

JAN 20 2017

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 the trend in Hawaii
2 has been toward increased mail-in voting. The 2014 Hawaii
3 primary election was the first election in which more ballots
4 were voted early than were cast on primary election day. Fifty-
5 six per cent of Hawaii voters chose to vote early during the
6 2014 primary, with approximately eighty-three per cent of these
7 early voters doing so by mail-in absentee ballot.

8 The legislature further finds that Hawaii's conversion to
9 elections by mail would significantly reduce the logistical
10 issues related to conducting elections. The legislature
11 concludes that an incremental implementation of an election by
12 mail voting system is the best approach for the State to
13 transition to elections by mail.

14 Accordingly, the purpose of this Act is to:

15 (1) Require the office of elections to implement elections
16 by mail in a county with a population of less than
17 100,000, beginning with the 2018 primary election, and



S.B. NO. 428

1 beginning with the 2020 primary election, implement
2 elections by mail in every county for all federal,
3 state, and county primary, special primary, general,
4 special general, and special elections;

5 (2) Provide places of deposit for personal delivery of
6 mail-in ballots and a limited number of voter service
7 centers that would remain open on the day of election
8 to receive personal delivery of absentee, permanent
9 absentee, and mail-in ballots, accommodate voters with
10 special needs, and provide other services; and

11 (3) Appropriate funds for the implementation and
12 administration of the election by mail program.

13 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
14 by adding a new part to be appropriately designated and to read
15 as follows:

16 **"PART . ELECTIONS BY MAIL**

17 **§11-A Elections eligible to be conducted by mail.**

18 Beginning with the 2018 primary election, the office of
19 elections shall implement elections by mail in a county with a
20 population of less than 100,000. Beginning with the 2020
21 primary election, the office of elections shall implement



1 elections by mail for all federal, state, and county primary,
2 special primary, general, special general, and special elections
3 throughout the State in accordance with this part; provided
4 further that any person registered to vote in a county that has
5 not yet implemented elections by mail under this part may
6 request an absentee ballot or permanent absentee ballot in
7 accordance with section 15-4, in lieu of receiving an election
8 by mail ballot package pursuant to this part, and absentee
9 ballot-only elections may continue to be conducted pursuant to
10 section 15-4(b).

11 **§11-B Procedures for conducting elections by mail. (a)**

12 Ballot packages for elections by mail shall include:

- 13 (1) An official ballot;
14 (2) A pre-paid postage return identification envelope;
15 (3) A secrecy envelope; and
16 (4) Instructions.

17 (b) To the extent practicable, the county clerk shall mail
18 a ballot package by nonforwardable mail to each registered voter
19 in the county no earlier than eighteen days and no later than
20 fourteen days before the date of an election. Nothing in this
21 part shall be construed to change the responsibilities of the



1 chief election officer under chapter 15D with respect to uniform
2 military and overseas voters.

3 (c) The chief election officer shall determine and provide
4 for voter service centers and places of deposit pursuant to this
5 part and section 11-92.1.

6 **§11-C Public notice of mailing.** Public notice of the date
7 or dates that ballot packages are mailed shall be given by the
8 chief election officer and all county election officers in the
9 manner prescribed in section 1-28.5 when all the packages have
10 been mailed or made available to voters.

11 **§11-D Ballot instructions; ballot return.** (a) After
12 receipt of the ballot package, the voter shall comply with the
13 instructions included in the ballot package to cast a ballot.
14 The instructions shall include directions for:

- 15 (1) Marking the ballot;
- 16 (2) Inserting the marked ballot in the secrecy envelope;
- 17 (3) Inserting the secrecy envelope with the marked ballot
18 in the return identification envelope; and
- 19 (4) Signing the return identification envelope before
20 mailing or delivering the return identification



S.B. NO. 428

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

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

7 (c) To cast a valid ballot, the voter shall return the
8 marked ballot in the return identification envelope containing
9 the secrecy envelope with the marked ballot:

10 (1) By mail so that the return identification envelope is
11 received at the office of the clerk no later than the
12 time provided in section 11-131 on the date of the
13 election;

14 (2) By personal delivery to any place of deposit no later
15 than 6:00 p.m. on the day preceding the date of the
16 election; or

17 (3) By personal delivery to any voter service center no
18 later than the time provided in section 11-131 on the
19 date of the election.

