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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. The legislature finds that the current  
2       plurality voting method allows a candidate to win an election  
3       with less than a majority of votes when there are more than two  
4       candidates for the office. In elections with many candidates,  
5       the plurality method may result in winners who received small  
6       percentages of votes or who are not the most favored among the  
7       voters. For these winners, this may raise concerns about a lack  
8       of public support and confidence and may therefore undermine the  
9       ability of those elected to govern effectively.

10       Instant runoff voting is an election method that allows  
11       voters the option to rank candidates as the voter's first,  
12       second, and subsequent choices. Votes are then tabulated so  
13       that if no candidate receives a majority of votes, the candidate  
14       with the least number of votes is eliminated and the votes for  
15       the eliminated candidate are automatically transferred to those  
16       voters' second choice candidate, as if the votes were cast in a  
17       traditional election runoff.



1        Instant runoff voting assures that elected officials have  
2 the support of a majority of voters because it allows voters to  
3 indicate their preferences among more than one candidate.  
4 Instant runoff voting allows all voters to vote for their  
5 favorite candidate without fear of helping to elect their least  
6 favorite candidate.

7        The legislature further finds that instant runoff voting  
8 has been used effectively around the world, including in Ireland  
9 for presidential elections, Australia for parliamentary  
10 elections, and London for mayoral elections. Instant runoff  
11 voting is used by numerous local governments in the United  
12 States, including San Francisco, Oakland, and Berkeley,  
13 California; Telluride, Colorado; Portland, Maine; Minneapolis  
14 and St. Paul, Minnesota; and Memphis, Tennessee.

15        Finally, the legislature finds that Hawaii's voting  
16 systems, including optical scanners, can process instant runoff  
17 voting with little or no difficulty.

18        The purpose of this Act is to require the use of the  
19 instant runoff voting method for elections for elective office.



SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended by adding three new sections to part X to be appropriately designated and to read as follows:

"§11-A Instant runoff voting method; procedure for counting votes. (a) To determine the winners in an election conducted by the instant runoff voting method, election officials shall initially count the ballots according to the first choice marked on each ballot. If at the end of the initial count, one candidate receives a majority of the votes cast, that candidate shall be declared the winner for that office.

(b) If at the end of the initial count, no candidate receives a majority of the first choice votes cast, the chief election officer or the county clerk, as the case may be, shall declare that no candidate has received a majority of first choice votes and that the candidate with the fewest first choice votes and candidates receiving fewer than one per cent of the first choice votes, if any, are deemed defeated.

The chief executive election officer or the county clerk, as the case may be, shall transfer the first choice votes for the defeated candidate or candidates to the candidates who



1 received the next highest ranking on each ballot containing  
2 first choice votes for the defeated candidate or candidates and  
3 shall count the votes of each remaining candidate as revised by  
4 the transferred votes. If after the first round of transferring  
5 votes, no candidate has received a majority of votes cast for  
6 the office, the process of eliminating candidates, transferring  
7 votes, including previously transferred votes, to candidates  
8 still in the race, and tabulating revised results shall continue  
9 until one candidate receives a majority of the votes cast. If  
10 after the fourth round of tabulation, no candidate has received  
11 a majority of the votes cast, then the candidate with the most  
12 first choice votes following the fourth round of tabulation  
13 shall be declared the winner, regardless of whether that  
14 candidate has received a majority of the votes cast. Blank and  
15 spoiled votes shall not be tabulated.

16 (c) Once a winner has been declared pursuant to subsection  
17 (b), a certificate of election declaring the results shall be  
18 issued pursuant to section 11-156.

19 **§11-B Instant runoff voting method; generally.** (a) Once  
20 a ballot in an election using the instant runoff voting method



1 has no more available choices ranked on it, the ballot shall be  
2 deemed exhausted.

3 (b) If a ballot in an election using the instant runoff  
4 voting method skips a ranked choice, the ballot shall be deemed  
5 exhausted. A ballot that gives two or more candidates the same  
6 ranking shall be deemed exhausted when that ranking is reached  
7 unless only one of the candidates so ranked is still in the race  
8 when the vote is due to be transferred to that ranked choice.

9 (c) If a tie between candidates occurs at any stage in the  
10 tabulation, the tie shall be resolved against the candidate who  
11 received the least number of combined first choice votes and  
12 transferred votes at the previous stage of tabulation. In the  
13 case of a tie to which a previous stage does not apply, or where  
14 the previous stage was also a tie, the tie shall be resolved by  
15 drawing lots. However, if a tie occurs when there are only two  
16 candidates remaining, the tie shall be resolved as set forth in  
17 section 11-157.

