

JAN 19 2018

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 an increasing number
2 of Hawaii voters are submitting their votes by mail. The 2014
3 Hawaii primary election was the first election in which more
4 ballots were submitted before primary election day than on that
5 day. Fifty-six per cent of Hawaii voters chose to vote early
6 during the 2014 primary, and approximately eighty-three per cent
7 of those voters did so through a mail-in absentee ballot. In
8 2016, the number of votes cast before election day exceeded the
9 number of votes cast at polling places on election day, except
10 in one county.

11 The legislature further finds that Hawaii's conversion to
12 elections by mail would significantly reduce the logistical
13 issues related to conducting elections at polling places.

14 Accordingly, the purpose of this Act is to:

15 (1) Require all elections statewide to be conducted by
16 mail beginning with the 2020 primary election;



S.B. NO. 2292

(2) Establish a limited number of voter service centers that would remain open from the tenth business day preceding an election through the day of the election to receive personal delivery of mail-in ballots, accommodate voters with special needs, offer same day registration and voting, and provide other election services;

(3) Allow for additional places of deposit for personal delivery of mail-in ballots;

(4) Appropriate \$4,828,510 for the implementation and administration of the election by mail program to be used as follows:

(A) \$2,479,250 for the State's costs to conduct an all-mail election in 2020;

(B) \$1,372,000 for the counties' share of mailing and related expenditures, to be later reimbursed to the State;

(C) \$150,000 for additional voter education efforts;

and

(D) \$827,260 for the counties' start-up expenses; and



(5) Require the office of elections to submit a report to the legislature prior to the convening of each regular session from 2019 through 2023, regarding the implementation of a vote by mail system.

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

"PART . ELECTIONS BY MAIL

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

Beginning with the 2020 primary election, all elections shall be conducted by mail in accordance with this title.

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

Ballot packages for elections by mail shall include:

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

(b) To the extent practicable, the clerk shall mail a ballot package by non-forwardable mail to each registered voter in the county so as to enable voters to receive the ballot package approximately eighteen days before the election. The



1 clerk shall continue mailing ballot packages to voters who
2 update their voter registration address no later than fourteen
3 days before the date of the election. In determining the
4 initial mailing date of the ballot packages, the clerk shall
5 consider the mailing place of origin and the most recent postal
6 service delivery standards. The clerk shall not mail a ballot
7 package to any voter in the county register who is identified as
8 having an outdated or non-deliverable mail address. Nothing in
9 this part shall be construed to change the responsibilities of
10 the clerk or chief election officer under chapter 15D with
11 respect to uniform military and overseas voters.

12 (c) The clerks shall determine and provide for voter
13 service centers and places of deposit pursuant to this part and
14 section 11-92.1.

15 **§11-C Public notice of mailing.** Public notice of the date
16 or dates that the initial ballot packages are to be mailed shall
17 be given by the clerks before the ballot packages are made
18 available to voters.

19 **§11-D Ballot instructions; ballot return.** (a) After a
20 voter receives a ballot package, the voter shall comply with the



1 instructions included in the ballot package in order to cast a
2 valid vote. The instructions shall include directions for:

- 3 (1) Marking the ballot;
- 4 (2) Inserting the marked ballot in the secrecy envelope;
- 5 (3) Inserting the secrecy envelope with the marked ballot
6 in the return identification envelope; and
- 7 (4) Signing the return identification envelope before
8 mailing or delivering the return identification
9 envelope containing the secrecy envelope with the
10 marked ballot.

11 (b) The instructions shall include information on election
12 fraud and voter fraud, as provided in sections 19-3(5) and
13 19-3.5, and notice that violation of either section may subject
14 the voter, upon conviction, to imprisonment, a fine, or both.

15 (c) To cast a valid ballot, the voter shall return the
16 return identification envelope containing the secrecy envelope
17 with the marked ballot:

- 18 (1) By mail so that the return identification envelope is
19 received at the office of the clerk no later than the
20 closing hour provided in section 11-131 on the date of
21 the election;



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

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

(d) Once a voter has returned a return identification envelope containing the secrecy envelope with marked ballot, that voter's ballot is deemed cast and may not be recast in the election.