20 **§11-E Replacement ballots.** (a) A voter may obtain a
21 replacement ballot by mail or in person if the ballot was



1 destroyed, spoiled, or lost or by electronic transmission
2 pursuant to section 11-G, as applicable; provided that the
3 receipt of replacement ballots by electronic transmission and
4 return of such replacement ballots shall be as provided by
5 section 11-G. Replacement ballots shall be provided to a voter
6 who completes and signs a replacement ballot request form. The
7 replacement ballot request form shall include information that
8 allows the clerk to verify the registration of the voter and
9 ensure that another ballot has not been returned by the voter.

10 (b) Upon receipt of the replacement ballot request form,
11 the clerk shall:

- 12 (1) Verify the registration of the voter and ensure that
13 another ballot has not been returned by the voter;
- 14 (2) Note on the list of registered voters that the voter
15 has requested a replacement ballot;
- 16 (3) Mark the return identification envelope as containing
17 a replacement ballot; and
- 18 (4) Issue the replacement ballot package by mail or by
19 making the ballot package available for pick-up by the
20 voter.



1 (c) Voters who obtain a replacement ballot shall return
2 the return identification envelope containing the secrecy
3 envelope with the marked replacement ballot:

4 (1) By mail so that the return identification envelope is
5 received at the office of the clerk no later than the
6 time provided in section 11-131 on the date of the
7 election;

8 (2) By personal delivery to any place of deposit no later
9 than 6:00 p.m. on the day preceding the date of the
10 election; or

11 (3) By personal delivery to any voter service center no
12 later than the time provided in section 11-131 on the
13 date of the election.

14 **§11-F Deficient return identification envelopes. If:**

15 (1) A return identification envelope is returned with an
16 unsigned affirmation;

17 (2) The affirmation signature does not match a reference
18 signature image in the voter registration files; or

19 (3) A return identification envelope contains another
20 signature discrepancy that would invalidate the
21 counting of the ballot,



1 the clerk shall make a reasonable attempt to notify the voter by
2 first class mail, telephone, or electronic mail to inform the
3 voter of a procedure to correct the deficiency. The voter shall
4 have five business days after the date of the election to cure
5 the deficiency using the procedure. Counting of ballots and
6 disclosure of results may proceed during the five-day period.
7 An inability by the clerk to contact any voters under this
8 section shall not be grounds for contest for cause under section
9 11-172.

10 **§11-G Electronic transmission under certain circumstances.**

11 (a) If:

- 12 (1) A ballot package is not received by a voter within
13 five days of an election;
- 14 (2) A voter requires a replacement ballot within five days
15 of an election; or
- 16 (3) A voter would otherwise not be able to return the
17 voter's properly issued ballot by the close of the
18 polls,

19 the voter may request that a replacement ballot be forwarded by
20 electronic transmission. Upon receipt of such a request and
21 confirmation that proper application was made, the clerk may



1 transmit the appropriate ballot, together with a form containing
2 the affirmations and information required by section 15-6, and a
3 form containing a waiver of the right to secrecy under section
4 11-137.

5 (b) The voter may return the voted replacement ballot and
6 executed forms by:

7 (1) Electronic transmission no later than the time
8 provided in section 11-131 on the date of the
9 election;

10 (2) Mail so that the voted replacement ballot and executed
11 forms are received at the office of the clerk no later
12 than the time provided in section 11-131 on the date
13 of the election;

14 (3) Personal delivery to any place of deposit no later
15 than 6:00 p.m. on the day preceding the date of the
16 election; or

17 (4) Personal delivery to any voter service center no later
18 than the time provided in section 11-131 on the date
19 of the election.

20 Upon receipt, the clerk shall verify compliance with the
21 requirements of this part; provided that if the voter returns



1 multiple voted ballots for the same election, the clerk shall
2 prepare for counting only the first ballot returned that is not
3 spoiled.

4 **§11-H Counting of mail-in ballots.** Counting may begin no
5 sooner than the tenth day before the election. In the presence
6 of official observers, counting center employees may start to
7 count the ballots; provided that any tabulation of the number of
8 votes cast for a candidate or question appearing on the ballot,
9 including a counting center printout or other disclosure, shall
10 be kept confidential and shall not be disclosed to the public
11 until voting for the election has concluded. All handling and
12 counting of election by mail ballots shall be according to
13 procedures established by the chief election officer.