18 §11-C Instant runoff voting method; application. (a) The  
19 instant runoff voting method shall be used in all contests for  
20 elective office.



1       If the instant runoff voting method is used in a special  
2 election, the special election shall consist of only one  
3 election contest and no subsequent separate runoff election  
4 shall be held.

5       (b) The election proclamation required pursuant to section  
6 11-91 shall state that votes will be cast and tabulated using  
7 the instant runoff voting method and provide an explanation of  
8 the procedures for instant runoff voting.

9       (c) For purposes of this section, the chief election  
10 officer shall adopt rules under chapter 91 to provide for the  
11 use of mechanical, electronic, or other means devised for  
12 marking, sorting, and counting the ballots and tabulating and  
13 transferring the votes in an election using the instant runoff  
14 voting method; provided that no rule shall alter the intent or  
15 principles embodied in the instant runoff voting method  
16 described in this part.

17       (d) Ballots for use in an instant runoff election shall be  
18 simple and easy to understand and shall allow a voter to rank  
19 each candidate for an office in order of preference, up to four  
20 places. Prior to finalization and printing, sample ballots  
21 shall be made available for at least seven days on the



1 applicable county's elections or comparable website and at the  
2 office of elections' website for public review and comment.

3 Instructions on the ballot shall include the following  
4 statement: "You may mark as many or as few alternate choices as  
5 you wish. Marking a second choice cannot help defeat your first  
6 choice. Marking a subsequent choice cannot help defeat your  
7 higher-ranked choices."

8 Sample ballots illustrating the procedures for instant  
9 runoff voting shall be posted in or near the voting booth,  
10 included in the instruction materials for absentee ballots, and  
11 posted on the office of elections' website. The office of  
12 elections shall distribute educational materials explaining  
13 instant runoff voting prior to the election."

14 SECTION 3. Section 11-1, Hawaii Revised Statutes, is  
15 amended by adding two new definitions to be appropriately  
16 inserted and to read as follows:

17 "Instant runoff voting method" means a method of casting  
18 and tabulating votes that tabulates a single vote for each voter  
19 but simulates the ballot counts that would occur if all voters  
20 participated in a series of runoff elections, whereby voters are  
21 allowed to rank candidates according to the voter's preference



1 and, if no candidate obtains a majority of first choice votes,  
2 votes are transferred in sequential tabulations according to  
3 voters' preferences.

4 "Majority election contest" means an election contest in  
5 which a candidate is required by law to receive a majority of  
6 votes cast for the office to be elected outright."

7 SECTION 4. Section 11-112, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§11-112 Contents of ballot. (a) The ballot shall  
10 contain the names of the candidates, their party affiliation or  
11 nonpartisanship in partisan election contests, the offices for  
12 which they are running, and the district in which the election  
13 is being held. In multimember races, the ballot shall state  
14 that the voter shall not vote for more than the number of seats  
15 available or the number of candidates listed where [such] the  
16 number of candidates is less than the number of seats available.

17 (b) The ballot may include questions concerning proposed  
18 state constitutional amendments, proposed county charter  
19 amendments, or proposed initiative or referendum issues.

20 (c) At the chief election officer's discretion, the ballot  
21 may have a background design imprinted onto it.





(d) When the electronic voting system is used, the ballot may have pre-punched codes and printed information ~~[which]~~ that identify the voting districts, precincts, and ballot sets to facilitate the electronic data processing of these ballots.

(e) The name of the candidate may be printed with the Hawaiian or English equivalent or nickname, if the candidate so requests in writing at the time the candidate's nomination papers are filed. Candidates' names, including the Hawaiian or English equivalent or nickname, shall be set on one line.

(f) The ballot shall bear no word, motto, device, sign, or symbol other than as allowed in this title.

(g) The ballot may include language necessary to use the instant runoff voting method pursuant to sections 11-A , 11-B, and 11-C."

SECTION 5. Section 11-151, Hawaii Revised Statutes, is amended to read as follows:

"§11-151 **Vote count.** ~~[Each]~~ Except for contests where the instant runoff voting method is used, each contest or question on a ballot shall be counted independently as follows:

(1) If the votes cast in a contest or on a question are equal to or less than the number to be elected or



1 chosen for that contest or question, the votes for  
2 that contest or question shall be counted;

3 (2) If the votes cast in a contest or question exceed the  
4 number to be elected or chosen for that contest or  
5 question, the votes for that contest or question shall  
6 not be counted; and

7 (3) If a contest or question requires a majority of the  
8 votes for passage, any blank, spoiled, or invalid  
9 ballot shall not be tallied for passage or as votes  
10 cast except that such ballots shall be counted as  
11 votes cast in ratification of a constitutional  
12 amendment or a question for a constitutional  
13 convention."

