

JAN 20 2017

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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 in special elections allows a candidate  
3 to win an election with less than a majority of votes when there  
4 are more than two candidates for the office. In elections with  
5 many candidates, the plurality method may result in winners who  
6 received small percentages of votes and who are not widely  
7 supported by voters. For the winners, this may raise concerns  
8 about a lack of public support and confidence that may undermine  
9 the ability of the elected to govern effectively.

10           Ranked choice voting is an election method that provides  
11 voters the ability to rank candidates in order of choice, as the  
12 voter's first, second, and later choices. Tabulation begins  
13 with each voter's first choice vote. If a candidate receives a  
14 majority of votes, that candidate wins. If no candidate  
15 receives a majority of votes, the candidate with the fewest  
16 votes is eliminated and each vote counting for that candidate



1 counts for the voter's next choice in the subsequent round.  
2 That process repeats by eliminating the candidate with the  
3 fewest votes and counting each vote for the highest ranked  
4 remaining candidate in the next round, until two candidates  
5 remain, and the candidate with the most votes wins.

6 The legislature further finds that ranked choice voting has  
7 been used effectively in the United States and around the world.  
8 Notable cities include San Francisco, Oakland, Berkeley, and San  
9 Leandro, California; and Minneapolis and Saint Paul, Minnesota.  
10 In 2010, North Carolina used ranked choice voting for a  
11 statewide judicial vacancy election as well as three county-  
12 level judicial elections. Five states, South Carolina,  
13 Mississippi, Alabama, Louisiana, and Arkansas use ranked choice  
14 voting for uniformed and overseas voters in primary elections  
15 with potential runoffs. Ranked choice voting is used in many  
16 other countries, including by voters in Australia, Ireland, New  
17 Zealand, Malta, Northern Ireland, and Scotland. Voters in the  
18 state of Maine voted to adopt ranked choice for all state and  
19 congressional offices in November 2016.



Finally, the legislature finds that modern voting systems,  
1 including optical scanners produced by Hawaii's current voting  
2 system vendor, have federal certification for ranked choice  
3 voting capability.

4 The purpose of this Act is to authorize the use of ranked  
5 choice voting for special elections held for Congressional races  
6 in this State and for council member races in counties that  
7 adopt ranked choice voting.

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

11 "§11-A Ranked choice voting; procedure for counting votes.

12 (a) To determine the winners in an election conducted by ranked  
13 choice voting, election officials shall initially count each  
14 ballot as one vote for the candidate at its highest continuing  
15 ranking or as an inactive ballot. If a candidate has more than  
16 half of the total votes counting for candidates, that candidate  
17 shall be declared the winner for that office and tabulation is  
18 complete.

19 (b) If no candidate is declared the winner after the  
20 initial count, the tabulation proceeds in rounds. Each round  
21 shall proceed sequentially as follows:



1       (1) If two or fewer continuing candidates remain, the  
2       candidate with the greatest number of votes shall be  
3       declared the winner for that office and tabulation is  
4       complete; and

5       (2) If more than two continuing candidates remain, the  
6       candidate with the fewest votes is deemed defeated.  
7       Votes for the defeated candidate shall cease counting  
8       for the defeated candidate and shall be added to the  
9       totals of each ballot's highest ranked continuing  
10      candidate or counted as inactive ballots. A new round  
11      then begins with subsection (b) (1).

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

15      §11-B Ranked choice voting; generally. (a) A ballot  
16      shall be deemed inactive if it does not rank any continuing  
17      candidates, if it ranks more than one continuing candidate at  
18      its highest continuing ranking, or if it includes two or more  
19      consecutive skipped rankings prior to its highest continuing  
20      ranking.

21      (b) The chief election official shall determine a random  
22      selection algorithm prior to tabulation to resolve ties between



1 candidates. If a tie between candidates occurs at any stage in  
2 the tabulation and tabulation cannot proceed until the tie is  
3 resolved, then the random selection algorithm shall resolve the  
4 tie.