14 **§11-I Voter service centers; places of deposit.** (a)
15 Beginning on January 1 of the year in which election by mail is
16 scheduled to be implemented in a county pursuant to this part,
17 the respective clerk, after consultation with the chief election
18 officer, shall designate at least one location in the county to
19 serve as a voter service center. The office of the clerk of
20 each respective county may serve as a voter service center, as
21 may any other locations that the clerk determines will serve the



1 particular needs of the county's voters. Section 11-21 relating
2 to changes and transfers of registration shall apply to each
3 voter service center as though it were the precinct at which a
4 person's name properly appears on the list of registered voters.

5 (b) Voter service centers shall be open from the tenth day
6 preceding the day of the election through the day of the
7 election and at the same times statewide, except as may be
8 provided in section 11-92.3 or by the chief election officer
9 pursuant to rules.

10 (c) Each voter service center shall provide the services
11 specified in section 11-1 under the definition of "voter service
12 center".

13 (d) The county clerks may also designate and provide for
14 places of deposit if locations and apparatus for the purposes
15 specified in this part can be securely maintained throughout the
16 period of use for each election.

17 **§11-J Election expenses and responsibilities for elections**
18 **by mail.** (a) Election expenses in an election by mail shall be
19 as follows:

20 (1) Expenses related to elections by mail involving both
21 state and county offices, or involving both federal



1 and county offices, unrelated to voter registration,
2 shall be divided in half between the State and the
3 counties. Each county shall pay a proration of
4 expenses as a proportion of the registered voters at
5 the time of the general election. The counties shall
6 separately be responsible for expenses associated with
7 voter registration;

8 (2) All expenses for county elections by mail, which do
9 not involve state or federal offices, shall be borne
10 by the county and paid out of appropriations as may be
11 made by the council for election purposes; and

12 (3) All expenses for state or federal elections by mail,
13 which do not involve county offices, shall be borne by
14 the State and paid out of appropriations as may be
15 made by the legislature for election purposes.

16 Expenses attributable to registration of voters by the
17 clerk for state or federal elections that do not
18 involve county offices shall be borne by the State and
19 paid out of appropriations as may be made by the
20 legislature for election purposes.



1 (b) Election responsibilities for elections by mail shall
2 be as follows:

3 (1) For elections by mail involving both state and county
4 offices, or involving both federal and county offices:

5 (A) The counties shall be responsible for voter
6 registration, absentee voting, and the mailing
7 and receipt of ballots;

8 (B) The State shall be responsible for the printing
9 and counting of ballots;

10 (C) The State and counties may otherwise agree to the
11 delegation of these responsibilities to each
12 other; and

13 (D) Any responsibilities not specified in this
14 paragraph may be assigned to the counties or the
15 State by the chief election officer;

16 (2) For elections by mail involving only county offices,
17 the respective county shall be solely responsible; and

18 (3) For elections by mail involving only state or federal
19 offices:

20 (A) The counties shall be responsible for voter
21 registration and absentee voting;



S.B. NO. 428

1 (B) The State shall be responsible for the printing,
2 mailing, receipt, and counting of ballots; and

3 (C) Any responsibilities not specified in this
4 paragraph may be assigned to the counties or the
5 State by the chief election officer."

6 SECTION 3. Chapter 11, Hawaii Revised Statutes, is amended
7 by adding a new section to part X to be appropriately designated
8 and to read as follows:

9 "§11- Postponed elections; disclosure of voting results.

10 Whenever the conduct of an election within any precinct has been
11 postponed:

12 (1) By the chief election officer or clerk in county
13 elections because of a natural disaster pursuant to
14 section 11-92.3; or

15 (2) By the governor during a state of emergency pursuant
16 to section 127A-13(a)(9),

17 the printout by the counting center computer or other disclosure
18 of the number of votes cast for each candidate or question
19 appearing on the ballot for the postponed election, from any
20 precinct regardless of whether designated for postponement,
21 including votes cast by absentee ballot or in an election by



1 mail pursuant to part , shall not be disclosed to the public
2 until voting for the postponed election has concluded. For
3 candidates or questions not appearing on the ballot for the
4 postponed election, the chief election officer or clerk in
5 county elections may postpone the printout or other disclosure
6 of the number of votes cast until voting for the postponed
7 election has concluded."

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

10 1. By adding four new definitions to be appropriately
11 inserted and to read:

12 "Electronic transmission" means the transmission of a
13 blank or voted ballot by facsimile or electronic mail delivery,
14 or the use of an online absentee ballot delivery and return
15 system, which may include the ability to mark the ballot.