§11-E Replacement ballots. (a) A voter may obtain a replacement ballot if the ballot was destroyed, spoiled, or lost by contacting the clerk. The chief election officer may prescribe a replacement ballot application form that shall include information that allows the clerk to verify the registration of the voter and ensure that another ballot has not been returned by the voter.

(b) Upon receipt of the replacement ballot application form, the clerk shall:

(1) Verify the registration of the voter and ensure that another ballot has not been returned by the voter;



(2) Record that the voter has requested a replacement ballot;

(3) Mark the return identification envelope as containing a replacement ballot; and

(4) Issue the replacement ballot package by mail or make the ballot package available for pick-up by the voter.

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

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

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

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

§11-F Deficient return identification envelopes. If:



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

3 (2) The affirmation signature does not match a reference
4 signature image; or

5 (3) A return identification envelope contains another
6 condition that would not allow the counting of the
7 ballot,

8 the clerk shall make an attempt to notify the voter by first
9 class mail, telephone, or electronic mail to inform the voter of
10 the procedure to correct the deficiency. The voter shall have
11 five business days after the date of the election to cure the
12 deficiency. The chief election officer may adopt rules
13 regarding requirements and procedures for correcting deficient
14 return identification envelopes. The counting of ballots and
15 disclosure of subsequent election results may continue during
16 the time period permitted to cure a deficiency under this
17 section. The clerk's inability to contact voters under this
18 section shall not be grounds for a contest for cause under
19 section 11-172.

20 **§11-G Electronic transmission under certain circumstances.**

21 (a) If a ballot package is not received by a voter within five



1 days of an election or a voter otherwise requires a replacement
2 ballot within five days of an election, the voter may request
3 that a ballot be forwarded by electronic transmission; provided
4 that a voter with special needs may request that a ballot be
5 forwarded by electronic transmission at any time. Upon receipt
6 of such a request and confirmation that proper application was
7 made, the clerk may transmit the appropriate ballot, together
8 with a form containing the affirmations, information, and a
9 waiver of the right to secrecy under section 11-137.

10 (b) The voter may return the voted replacement ballot and
11 executed forms:

12 (1) By electronic transmission so that the voted
13 replacement ballot and executed forms are received at
14 the office of the clerk no later than the closing hour
15 provided in section 11-131 on the date of the
16 election;

17 (2) By mail so that the voted replacement ballot and
18 executed forms are received at the office of the clerk
19 no later than the closing hour provided in section 11-
20 131 on the date of the election;



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

(4) By personal delivery to a voter service center no later than the closing hour provided in section 11-131 on the date of the election.

(c) Upon receipt, the clerk shall verify compliance with the requirements of this part; provided that if the voter returns multiple voted ballots for the same election, the clerk shall prepare only the first ballot returned that is not spoiled.

§11-H Counting of mail-in ballots. Ballot processing for tabulation may begin no sooner than the tenth day before the election. In the presence of official observers, counting center employees may open the return identification envelopes and count the ballots; provided that any tabulation of the number of votes cast for a candidate or question appearing on the ballot, including a counting center printout or other disclosure, shall be kept confidential and shall not be disclosed to the public until the closing hour of voting provided in section 11-131 on the date of the election. All



1 handling and counting of ballots shall be according to
2 procedures established by the chief election officer.

3 **§11-I Voter service centers; places of deposit. (a)**

4 Voter service centers shall be established at the office of the
5 clerk, and may be established at additional locations within a
6 county as may be designated by a clerk to service the particular
7 needs of a county's voters.

8 (b) Voter service centers shall be open from the tenth
9 business day preceding the day of the election during regular
10 business hours until the time provided in section 11-131 on the
11 date of the election and at the same times statewide.

12 Notwithstanding the foregoing, the clerk may establish varying
13 times and dates of operation for additional service centers as
14 may be necessary.

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

18 (d) The clerks may designate and provide for places of
19 deposit to be open five business days before the election until
20 6:00 p.m. the day preceding the election; provided that the
21 locations and apparatus for receiving voted ballots can be



1 securely maintained during the period of use for each election,
2 and as may be permitted by the operational hours.