5 §11-C Ranked choice voting; application. (a) Any federal  
6 election not held on the date of a regularly scheduled primary  
7 or general election shall be conducted by ranked choice voting.  
8 Any federal election conducted by ranked choice voting shall be  
9 conducted by mail, pursuant to section 11-91.5. No subsequent  
10 separate runoff election shall be held.

11 (b) Any county may declare, by ordinance, charter, or  
12 charter amendment, that elections for county council member  
13 shall be conducted by ranked choice voting. For any such  
14 elections, no prior primary election or subsequent separate  
15 runoff election shall be held.

16 (c) The election proclamation required pursuant to section  
17 11-91 shall state that votes shall be cast and tabulated using  
18 ranked choice voting and provide an explanation of ranked choice  
19 voting.

20 (d) For purposes of this section, the chief election  
21 officer and county clerks shall adopt rules pursuant to chapter  
22 91 to provide for the use of mechanical, electronic, or other



1 means devised for marking, sorting, and counting the ballots and  
2 tabulating the votes for any election conducted by ranked choice  
3 voting.

4 (e) For any election conducted by ranked choice voting  
5 prior to the year 2021, the chief election officer and county  
6 clerks may modify the ballot and tabulation to the extent  
7 necessary to administer the election on the current voting  
8 system in any of the following ways:

- 9 (1) The number of allowable rankings may be limited to no  
10 fewer than three;
- 11 (2) If a candidate in any round has more than half of the  
12 votes counting for candidates in that round, then that  
13 candidate may be elected and no further tabulation  
14 shall be conducted;
- 15 (3) The method for resolving ties between candidates at  
16 any point in the tabulation procedure may be modified  
17 as necessary; or
- 18 (4) An inactive ballot may be modified as necessary;  
19 provided that a ballot that ranks a continuing  
20 candidate at its highest continuing ranking may not be  
21 counted as an inactive ballot.



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1        (f) In any election conducted by ranked choice voting, the  
2 ballot shall be simple and easy to understand. The ballot shall  
3 allow voters to rank every listed candidate in order of choice,  
4 or if the chief election officer determines that it is not  
5 feasible to allow voters to rank every candidate, the number of  
6 allowable rankings may be limited to the smaller of six or the  
7 number of candidates listed. Prior to finalization and  
8 printing, sample ballots shall be made available for at least  
9 seven days on the office of elections' website and at the office  
10 of elections for public review and comment. Sample ballots  
11 illustrating the procedures for ranked choice voting shall be  
12 included in the instruction materials for mail ballots, and  
13 posted on the office of elections' website. The office of  
14 elections shall distribute educational materials explaining  
15 ranked choice voting prior to the election."

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

19        "Continuing candidate" means any candidate that has not  
20 been defeated or elected.



1       "Highest continuing ranking" means the highest ranking for  
2 any continuing candidate on a ballot that is not an inactive  
3 ballot.

4       "Ranked choice voting" means the method of casting and  
5 tabulating votes in which voters rank candidates in order of  
6 choice, tabulation proceeds in sequential rounds in which last-  
7 place candidates are defeated, and the candidate with the most  
8 votes in the final round is elected.

9       "Ranking" means the number assigned by a voter to a  
10 candidate to express the voter's choice for that candidate. A  
11 ranking of "1" is the highest ranking followed by "2" then "3"  
12 and proceeding until the largest number is reached."

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

15       "**§11-112 Contents of ballot.** (a) The ballot shall contain  
16 the names of the candidates, their party affiliation or  
17 nonpartisanship in partisan election contests, the offices for  
18 which they are running, and the district in which the election  
19 is being held. In multimember races the ballot shall state that  
20 the voter shall not vote for more than the number of seats



available or the number of candidates listed where [~~such~~] the  
number of candidates is [~~less~~] fewer than the number of seats  
available.

1 (b) The ballot may include questions concerning proposed  
2 state constitutional amendments, proposed county charter  
3 amendments, or proposed initiative or referendum issues.