16 "Place of deposit" means a site designated pursuant to
17 section 11-I for the purpose of receiving return identification
18 envelopes in an election conducted by mail pursuant to part .

19 "Poll" or "polling place" means an office or other suitable
20 facility designated by the respective clerks for the conduct of
21 voting. Beginning on January 1, 2018, the term "poll" or



1 "polling place" shall include a voter service center in a county
2 where elections by mail has been implemented.

3 "Voter service center" means a location established
4 pursuant to section 11-I to serve all of the following purposes:

- 5 (1) Receive return envelopes for absentee and permanent
6 absentee ballots pursuant to chapter 15;
7 (2) Receive return identification envelopes in an election
8 by mail pursuant to part ;
9 (3) Provide voting machine services for persons with
10 disabilities pursuant to the Help America Vote Act of
11 2002 (P.L. 107-252), as amended, and any other federal
12 or state law relating to persons with disabilities;
13 (4) Assist with voter registration services as provided by
14 law; and
15 (5) Any other purposes the chief election officer may deem
16 necessary in the event of a natural disaster or other
17 exigent circumstances occurring prior to an election."

18 2. By amending the definitions of "ballot" and "voting
19 system" to read:

20 "Ballot" [7] means a ballot, including an absentee ballot,
21 that is a written or printed, or partly written and partly



1 printed paper or papers, containing the names of persons to be
2 voted for, the office to be filled, and the questions or issues
3 to be voted on. "Ballot" includes a ballot used in an election
4 by mail pursuant to part . A ballot may consist of one or
5 more cards or pieces of paper, or one face of a card or piece of
6 paper, or a portion of the face of a card or piece of paper,
7 depending on the number of offices, candidates to be elected
8 thereto, questions or issues to be voted on, and the voting
9 system in use. It shall also include the face of the mechanical
10 voting machine when arranged with cardboard or other material
11 within the ballot frames, containing the names of the candidates
12 and questions to be voted on.

13 "Voting system" [~~7~~] means the use of paper ballots,
14 electronic [~~ballot cards~~, ~~7~~] transmission, voting machines,
15 elections by mail pursuant to part , absentee voting pursuant
16 to chapter 15, or any system by which votes are cast and
17 counted."

18 SECTION 5. Section 11-4, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§11-4 **Rules [~~and regulations~~]**. The chief election
21 officer may make, amend, and repeal [~~such~~] rules [~~and~~



1 ~~regulations~~] governing elections held under this title, election
2 procedures, and the selection, establishment, use, and operation
3 of all voting systems now in use or to be adopted in the State,
4 and all other similar matters relating thereto as in the chief
5 election officer's judgment shall be necessary to carry out this
6 title.

7 In making, amending, and repealing rules [~~and regulations~~]
8 for voters who cannot vote [~~at the polls~~] in person or receive
9 or return ballots by mail, and all other voters, the chief
10 election officer shall provide for voting by [~~such~~] these
11 persons in [~~such~~] a manner [~~as to insure~~] that ensures secrecy
12 of the ballot and [~~to preclude~~] precludes tampering with the
13 ballots of these voters and other election frauds. [~~Such~~] The
14 rules [~~and regulations~~], when adopted in conformity with chapter
15 91 and upon approval by the governor, shall have the force and
16 effect of law."

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

19 "(a) The clerk, not later than 4:30 p.m. on the sixtieth
20 day after every general election, shall remove the name of any
21 registered voter who did not vote in that general election, and



1 also did not vote in the primary election preceding that general
2 election, and also did not vote in the previous general
3 election, and also did not vote in the primary election
4 preceding that general election, and also did not vote in the
5 regularly scheduled special elections held in conjunction with
6 those primary and general elections, if any, with the exception
7 of:

8 (1) Those who submitted written requests for absentee
9 ballots as provided in section 15-4; or

10 (2) Anyone who preregistered pursuant to section 11-12(b).

11 If a person voted, at least once, in any of the above-mentioned
12 elections, the person's name shall remain on the list of
13 registered voters. For this purpose, "vote" means the
14 depositing of the ballot in the ballot box regardless of whether
15 the ballot is blank or later rejected for any reason. In the
16 case of voting machines, "vote" means the voter has activated
17 the proper mechanism and fed the vote into the machine. In the
18 case of an election by mail pursuant to part , "vote" means
19 the voter has returned the ballot to the chief election officer
20 or clerk by the United States Postal Service, by delivering the



1 ballot to a place of deposit or voter service center, or by
2 electronic transmission."

