

JAN 23 2015

A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. The legislature finds that existing law
2 authorizes the chief election officer or county clerk in the
3 case of county elections to consolidate precincts in the event
4 of a natural disaster and, if the natural disaster causes damage
5 that substantially impairs voters' ability to vote, to require
6 registered voters to vote by absentee ballot or postpone the
7 conducting of an election in the affected area for no more than
8 twenty-one days. This authorization was recently exercised in
9 the county of Hawaii during the 2014 primary election.

10 On August 8, 2014, Tropical Storm Iselle made landfall on
11 the island of Hawaii impairing access and the ability of voters
12 to vote in the primary election scheduled for the next day at
13 certain precinct polling places in Puna. As a result, the chief
14 election officer issued a proclamation to postpone the primary
15 election in those affected areas and authorized the use of
16 absentee ballots. On August 11, 2014, subsequent to the primary
17 election, the chief election officer issued a proclamation that



1 established that voting for the affected area would be conducted
2 at designated polling places on August 15, 2014, rather than by
3 absentee ballots. The decision to postpone the primary election
4 in the polling places affected by Tropical Storm Iselle resulted
5 in litigation and raised concerns regarding the chief election
6 officer's authority under law to postpone elections.

7 The purpose of this Act is to clarify the law regarding
8 elections in the event of a natural disaster by:

9 (1) Clarifying that the chief election officer or county
10 clerk in the case of county elections prior to the day
11 of election has the authority to determine whether to
12 postpone an election affected by the natural disaster
13 or require voters of an affected precinct to vote by
14 absentee ballot; and

15 (2) Authorizing the governor on the day of election and
16 thereafter to determine whether to postpone an
17 election affected by the natural disaster or require
18 voters of an affected precinct to vote by absentee
19 ballot unless the governor is a candidate for office
20 in that election.



SECTION 2. Section 11-92.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In the event of a flood, tsunami, earthquake, volcanic eruption, high wind, or other natural disaster, occurring prior to an election, that makes a precinct inaccessible, the chief election officer or county clerk in the case of county elections may consolidate precincts within a representative district. If the extent of damage caused by any natural disaster is such that the ability of voters, in any precinct, district, or county, to exercise their right to vote is substantially impaired, prior to the day of election, the chief election officer or county clerk in the case of county elections or, on the day of election and thereafter, the governor, in addition to duties prescribed under section 127A-13(a)(9), may [require]:

(1) Require the registered voters of the affected precinct to vote by absentee ballot pursuant to section 15-2.5 [and may postpone]; or

(2) Postpone the conducting of an election in the affected precinct for no more than twenty-one days; provided that any such postponement shall not affect the



1 conduct of the election, tabulation, or distribution
2 of results for those precincts, districts, or counties
3 not designated for postponement[-];

4 provided that if the governor is a candidate for office in the
5 election affected by a natural disaster, on the day of election
6 and thereafter, the chief election officer or county clerk in
7 the case of county elections may take the action described in
8 paragraph (1) or (2). The chief election officer or county
9 clerk in the case of county elections shall give notice of the
10 consolidation, postponement, or requirement to vote by absentee
11 ballot, in the affected county or precinct prior to the opening
12 of the precinct polling place by whatever possible news or
13 broadcast media are available. Precinct officials and workers
14 affected by any consolidation shall not forfeit their pay."

15 SECTION 3. Section 15-2.5, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) If the chief election officer and clerk of a county
18 affected as a result of a natural disaster [~~determine~~] or the
19 governor, as applicable pursuant to section 11-92.3, determines
20 that the opening of a designated polling place will adversely
21 affect the health and safety of voters or precinct officials,




1 the chief election officer [~~and~~], county clerk, or governor, as
2 applicable, by written order, may require the registered voters
3 of any precinct to vote by absentee ballot; provided that if
4 there are not enough absentee ballots for all voters of the
5 precinct, the chief election officer or the clerk shall use
6 other official ballots to make up the difference."

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

10 INTRODUCED BY:

~~SEN. SCOTT AGANA~~
HILARY WATKINS


Paul F. Rasmussen
D. J. D. J.



S.B. NO. 243

Report Title:

Elections; Natural Disasters; Postponement; Absentee Ballots

Description:

Clarifies that in the event of a natural disaster, the chief election officer or county clerk in the case of county elections prior to the day of election has the authority to determine whether to postpone or vote by absentee ballot in an election affected by the natural disaster. Authorizes the governor on the day of election and thereafter to determine whether to postpone or vote by absentee ballot in an election affected by the natural disaster unless the governor is a candidate for office in that election.

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