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

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

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

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

17 (g) The ballot may include information necessary to use  
18 ranked choice voting as described in sections 11-A, 11-B, and  
19 11-C."



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

3 "§11-151 Vote count. [~~Eaeh~~] Except for contests conducted  
4 by ranked choice voting, each contest or question on a ballot  
5 shall be counted independently as follows:

- 6 (1) If the votes cast in a contest or on a question are  
7 equal to or less than the number to be elected or  
8 chosen for that contest or question, the votes for  
9 that contest or question shall be counted;
- 10 (2) If the votes cast in a contest or question exceed the  
11 number to be elected or chosen for that contest or  
12 question, the votes for that contest or question shall  
13 not be counted; and
- 14 (3) If a contest or question requires a majority of the  
15 votes for passage, any blank, spoiled, or invalid  
16 ballot shall not be tallied for passage or as votes  
17 cast except that such ballots shall be counted as  
18 votes cast in ratification of a constitutional  
19 amendment or a question for a constitutional  
20 convention."

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



1           "§11-152 Method of counting. (a) In an election using  
2 the paper ballot voting system, immediately after the close of  
3 the polls, the chairperson of the precinct officials shall open  
4 the ballot box. The precinct officials at the precinct shall  
5 proceed to count the votes as follows:

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

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

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

17           (b) In those precincts using the electronic voting system,  
18 the ballots shall be taken in the sealed ballot boxes to the  
19 counting center according to the procedure and schedule  
20 promulgated by the chief election officer to promote the  
21 security of the ballots. In the presence of official observers,  
22 counting center employees may start to count the ballots prior



1 to the closing of the polls; provided that there shall be no  
2 printout by the computer or other disclosure of the number of  
3 votes cast for a candidate or on a question prior to the closing  
4 of the polls. For the purposes of this section, the closing of  
5 the polls is that time identified in section 11-131 as the  
6 closing hour of voting.

7 (c) In an election conducted by ranked choice voting,  
8 votes shall be counted as provided in sections 11-A and 11-B."

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

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

- 18 (1) The results of the canvass of ballots conducted  
19 pursuant to chapter 16;
- 20 (2) The audit of pollbooks (and related record books) and  
21 resultant overage and underage report;
- 22 (3) The audit results of the manual audit team;



- 1           (4) The results of the absentee ballot reconciliation  
2                   report compiled by the clerks; and
- 3           (5) All logs, tally sheets, and other documents generated  
4                   during the election and in the canvass of the election  
5                   results.

6           A certificate of election or a certificate of results  
7           declaring the results of the election as of election day shall  
8           be issued pursuant to section 11-156; provided that in the event  
9           of an overage or underage, a list of all precincts in which an  
10           overage or underage occurred shall be attached to the  
11           certificate. The ~~[number of]~~ candidates to be elected  
12           ~~[receiving the highest number of]~~ who receive the most votes in  
13           any election district shall be declared to be elected~~[-]~~i;  
14           provided that candidates for office elected by ranked choice  
15           voting shall be declared to be elected pursuant to section 11-A.  
16           Unless otherwise provided, the term of office shall begin or end  
17           as of the close of polls on election day. The position on the  
18           question receiving the appropriate majority of the votes cast  
19           shall be reflected in a certificate of results issued pursuant  
20           to section 11-156."

21           SECTION 8. In codifying the new sections added by section  
22           2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 SECTION 9. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect upon its approval;  
6 provided that no later than December 31, 2017, the chief  
7 election officer and each county clerk shall adopt rules  
8 pursuant to chapter 91, Hawaii Revised Statutes, to effectuate  
9 the purposes of this Act.

10

INTRODUCED BY:

*Karl Rhoads*



# S.B. NO. 218

**Report Title:**

Elections; Ranked Choice Voting

**Description:**

Establishes ranked choice voting for special election for Congressional races and for the election of council members in counties that have adopted the method.

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