3 SECTION 7. Section 11-92.1, Hawaii Revised Statutes, is
4 amended by amending its title and subsection (a) to read as
5 follows:

6 "§11-92.1 Election proclamation; [establishment of a new
7 precinct.] places of deposit; voter service centers. (a) The
8 chief election officer shall issue a proclamation [~~whenever a~~
9 ~~new precinct is established in any representative district.]~~
10 listing all polling places and, in counties where elections by
11 mail have been implemented pursuant to part _____, places of
12 deposit, and voter service centers. Places of deposit may be
13 open as soon as election by mail ballot packets are made
14 available to voters. The chief election officer shall provide a
15 suitable polling place for each precinct[~~-~~] in counties where
16 elections by mail have not been implemented. Voter service
17 centers shall be designated and open pursuant to section 11-I in
18 a county where elections by mail have been implemented.
19 Schools, recreational halls, park facilities, and other publicly
20 owned or controlled buildings, whenever possible and convenient,
21 shall be used as polling places[~~-~~] or, in the case of elections



1 by mail pursuant to part _____, as voter service centers. The
2 chief election officer shall make arrangements for the rental or
3 erection of suitable shelter for this purpose whenever public
4 buildings are not available and shall cause these polling places
5 or voter service centers to be equipped with the necessary
6 facilities for lighting, ventilation, and equipment needed for
7 elections on any island. This proclamation may be issued
8 jointly with the proclamation required in section 11-91."

9 SECTION 8. Section 11-92.3, Hawaii Revised Statutes, is
10 amended by amending its title and subsection (a) to read as
11 follows:

12 "§11-92.3 [~~Consolidated precincts; natural~~] Natural
13 disasters; postponement; absentee voting [required]; elections
14 by mail; special elections. (a) In the event of a flood,
15 tsunami, earthquake, volcanic eruption, high wind, or other
16 natural disaster, occurring prior to an election, that makes a
17 precinct or voter service center inaccessible, the chief
18 election officer or county clerk in the case of county elections
19 may consolidate precincts or provide an alternate precinct or
20 voter service center within a representative district[~~-~~] or
21 county, as applicable. If the extent of damage caused by any



S.B. NO. 428

1 natural disaster is such that the ability of voters, in any
2 precinct, district, or county, to exercise their right to vote
3 is substantially impaired, the chief election officer or county
4 clerk in the case of county elections may ~~[require]~~:

5 (1) Require the registered voters of the affected
6 precinct, district, or county to vote by absentee
7 ballot pursuant to section 15-2.5 ~~[and may postpone]~~
8 or elections by mail pursuant to part ; and

9 (2) Postpone the conducting of an election in the affected
10 precinct, district, or county for no more than twenty-
11 one days; provided that any ~~[such]~~ postponement shall
12 not affect the conduct of the election, tabulation, or
13 distribution of results for those precincts,
14 districts, or counties not designated for
15 postponement.

16 The chief election officer or county clerk in the case of county
17 elections shall give notice of the consolidation, postponement,
18 or requirement to vote by absentee ballot ~~[7]~~ or by mail, in the
19 affected ~~[county or]~~ precinct, county, or district prior to the
20 opening of ~~[the]~~ each precinct polling place by whatever
21 possible news or broadcast media are available. Precinct



1 officials and workers affected by any consolidation shall not
2 forfeit their pay."

3 SECTION 9. Section 11-173.5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) In primary and special primary election contests, and
6 county election contests held concurrently with a regularly
7 scheduled primary or special primary election, the complaint
8 shall be filed in the office of the clerk of the supreme court
9 not later than 4:30 p.m. on the [~~sixth~~] thirteenth day after a
10 primary or special primary election, or county election contests
11 held concurrently with a regularly scheduled primary or special
12 primary election, and shall be accompanied by a deposit for
13 costs of court as established by rules of the supreme court.
14 The clerk shall issue to the defendants named in the complaint a
15 summons to appear before the supreme court not later than 4:30
16 p.m. on the fifth day after service thereof."