14 SECTION 6. Section 11-152, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "§11-152 Method of counting. (a) In an election using  
17 the paper ballot voting system, immediately after the close of  
18 the polls, the chairperson of the precinct officials shall open  
19 the ballot box. The precinct officials at the precinct shall  
20 proceed to count the votes as follows:



(1) The whole number of ballots shall first be counted to see if their number corresponds with the number of ballots cast as recorded by the precinct officials;

(2) If the number of ballots corresponds with the number of persons recorded by the precinct officials as having voted, the precinct officials shall then proceed to count the ~~[vote]~~ votes cast for each candidate; and

(3) If there are more ballots or ~~[less]~~ fewer ballots than the record calls for, the precinct officials shall proceed as directed in section 11-153.

(b) In those precincts using the electronic voting system, the ballots shall be taken in the sealed ballot boxes to the counting center according to the procedure and schedule promulgated by the chief election officer to promote the security of the ballots. In the presence of official observers, counting center employees may start to count the ballots prior to the closing of the polls; provided that there shall be no printout by the computer or other disclosure of the number of votes cast for a candidate or on a question prior to the closing of the polls. For the purposes of this section, the closing of



1 the polls is that time identified in section 11-131 as the  
2 closing hour of voting.

3 (c) In an election that uses the instant runoff voting  
4 method, votes shall be counted as provided in sections 11-A and  
5 11-B."

6 SECTION 7. Section 11-155, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§11-155 Certification of results of election. On receipt  
9 of certified tabulations from the election officials concerned,  
10 the chief election officer in state elections or county clerk in  
11 county elections shall compile, certify, and release the  
12 election results after the expiration of the time for bringing  
13 an election contest. The certification shall be based on a  
14 comparison and reconciliation of the following:

- 15 (1) The results of the canvass of ballots conducted  
16 pursuant to chapter 16;
- 17 (2) The audit of pollbooks [÷]and related record books[÷]  
18 and resultant overage and underage report;
- 19 (3) The audit results of the manual audit team;
- 20 (4) The results of the absentee ballot reconciliation  
21 report compiled by the clerks; and



(5) All logs, tally sheets, and other documents generated during the election and in the canvass of the election results.

A certificate of election or a certificate of results declaring the results of the election as of election day shall be issued pursuant to section 11-156; provided that in the event of an overage or underage, a list of all precincts in which an overage or underage occurred shall be attached to the certificate. The number of candidates to be elected receiving the ~~highest~~ greatest number of votes in any election district shall be declared to be elected~~[-]~~; provided that candidates for office subject to the instant runoff voting method shall be declared to be elected pursuant to section 11-A. Unless otherwise provided, the term of office shall begin or end as of the close of polls on election day. The position on the question receiving the appropriate majority of the votes cast shall be reflected in a certificate of results issued pursuant to section 11-156."

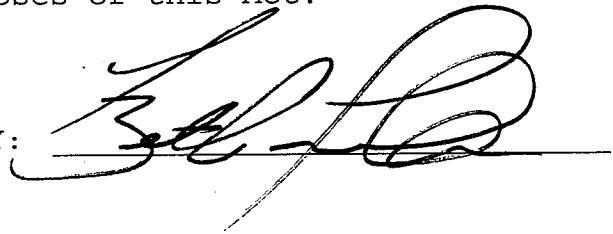
SECTION 8. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.



1       SECTION 9. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3       SECTION 10. This Act shall take effect on July 1, 2019;  
4 provided that this Act shall not apply to any election held  
5 prior to July 1, 2019; and provided further that, no later than  
6 December 31, 2018, the chief election officer and each county  
7 clerk shall adopt rules pursuant to chapter 91, Hawaii Revised  
8 Statutes, to effectuate the purposes of this Act.

9  
INTRODUCED BY:

A handwritten signature in black ink, appearing to be "L. B.", written over a horizontal line.

JAN 23 2018



# H.B. NO. 2444

**Report Title:**

Instant Runoff Voting; Elections

**Description:**

Provides for instant runoff voting for all elective offices.

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

