections. (a)  
6   Except as provided in subsection (b), a voter who is registered  
7   with a political party shall be allowed to vote only in the  
8   primary election of the political party with which the voter is  
9   registered.

10       (b) A political party, no later than one hundred eighty  
11   days prior to a primary election, may notify the chief election  
12   officer in writing that, in addition to the voters who have  
13   registered with the party, the party elects to allow any of the  
14   following to vote in the party's primary election:

15       (1) Unaffiliated voters; and

16       (2) Voters registered with a different political party;  
17       provided that a state chairman of a political party



1           that elects to allow voters to vote in that party's  
2           primary election pursuant to this paragraph shall  
3           identify to the chief election officer which political  
4           parties' registrants shall be allowed to vote in the  
5           party's primary election.

6           (c) If any political party allows unaffiliated voters to  
7           vote in the party's primary election pursuant to subsection

8           (b)(1), an unaffiliated voter may designate any such primary  
9           election as the election in which the voter chooses to vote by  
10          declaring the designation to the precinct official pursuant to  
11          section 11-136 or as provided for absentee voters under section  
12          15-4(a) or (e).

13          (d) An unaffiliated voter having declared a designation as  
14          provided for in subsection (c) shall not be permitted to vote in  
15          the primary election of any other party held on that primary  
16          election date.

17          (e) If an unaffiliated voter does not declare a choice of  
18          political party's primary election ballot pursuant to subsection  
19          (c), the voter shall not be permitted to vote in any political  
20          party's primary election but shall receive a nonpartisan ballot.



1           (f) If any political party allows voters registered with a  
2 different political party to vote in the party's primary  
3 election pursuant to subsection (b)(2), a voter registered with  
4 a different political party may designate any such primary  
5 election as the election the voter chooses to vote in by  
6 declaring the designation to the precinct official pursuant to  
7 section 11-136 or as provided for absentee voters under section  
8 15-4(a) or (e).

9           (g) Nothing in this section shall be construed to prohibit  
10 an unaffiliated voter from voting in the primary election of a  
11 different party held in subsequent years.

12           (h) Notwithstanding any other provision of this section,  
13 if a political party allows unaffiliated voters to vote in the  
14 political party's primary election pursuant to this section, a  
15 vote by an unaffiliated voter in a political party's primary  
16 election shall not affect the voter's status as an unaffiliated  
17 voter.

18           (i) For the purposes of this section:

19           "Political party" has the same meaning as defined in  
20 section 11-61.



1 "Primary election" means any primary or special primary  
2 election.

3 "Unaffiliated voter" means a voter who is not registered  
4 with any political party."

5 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended  
6 by adding a new section to part II to be appropriately  
7 designated and to read as follows:

8 "§11- Change of party affiliation. (a) Subject to  
9 subsection (b), a voter may change the voter's designation under  
10 section 11-15(a) (6) as a registrant with a political party or as  
11 an unaffiliated voter by filing with the county clerk a signed  
12 form prescribed by the chief election officer, no later than the  
13 deadline for candidates to file nomination papers under section  
14 12-6(a).

15 (b) An unaffiliated voter as designated under section 11-  
16 15(a) (6) may change the voter's designation to that of a  
17 registrant with a political party after the deadline set forth  
18 in subsection (a) but prior to voting on the day of the primary  
19 or special primary election, by declaring the designation to the  
20 precinct official at a polling location and submitting proof of  
21 the voter's registration with the political party in a manner



1 prescribed by the chief election officer. The precinct official  
2 shall then enter the voter's designation in the poll book.  
3 Following the primary election, the county clerk shall record in  
4 the voter's registration record the designation entered into the  
5 poll book."

6 SECTION 3. Section 11-15, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) Any person qualified to and desiring to register as a  
9 voter in any county shall make and subscribe to an application  
10 in the form of an affidavit.

11 The affidavit shall contain the following information:

- 12 (1) Name;  
13 (2) Social security number;  
14 (3) Date of birth;  
15 (4) Residence, including mailing address;  
16 (5) That the residence stated in the affidavit is not  
17 simply because of the person's presence in the State,  
18 but that the residence was acquired with the intent to  
19 make Hawaii the person's legal residence with all the  
20 accompanying obligations therein; [and]  
21 (6) Designation by the voter as:



## H.B. NO. 338

1           (A) A registrant with a political party as defined in  
2           section 11-61, including the identity of the  
3           party and proof of registration with the party in  
4           a manner prescribed by the chief election  
5           officer; or

6           (B) An unaffiliated voter as defined in section  
7           12-     ;

8           provided that if the voter fails to make the  
9           designation, the county clerk shall enter the voter on  
10          the registration records as an unaffiliated voter; and

11        ~~[(6)]~~ (7) That the person is a citizen.