17 SECTION 10. Section 11-184, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§11-184 Election expenses and responsibilities in**
20 **combined state and county elections.** Election expenses in
21 elections involving both state and county offices, except for



1 elections conducted by mail in whole or in part, shall be shared
2 as set forth below:

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

4 (A) Precinct officials;

5 (B) Instruction of precinct officials when initiated
6 or approved by the chief election officer;

7 (C) Boards of registration;

8 (D) Polling place costs other than supplies[+], such
9 as installation rentals, ballot boxes, voting
10 booths, custodians, telephones, and maintenance;

11 (E) Other equipment, such as ballot transport
12 containers;

13 (F) Temporary election employees hired to do strictly
14 state work; and

15 (G) Extraordinary voter registration and voter
16 education costs when approved by the chief
17 election officer[-];

18 (2) The county shall pay and be responsible for:

19 (A) Normal voter registration, voters list
20 maintenance, and all printing connected with



S.B. NO. 428

- 1 voter registration, including printing of the
2 voters list;
- 3 (B) Temporary election employees hired to do strictly
4 county work;
- 5 (C) Maintenance of existing voting machines,
6 including parts, freight, storage, programming,
7 and personnel;
- 8 (D) Maintenance and storage of voting devices and
9 other equipment; and
- 10 (E) Employees assigned to conduct absentee polling
11 place functions [-]; and
- 12 (3) The remaining election expenses shall be divided in
13 half between the State and the counties. Each county
14 [~~will~~] shall pay a proration of expenses as a
15 proportion of the registered voters at the time of the
16 general election. These expenses shall include but
17 not be limited to:
- 18 (A) Polling place supplies;
- 19 (B) All printing, including ballots, but excluding
20 printing connected with voter registration;



- 1 (C) Temporary election employees [~~not including~~],
2 except for voting machine programmers doing work
3 for both the State and county;
- 4 (D) Ballot preparation and packing; and
- 5 (E) All other costs for which the State or county are
6 not specifically responsible relating to the
7 operation of voting machines, electronic voting
8 systems, and other voting systems except paper
9 ballots to include but not be limited to real
10 property rentals, equipment rentals, personnel,
11 mileage, telephones, supplies, publicity,
12 computer programming, and freight.

13 The responsibility for [~~the above~~] these
14 functions shall be determined by the chief election
15 officer where the responsibility for [~~such~~] these
16 functions has not been assigned by the legislature.

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



1 SECTION 11. Section 15-4, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) When a registered voter requests an absentee ballot,
4 the voter also may include an additional request to receive
5 absentee ballots permanently. After receiving a request for
6 permanent absentee voter status, the clerk shall mail to the
7 voter who requested permanent absentee voter status an absentee
8 ballot for all subsequent elections conducted in that precinct.
9 The forwarding address for absentee ballots to be permanently
10 mailed shall be the in-state mailing address contained in the
11 voter's registration record. Subject to the conditions of
12 subsection (a), a permanent absentee voter or a voter in an
13 election by mail pursuant to part of chapter 11 may also
14 request from the clerk that the voter's ballot be forwarded
15 temporarily to an address other than the permanent absentee
16 mailing address [~~originally requested~~], either in or outside of
17 the State, for a single election or for a primary or special
18 primary election and the election immediately following the
19 primary or special primary election[~~-~~] or for the purposes of
20 part of chapter 11. A [~~permanent absentee~~] voter's request
21 under this subsection for a ballot to be forwarded temporarily



1 shall not serve as a cancellation of the voter's permanent
2 absentee status [~~or~~], as a change to the voter's permanent
3 absentee mailing address [~~or~~], or as a change to a voter's
4 registered address for an election by mail pursuant to part
5 of chapter 11. Upon the completion of the election or elections
6 covered by the [~~permanent absentee~~] voter's temporary request
7 under this subsection, the clerk shall resume mailing the
8 voter's ballots to the permanent absentee mailing address
9 originally requested under subsection (a) [~~or~~], or to a voter's
10 registered address for an election by mail pursuant to part
11 of chapter 11."

12 SECTION 12. Section 15D-3, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[~~+~~]**§15D-3**[~~+~~] **Elections covered.** The voting procedures in
15 this chapter apply to:

- 16 (1) A general, special, or primary election for federal
17 office;
- 18 (2) A general, special, or primary election for statewide
19 or state legislative office or state ballot measure;
- 20 and



1 (3) A general, special, recall, primary, or runoff
2 election for local government office or local ballot
3 measure conducted under [~~section 11-91.5~~] part of
4 chapter 11 for which absentee voting or voting by mail
5 is available for other voters."