3 **§11-J Election expenses and responsibilities for elections**
4 **by mail.** (a) Election expenses in an election by mail shall be
5 as follows:

6 (1) All expenses related to elections by mail involving
7 both state and county offices, or involving both
8 federal and county offices, unrelated to voter
9 registration, shall be divided in half between the
10 State and the counties. To the extent that a
11 particular expense is shared statewide, each county
12 shall pay a proration of expenses as a proportion of
13 the registered voters at the time of the general
14 election. The counties shall separately be
15 responsible for expenses associated with voter
16 registration;

17 (2) All expenses for county elections by mail, which do
18 not involve state or federal offices, shall be borne
19 by the county and paid out of appropriations as may be
20 made by the county council; and



(3) All expenses for state or federal elections by mail, which do not involve county offices, shall be borne by the State and paid out of appropriations as may be made by the legislature. Expenses attributable to registration of voters by the clerk for state or federal elections that do not involve county offices shall be borne by the State and paid out of appropriations as may be made by the legislature.

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

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

(A) The counties shall be responsible for voter registration, absentee voting, voter service centers, places of deposit, and the mailing and receipt of ballots;

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

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



S.B. NO. 2292

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

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

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

(A) The counties shall be responsible for voter registration, absentee voting, voter service centers, and places of deposit;

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

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

SECTION 3. Chapter 11, Hawaii Revised Statutes, is amended by amending the title of part VI to read as follows:

"PART VI. [~~PRECINCT OFFICIALS AND~~] VOTER SERVICE
CENTER WATCHERS"

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



1 1. By adding five new definitions to be appropriately
2 inserted and to read:

3 "Business day" means any day excluding Saturdays, Sundays,
4 and state or federal holidays.

5 "District" means, unless otherwise specified, the district
6 of political representation with the fewest eligible voters in a
7 particular election.

8 "Electronic transmission" means the transmission of a blank
9 or voted ballot by facsimile or electronic mail delivery, or the
10 use of an online absentee ballot delivery and return system,
11 which may include the ability to mark the ballot.

12 "Place of deposit" means a site within the county of the
13 voter's registration address designated pursuant to section 11-I
14 for the purpose of receiving return identification envelopes in
15 an election conducted by mail pursuant to part _____.

16 "Voter service center" means a location within the county
17 of the voter's registration address established pursuant to
18 section 11-I to serve all of the following purposes:

- 19 (1) Receive return envelopes for absentee ballots pursuant
20 to chapter 15;



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

13 2. By amending the definition of "ballot" to read:

14 "Ballot" [~~, a ballot including an absentee ballot is~~] means
15 a written or printed, or partly written and partly printed,
16 paper or papers containing the names of persons to be voted for,
17 the office to be filled, and the questions or issues to be voted
18 on. "Ballot" includes a ballot used in an election by mail
19 pursuant to part _____ , including a ballot approved for
20 electronic transmission. A ballot may consist of one or more
21 cards or pieces of paper, or one face of a card or piece of



1 paper, or a portion of the face of a card or piece of paper,
2 depending on the number of offices, candidates to be elected
3 thereto, questions or issues to be voted on, and the voting
4 system in use. ~~[It shall also include the face of the~~
5 ~~mechanical voting machine when arranged with cardboard or other~~
6 ~~material within the ballot frames, containing the names of the~~
7 ~~candidates and questions to be voted on.]~~ "Ballot" includes an
8 absentee ballot."

9 3. By amending the definition of "election officials" to
10 read:

11 "Election officials" [~~precinct officials and other~~] means
12 persons designated as officials by the chief election officer."

13 4. By amending the definition of "voting system" to read:

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

19 5. By deleting the definition of "precinct".

20 ~~["Precinct", the smallest political subdivision~~
21 ~~established by law."]~~



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

3 "~~§11-4 Rules [and regulations]~~. The chief election
4 officer may make, amend, and repeal [~~such~~] rules [~~and~~
5 ~~regulations~~] governing elections held under this title, election
6 procedures, and the selection, establishment, use, and operation
7 of all voting systems now in use or to be adopted in the State,
8 and all other similar matters relating thereto as in the chief
9 election officer's judgment shall be necessary to carry out this
10 title.