12        An application to register to vote shall include a space to  
13        request a permanent absentee ballot."

14        SECTION 4. Section 11-136, Hawaii Revised Statutes, is  
15        amended to read as follows:

16        "**§11-136 Poll book, identification, voting.** Every person  
17        upon applying to vote shall sign the person's name in the poll  
18        book prepared for that purpose. This requirement may be waived  
19        by the chairperson of the precinct officials if for reasons of  
20        illiteracy or blindness or other physical disability the voter  
21        is unable to write. Every person shall provide identification



1 if so requested by a precinct official. A poll book shall not  
2 contain the social security number of any person.

3 After signing the poll book and receiving the voter's  
4 ballot, the voter shall proceed to the voting booth to vote  
5 according to the voting system in use in the voter's precinct.  
6 The precinct official may, and upon request shall, explain to  
7 the voter the mode of voting.

8 For the purpose of providing a voter with the appropriate  
9 primary election ballot pursuant to section 12- , the poll  
10 book for primary and special primary elections shall include  
11 each registered voter's designation under section 11-15(a)(6) as  
12 a registrant with a political party or as an unaffiliated voter.  
13 The voter shall declare to the precinct official the voter's  
14 selection of a primary election ballot pursuant to section 12-  
15 and the precinct official shall record the declaration in the  
16 poll book; provided that following the primary election, the  
17 county clerk shall record as part of the voter's registration  
18 record the declaration entered into the poll book."

19 SECTION 5. Section 12-21, Hawaii Revised Statutes, is  
20 amended to read as follows:



1       "§12-21 Official party ballots. The primary or special  
2 primary ballot shall be clearly designated as such. The names  
3 of the candidates of each party qualifying under section 11-61  
4 or 11-62 and of nonpartisan candidates [may] shall be printed on  
5 separate ballots [~~, or on a single ballot. The name of each~~  
6 ~~party and the nonpartisan designation shall be distinctly~~  
7 ~~printed and sufficiently separate from each other.]~~ The names  
8 of all candidates shall be printed on the ballot as provided in  
9 section 11-115. When the names of all candidates of the same  
10 party for the same office exceed the maximum number of voting  
11 positions on a single side of a ballot card, the excess names  
12 may be arranged and listed on both sides of the ballot card and  
13 additional ballot cards if necessary. [~~When separate ballots~~  
14 ~~for each party are not used, the order in which parties appear~~  
15 ~~on the ballot, including nonpartisan, shall be determined by~~  
16 ~~lot.]~~

17       The chief election officer or the county clerk, in the case  
18 of county elections, shall approve printed samples or proofs of  
19 the respective party ballots as to uniformity of size, weight,  
20 shape, and thickness prior to final printing of the official  
21 ballots."





1       SECTION 6. Section 15-4, Hawaii Revised Statutes, is  
2 amended as follows:

3       1. By amending subsection (a) to read:

4       "(a) Any person registered to vote may request an absentee  
5 ballot or permanent absentee ballot in person or in writing from  
6 the clerk at any time but not later than 4:30 p.m. on the  
7 seventh day prior to the election. Any mailed requests for an  
8 absentee ballot or permanent absentee ballot shall be mailed by  
9 the person directly to the clerk. The clerk may waive any or  
10 all of the foregoing requirements in special cases as provided  
11 in the rules adopted by the chief election officer.

12       The request shall include information such as the person's  
13 social security number, date of birth, and the address under  
14 which the person is registered to vote. The request shall also  
15 include the address to which the person wishes the requested  
16 ballot to be forwarded. The request, when made for any primary  
17 or special primary election, may include an additional request  
18 for an absentee ballot to be voted at any election immediately  
19 following the primary or special primary; provided the person so  
20 indicates in the person's request.



1       As part of a request for a primary or special primary  
2 absentee ballot under this section, the voter shall declare the  
3 voter's selection of a primary election ballot pursuant to  
4 section 12-       in the manner prescribed by the chief election  
5 officer.

6       Subsequent to the closing of registration for each  
7 election, the clerk may mail a request form for an absentee  
8 ballot and permanent absentee ballot to each voter in a remote  
9 area who has not already made such a request. The request form  
10 shall be accompanied by:

- 11       (1) A stamped, self-addressed envelope; and  
12       (2) Instructions regarding the manner of completing and  
13       returning the request form."

14       2. By amending subsection (e) to read:

15       (e) When a registered voter requests an absentee ballot,  
16 the voter also may include an additional request to receive  
17 absentee ballots permanently. After receiving a request for  
18 permanent absentee voter status, the clerk shall mail to the  
19 voter who requested permanent absentee voter status an absentee  
20 ballot for all subsequent elections conducted in that



1   precinct [-]; provided that for primary or special primary  
2   elections:

3       (1) No later than ten days prior to the deadline for  
4       submitting a request for an absentee ballot under  
5       section 15-4(a), the clerk shall deliver to each  
6       permanent absentee voter a form prescribed by the  
7       chief election officer for the voter's selection of a  
8       primary election ballot pursuant to section 12-     ;  
9       and

10      (2) The voter shall complete and return the form under  
11      paragraph (1) to the clerk no later than the deadline  
12      for submitting a request for an absentee ballot under  
13      section 15-4(a)."