6 SECTION 13. Section 19-6, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§19-6 **Misdemeanors.** The following persons shall be
9 guilty of a misdemeanor:

10 (1) Any person who offers any bribe or makes any promise
11 of gain, or with knowledge of the same permits any
12 person to offer any bribe or make any promise of gain
13 for the person's benefit to any voter to induce the
14 voter to sign a nomination paper, and any person who
15 accepts any bribe or promise of gain of any kind as
16 consideration for signing the same, whether the bribe
17 or promise of gain be offered or accepted before or
18 after the signing;

19 (2) Any person who wilfully tears down [~~or~~], destroys, or
20 defaces any election proclamation [~~or any~~], poster
21 [~~or~~], notice [~~or~~], list of voters [~~or~~], visual aids,



1 or facsimile ballot, issued or posted by authority of
2 law;

3 (3) Any person printing or duplicating or causing to be
4 printed or duplicated any ballot, conforming as to the
5 size, weight, shape, thickness, or color to the
6 official ballot so that it could be cast or counted as
7 an official ballot in an election;

8 (4) Every person who is disorderly or creates a
9 disturbance whereby any meeting of the precinct
10 officials or the board of registration of voters
11 during an election is disturbed or interfered with; or
12 whereby any person who intends to be lawfully present
13 at any meeting or election is prevented from
14 attending; or who causes any disturbance at any
15 election; and every person assisting or aiding or
16 abetting any disturbance;

17 (5) Every person who, either in person or through another,
18 in any manner breaks up or prevents, or endeavors to
19 break up or prevent, the holding of any meeting of the
20 board of registration of voters, or in any manner



1 breaks up or prevents, or endeavors to break up or
2 prevent, the holding of any election;

3 (6) Any person, other than those designated by section
4 11-132, who remains or loiters within the area set
5 aside for voting as set forth in section 11-132 during
6 the time appointed for voting;

7 (7) Any person, including candidates carrying on any
8 campaign activities within the area described in
9 section 11-132 during the period of time starting one
10 hour before the polling place opens and ending when
11 the polling place closes for the purpose of
12 influencing votes. Campaign activities shall include
13 the following:

14 (A) Any distribution, circulation, carrying, holding,
15 posting, or staking of campaign cards, pamphlets,
16 posters, and other literature;

17 (B) The use of public address systems and other
18 public communication media;

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

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



- 1 (8) Any person who opens [a]:
- 2 (A) A return envelope containing an absentee ballot
- 3 voted under chapter 15 other than those persons
- 4 authorized to do so under chapter 15; or
- 5 (B) A return envelope containing a ballot voted by
- 6 mail or a ballot returned by electronic
- 7 transmission under part of chapter 11 other
- 8 than those persons authorized to do so under part
- 9 of chapter 11;
- 10 (9) Any unauthorized person found in possession of any
- 11 voting machine or keys thereof; and
- 12 (10) Every person who wilfully violates or fails to obey
- 13 any of the provisions of law, punishment for which is
- 14 not otherwise specified in this chapter [~~speecially~~
- 15 ~~provided for~~]."

16 SECTION 14. Section 11-91.5, Hawaii Revised Statutes, is
 17 repealed.

18 [~~"§11-91.5 Federal, state, and county elections by mail.~~

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



1 ~~(b) The chief election officer shall determine whether a~~
2 ~~federal or state election, other than a regularly scheduled~~
3 ~~primary or general election, may be conducted by mail or at~~
4 ~~polling places.~~

5 ~~(c) The county clerk shall determine whether a county~~
6 ~~election, held other than on the date of a regularly scheduled~~
7 ~~primary or general election, may be conducted by mail or at~~
8 ~~polling places. An election by mail in the county shall be~~
9 ~~under the supervision of the county clerk.~~

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

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

16 SECTION 15. Act 166, Session Laws of Hawaii 2014, section
17 1, is amended by amending subsections (b) and (c) to read as
18 follows:

19 "(b) The county clerk shall designate a registration
20 clerk, who may be an election official, at each of the absentee
21 polling places in the county established pursuant to section



1 15-7, prior to the day of the election [~~and at~~]. At each of the
2 polling places in the county on the day of the election[-], an
3 election official shall be designated to serve as a registration
4 clerk.