11 In making, amending, and repealing rules [~~and regulations~~]
12 for voters who cannot vote [~~at the polls~~] in person or receive
13 or return ballots by mail, and all other voters, the chief
14 election officer shall provide for voting by [~~such~~] these
15 persons in [~~such~~] a manner [as to insure] that ensures secrecy
16 of the ballot and [~~to preclude~~] precludes tampering with the
17 ballots of these voters and other election frauds. [~~Such~~] The
18 rules [~~and regulations~~], when adopted in conformity with chapter
19 91 and upon approval by the governor, shall have the force and
20 effect of law."



SECTION 6. Section 11-15.2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a), (b), and (c) to read:

"(a) Notwithstanding the closing of the general county register pursuant to section 11-24, a person who is eligible to vote but is not registered to vote may register by appearing in person[+]

~~(1) Prior to the day of the election, at any absentee polling place established pursuant to section 15-7 in the county associated with the person's residence, or~~
~~(2) On the day of the election, at the polling place in the precinct associated with the person's residence.]~~

at any voter service center before and on election day.

(b) The county clerk shall designate a registration clerk, who may be an election official, at each ~~[of the absentee polling places in the county established pursuant to section 15-7, prior to the day of the election and at each of the polling places in the county on the day of the election.]~~ voter service center.

(c) The registration clerk shall process applications for any person not registered to vote who submits a signed affidavit



1 in accordance with section 11-15, which shall include a sworn
2 affirmation:

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

4 (2) Acknowledging that the person has not voted and will
5 not attempt to vote ~~[at any other polling place for]~~
6 again in that election, and has not cast and will not
7 cast any absentee ballot pursuant to chapter 15 ~~[for]~~
8 in that election; and

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

13 2. By amending subsections (f) and (g) to read:

14 "(f) Notwithstanding subsection (a), registration pursuant
15 to this section may also be used by a person who is registered
16 to vote but whose name cannot be found on the ~~[precinct list for]~~
17 ~~the polling place associated with the person's residence.]~~
18 county register.

19 (g) The clerk of each county shall add persons who
20 properly register under this section to the respective general
21 county register. Within thirty days of registration ~~[at the~~



1 ~~polling place~~], the [county] clerk shall mail to the person a
2 notice including the person's name, current street address,
3 district [~~and precinct~~], and date of registration. A notice
4 mailed pursuant to this subsection shall serve as prima facie
5 evidence that the person is a registered voter as of the date of
6 registration."

7 SECTION 7. Section 11-17, Hawaii Revised Statutes, is
8 amended by amending subsections (a) and (b) to read as follows:

9 "(a) The clerk, [~~not~~] no later than 4:30 p.m. on the
10 sixtieth day after every general election, shall remove the name
11 of any registered voter who did not vote in that general
12 election, and also did not vote in the primary election
13 preceding that general election, and also did not vote in the
14 previous general election, and also did not vote in the primary
15 election preceding that general election, and also did not vote
16 in the regularly scheduled special elections held in conjunction
17 with those primary and general elections, if any, with the
18 exception of:

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

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



1 If a person voted, at least once, in any of the above-mentioned
2 elections, the person's name shall remain on the list of
3 registered voters. For this purpose, "vote" means the
4 depositing of the ballot in the ballot box regardless of whether
5 the ballot is blank or later rejected for any reason. In the
6 case of voting machines, "vote" means the voter has activated
7 the proper mechanism and fed the vote into the machine. In the
8 case of an election by mail pursuant to part , "vote" means
9 the voter has returned the ballot to the chief election officer
10 or clerk by the United States Postal Service, by personal
11 delivery of the ballot to a place of deposit or voter service
12 center, or by electronic transmission under certain
13 circumstances pursuant to part .