14      SECTION 7. Section 15-5, Hawaii Revised Statutes, is  
15   amended by amending subsection (a) to read as follows:

16      "(a) Immediately upon receipt of a request within the time  
17   limit specified in section 15-4, the clerk shall examine the  
18   records to ascertain whether or not the voter is lawfully  
19   entitled to vote as requested. As soon as the printed official  
20   ballots are available, the clerk shall mail in a forwarding  
21   envelope or deliver in person if the voter appears at the office



1 of the clerk, an official ballot and other materials prescribed  
2 in section 15-6 [except] provided that [an]:

3 (1) For primary and special primary elections, an  
4 unaffiliated voter who does not indicate a choice of a  
5 political party's election ballot under section 15-4  
6 shall receive a nonpartisan ballot pursuant to section  
7 12- (e); and

8 (2) An incapacitated voter may send a representative to  
9 obtain the voter's ballots pursuant to the rules  
10 promulgated by the chief election officer.

11 All requests received upon the last day specified in section 15-  
12 4 for receipt shall be mailed to the voter requesting the same  
13 as soon as reasonably practicable, but in no event later than  
14 twenty-four hours after receipt thereof."

15 SECTION 8. Part III of chapter 12, Hawaii Revised  
16 Statutes, is repealed.

17 ["PART III. BALLOT SELECTION

18 ~~§12-31 Selection of party ballot; voting. No person~~  
19 ~~eligible to vote in any primary or special primary election~~  
20 ~~shall be required to state a party preference or nonpartisanship~~  
21 ~~as a condition of voting. Each voter shall be issued the~~



~~primary or special primary ballot for each party and the  
nonpartisan primary or special primary ballot. A voter shall be  
entitled to vote only for candidates of one party or only for  
nonpartisan candidates. If the primary or special primary  
ballot is marked contrary to this paragraph, the ballot shall  
not be counted.~~

~~In any primary or special primary election in the year 1979  
and thereafter, a voter shall be entitled to select and to vote  
the ballot of any one party or nonpartisan, regardless of which  
ballot the voter voted in any preceding primary or special  
primary election."]~~

SECTION 9. (a) This section shall apply only to the  
primary or special primary election immediately following the  
effective date of this Act, whichever occurs first.

(b) For each voter registered pursuant to part II of  
chapter 11, Hawaii Revised Statutes, and in conformance with  
this Act to the extent feasible:

(1) At polling locations, each voter shall declare to the  
precinct official the voter's designation as a  
registrant with a political party or as an  
unaffiliated voter and the voter's choice of ballot,



1 all of which the precinct official shall record in the  
2 poll book;

3 (2) Absentee voters under chapter 15, Hawaii Revised  
4 Statutes, shall declare the voter's designation as a  
5 registrant with a political party or as an  
6 unaffiliated voter and the voter's choice of ballot  
7 pursuant to the procedures set forth in section 15-  
8 4(a) and (e), Hawaii Revised Statutes, as amended in  
9 section 6 of this Act; provided that each permanent  
10 absentee voter shall re-submit a request for a  
11 permanent absentee ballot for the purpose of  
12 designating the voter's political party or nonpartisan  
13 designation; and

14 (3) Following the election:

15 (A) The county clerk shall record as part of each  
16 voter's registration record the voter's political  
17 party or nonpartisan designation and choice of  
18 ballot entered into the poll book pursuant to  
19 paragraph (1) or as otherwise indicated pursuant  
20 to paragraph (2); and



## H.B. NO. 338

1           (B) For each registered voter who did not vote in the  
2           election or who, at the election, did not  
3           designate themselves as a registrant with a  
4           political party or as an unaffiliated voter, the  
5           county clerk shall enter the voter in the  
6           registration record as an unaffiliated voter;  
7   provided that no voter shall be designated under this section as  
8   a registrant of a political party without first providing proof  
9   thereof in a manner prescribed by the chief election officer.

10       SECTION 10. Statutory material to be repealed is bracketed  
11   and stricken. New statutory material is underscored.

12       SECTION 11. This Act shall take effect upon the  
13   ratification of a constitutional amendment in compliance with  
14   article XVII, section 3, of the Constitution of the State of  
15   Hawaii, repealing the prohibition against requiring a person to  
16   declare a political party preference or nonpartisanship as a  
17   condition of voting in any primary or special primary election.

18  
INTRODUCED BY: 

JAN 23 2015



# H.B. NO. 338

**Report Title:**

Closed Primary Elections; Declaration of Political Party  
Registration or Nonpartisanship

**Description:**

Establishes a closed primary and special primary election system that limits a political party's voters to registered party members and other voters as the party may designate. Takes effect upon ratification of an appropriate constitutional amendment.

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