5 (c) The registration clerk shall [~~process~~] accept
6 applications for any person not registered to vote who submits a
7 signed affidavit in accordance with section 11-15, which shall
8 include a sworn affirmation:

9 (1) Of the person's qualification to vote;

10 (2) Acknowledging that the person has not voted and will
11 not vote at any other polling place for that election
12 and has not cast and will not cast any absentee ballot
13 pursuant to chapter 15 for that election; and

14 (3) Acknowledging that providing false information may
15 result in a class C felony, punishable by a fine not
16 exceeding \$1,000 or imprisonment not exceeding five
17 years, or both."

18 SECTION 16. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so
20 much thereof as may be necessary for fiscal year 2017-2018 for a
21 grant-in-aid for the office of the county clerk of the county of



1 Kauai for the purpose of implementing and administering
2 elections by mail, including voter education and public
3 awareness programs.

4 The sum appropriated shall be expended by the office of the
5 county clerk of the county of Kauai for the purposes of this
6 Act.

7 SECTION 17. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ or so
9 much thereof as may be necessary for fiscal year 2017-2018 and
10 the same sum or so much thereof as may be necessary for fiscal
11 year 2018-2019 for the purpose of implementing and administering
12 elections by mail, including voter education and public
13 awareness programs.

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

16 SECTION 18. No later than twenty days prior to the
17 convening of each regular session of the legislature, from the
18 regular sessions of 2018 until 2024, the office of elections
19 shall submit a report to the legislature that includes:

20 (1) The office's progress in implementing this Act;



- 1 (2) The office's proposals for working with the county
2 clerks to eventually merge permanent absentee voter
3 registration lists with non-absentee voter
4 registration lists used for the purposes of
5 implementing this Act;
- 6 (3) Any additional resources the office may require to
7 implement this Act;
- 8 (4) Any difficulties encountered;
- 9 (5) Specific steps taken and recommendations necessary to
10 prevent fraud and ensure the integrity of the election
11 process; and
- 12 (6) Any other findings and recommendations, including any
13 proposed legislation necessary to clarify and make
14 consistent chapters 11, 12, 15, and 15D, Hawaii
15 Revised Statutes, in light of the transition to
16 statewide elections by mail.

17 SECTION 19. In codifying the new sections added by section
18 2 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.



1 SECTION 20. If any provision of this Act, or the
 2 application thereof to any person or circumstance, is held
 3 invalid, the invalidity does not affect other provisions or
 4 applications of the Act that can be given effect without the
 5 invalid provision or application, and to this end the provisions
 6 of this Act are severable.

7 SECTION 21. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 22. This Act shall take effect on July 1, 2017;
 10 provided that:

11 (1) Section 14 shall take effect on the date of the 2020
 12 primary election; and

13 (2) Section 15 shall take effect on January 1, 2018.
 14

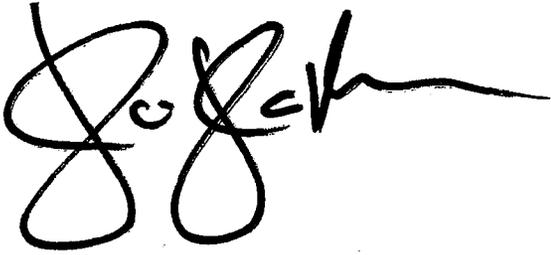
INTRODUCED BY:

[Handwritten signatures and names of legislators]

Lorraine H. Brown
Randy de Beke
Juan Antonio Mercedo
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[Signature]
Michelle A. Sudan

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A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Clara M. Fishburne

A handwritten signature in black ink, featuring a large, circular loop at the top and several smaller loops below it.A handwritten signature in black ink, appearing as a series of connected, slightly curved lines.

S.B. NO. 428

Report Title:

Elections; Voting; Elections by Mail; Postposed Elections; Election Results; Election Expenses; Appropriation

Description:

Beginning with the primary election in 2018, requires the office of elections to implement election by mail in a county with a population of fewer than 100,000 and beginning with the 2020 primary election, implement election by mail in each of the other counties for all elections. Establishes an election by mail system, including requirements for ballots, replacement ballots, deficient return of ballots, electronic transmission of replacement ballots under certain circumstances, ballot counting, voter service centers, places of deposit, and election expenses and responsibilities. Establishes procedures for postponed elections. Makes conforming amendments to provide for an election by mail system. Allows voters in an election by mail system to request that their ballots be temporarily forwarded to another address in or outside of the State for a single election or a primary or special primary election and the election immediately following it. Appropriates funds for the implementation and administration of the elections by mail program. Requires the office of elections to submit annual reports to the legislature from 2018 to 2024 regarding implementing the elections by mail program.

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

