

JAN 21 2016

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# A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1       SECTION 1. Section 15-9, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "§15-9 Return and receipt of absentee ballots. (a) The  
4 return envelope shall be:

5       (1) Mailed and must be received by the clerk issuing the  
6 absentee ballot not later than the closing of the  
7 polls on any election day;

8       (2) Delivered other than by mail to the clerk issuing the  
9 absentee ballot, or another election official  
10 designated by the clerk to act on the clerk's behalf,  
11 not later than the closing of polls on any election  
12 day; or

13       (3) Delivered other than by mail to any polling place  
14 within the county in which the voter is registered and  
15 deposited by a precinct official in the ballot box  
16 before the closing of the polls on any election day.



1           (b) Upon receipt of the return envelope from any person  
2 voting under this chapter, the clerk may prepare the ballots for  
3 counting pursuant to this section and section 15-10. As  
4 required by section 15-6, the voter shall be provided a ballot,  
5 a ballot envelope for the ballot, and a return envelope for the  
6 ballot envelope. Preparing the ballots for counting may include  
7 opening the return envelope and validating the signature on the  
8 return envelope, but shall not include opening the ballot  
9 envelope within the return envelope.

10           (c) ~~[Prior to opening the return and ballot envelopes and~~  
11 ~~counting the ballots, the]~~ Unless stated otherwise by election  
12 officials, the period for opening return envelopes and  
13 validating signatures shall begin the day immediately after  
14 absentee ballots are transmitted to voters and shall end on the  
15 day of the election. Official observers, designated in section  
16 16-45, may elect to be present at any time during this time  
17 frame. The return envelopes shall be checked for the following:

- 18           (1) Signature on the affirmation statement;  
19           (2) Whether the signature corresponds with the absentee  
20                 request or register as prescribed in the rules adopted  
21                 by the chief election officer; and



1           (3) Whether the person is a registered voter and has  
2                    complied with the requirements of sections 11-15 and  
3                    11-16.

4           (d) If any of the above requirements is not met or if the  
5   return or ballot envelope appears to be tampered with, which  
6   shall not include the return envelope having been opened by  
7   election officials, the [clerk or the absentee ballot team  
8   ~~official]~~ election officials shall mark across the face of the  
9   envelope "invalid" and [it] the envelope shall be kept in the  
10  custody of the clerk and disposed of as prescribed for ballots  
11  in section 11-154.

12          (e) If an absentee polling place is established at the  
13  clerk's office prior to or on election day, [~~the officials of~~  
14 ~~the absentee polling place shall check the return or ballot~~  
15 ~~envelopes for the above requirements prior to depositing them in~~  
16 ~~the correct absentee ballot box.~~] this section shall not apply  
17 to any ballots cast at that location."

18          SECTION 2. Section 15-10, Hawaii Revised Statutes, is  
19  amended to read as follows:

20          "**§15-10 Counting of absentee ballots.** (a) If the  
21  requirements in section 15-9 are met, the [~~return and~~] ballot



1 envelopes may be opened and the ballot counted as prescribed by  
2 law for the voting system in use.

3 ~~[In those absentee polling places using paper ballots,~~  
4 ~~counting of the absentee ballots may begin after noon of~~  
5 ~~election day.~~

6 ~~In those absentee polling places using the electronic~~  
7 ~~voting system, the absentee ballots shall be transported to the~~  
8 ~~counting center in a manner and by a schedule as provided in the~~  
9 ~~rules promulgated by the chief election officer. In no case,~~  
10 ~~however, shall the results of the absentee count become publicly~~  
11 ~~known before the polls have officially closed.~~

12 ~~Any person violating this section shall be guilty of an~~  
13 ~~election offense under section 19-6.]~~

14 (b) The counting of absentee ballots may begin no earlier  
15 than the fifteenth day prior to an election. The counting of  
16 absentee ballots shall generally involve the following stages:

17 (1) Removing the ballot envelope or ballot, if the voter  
18 did not utilize the ballot envelope, from the return  
19 envelope;

20 (2) Opening the ballot envelope;



1       (3) Duplicating any damaged ballot so it may be counted by  
2       the vote counting equipment; and

3       (4) Scanning or otherwise allowing the ballot to be  
4       counted by the vote counting equipment.

5       Additionally, to the extent a voter has voted by fax, electronic  
6       mail, or any other means authorized by law, election officials  
7       may duplicate the votes of the voter onto a traditional ballot  
8       to be counted by the vote counting equipment. As required by  
9       section 16-45, official observers shall be given reasonable  
10      notice of the time and place where the ballots will be counted.  
11      Official observers may elect to be present at any time during  
12      this time frame.

13      (c) No person present during the counting of ballots shall  
14      disclose any information concerning how voters voted on a  
15      particular contest or question. In the case of absentee polling  
16      places, the stages described in subsection (b) shall not apply,  
17      to the extent voters directly utilize an electronic voting  
18      system or voting machine that counts their ballot, as opposed to  
19      being provided a return envelope, a ballot envelope, and a  
20      ballot. Poll watchers, as authorized in section 11-77, may  
21      observe the operations of the absentee polling place."



1       SECTION 3. Section 16-43, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§16-43 Ballot handling.** (a) In every case where the  
4 precinct ballots are handled by election officials or election  
5 employees, from the time the ballots are delivered to the  
6 several precincts to the time they are returned to the chief  
7 election officer or clerk in county elections for disposition  
8 upon completion of the tabulation, they ~~[shall]~~ may be ~~[handled~~  
9 ~~in the presence of not less than two officials]~~ observed by an  
10 official assigned in accordance with sections 11-71 and 11-72 or  
11 section 16-45.

12       (b) This section shall not apply to absentee ballots  
13 handled pursuant to sections 15-9 and 15-10."

14       SECTION 4. Section 16-46, Hawaii Revised Statutes, is  
15 amended to read as follows:

16       "**§16-46 Counting defective ballots.** Counting center  
17 employees ~~[in the presence of at least two official observers]~~  
18 shall prepare a new ballot to replace each defective ballot.  
19 The defective ballots shall be segregated and the replacement  
20 ballots counted pursuant to rules promulgated by the chief  
21 election officer."



# S.B. NO. 2113

SECTION 5. Section 16-47, Hawaii Revised Statutes, is repealed.

~~["§16-47] Preparation of absentee ballots. Counting center employees in the presence of at least two official observers shall prepare absentee ballots for counting by automatic tabulating equipment in a manner that shall accurately reflect the votes cast by the absentee voters."]~~

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

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY: \_\_\_\_\_

*M. P. M.*

BY REQUEST



# S.B. NO. 2113

**Report Title:**

Office of Elections Package; Elections; Absentee; Return Ballots

**Description:**

Provides that the preparation of absentee ballots for counting may include opening the return envelope in which the ballot is enclosed and the validation of signatures, but shall not include opening the ballot envelope. Allows official election observers to be present during this process. Requires that, unless otherwise stated, the opening of return absentee ballot envelopes and signature validation commence the day immediately after ballots are transmitted to voters through election day. Provides that the counting of absentee ballots may begin no earlier than fifteen days prior to an election and establishes stages of absentee ballot counting. Prohibits persons' present during the counting of absentee ballots from disclosing the results. Allows, rather than requires, observation of ballot handling by an official.

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