14 (b) The clerk shall also identify or remove the name of
15 any registered voter, if the clerk, after mailing a notice or
16 other correspondence, properly addressed, with postage prepaid,
17 receives the notice or other correspondence as return mail with
18 a postal notation that the notice or other correspondence was
19 not deliverable. On election day, any person identified or
20 removed shall have the person's name corrected or restored in
21 the register and shall be allowed to vote if the person



1 completes an affidavit or other form prescribed by the chief
2 election officer affirming that the person: claims the person's
3 legal residence at the address listed on the register; changed
4 the person's legal residence after the closing of the register
5 for that election; or, moved to a new residence within the same
6 ~~[precinct]~~ district as the person's residence as listed on the
7 register."

8 SECTION 8. Section 11-21, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§11-21 Change of name, transfer on election day. (a)**

11 The ~~[county]~~ clerk may designate a registration clerk, who may
12 be an election official, at ~~[any of the polling places]~~ a voter
13 service center in the county on the day of the election.

14 (b) These registration clerks shall take applications for
15 change of name from voters who have been married or who have had
16 their names changed since the last election.

17 (c) Any person whose name appears on the registered voters
18 list whose residence has changed since the last election, and
19 whom the ~~[county]~~ clerk has not transferred under section 11-20,
20 may apply on a form prescribed by the chief ~~[elections]~~ election
21 officer ~~[at the person's new polling place]~~ on the day of the



1 election for transfer of registration to the [~~precinct~~] district
2 of the new residence. Any person so transferring voter
3 registration shall be immediately added to the register of the
4 new [~~precinct~~] district and may vote only at the new [~~precinct.~~]
5 district.

6 (d) Where a person was incorrectly placed on a list of
7 voters of a [~~precinct~~] district in which the person does not
8 actually reside, the person may correct the registration.

9 [~~(e) No person shall be prevented from voting at the~~
10 ~~election in the precinct in which the person's name appears on~~
11 ~~the voters list due to a change of name, or other correction~~
12 ~~made under this section. However, any voter registered in the~~
13 ~~wrong precinct who shall refuse to make the correction of~~
14 ~~registration may be challenged in accordance with section 11-25.~~

15 ~~(f) Any person changing name or transferring shall receive~~
16 ~~a copy of the change or transfer form.] "~~

17 SECTION 9. Section 11-22, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§11-22 Changing register; correction of errors. (a) The
20 clerk shall correct the register if at any time it shall be
21 manifest to the clerk that the name of a person registered has



1 been accidentally misspelled, or that the person has been
2 misnamed therein, or that the person has been accidentally
3 registered under the wrong [~~precinct,~~] district, or that the
4 person was accidentally removed pursuant to section 11-17(a), or
5 that the name of the person should be corrected or restored
6 pursuant to section 11-17(b).

7 (b) In any case where the clerk refuses to correct the
8 register the person may appeal to the board of registration and
9 the register shall be changed upon a written order of the board
10 of registration, setting forth the reasons for the change. The
11 order shall be directed to the clerk [~~or to the precinct~~
12 ~~officials of the election precinct where the voter is entitled~~
13 ~~to vote if the register has been closed. The precinct officials~~
14 ~~shall thereupon correct the list of voters furnished them~~
15 ~~according to the terms of the order, noting on the list the~~
16 ~~reasons for the correction, and shall send the original order to~~
17 ~~the clerk as soon as may be possible after the close of the~~
18 ~~polls~~]. The clerk, upon receipt of any order from the board of
19 registration [~~or from the precinct officials, as the case may~~
20 ~~be~~], shall correct the register according to the terms of the
21 order, making on the register a reference to the order."



1 SECTION 10. Section 11-25, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§11-25~~ Challenge by voters; grounds; procedure. (a) Any
4 registered voter may challenge the right of a person to be or to
5 remain registered as a voter [~~in any preeinct~~] for any cause not
6 previously decided by the board of registration or the supreme
7 court in respect to the same person[~~, provided that in an~~
8 ~~election of members of the board of trustees of the office of~~
9 ~~Hawaiian affairs the voter making the challenge must be~~
10 ~~registered to vote in that election~~]. The challenge shall be in
11 writing, setting forth the grounds upon which it is based, and
12 be signed by the person making the challenge. The challenge
13 shall be delivered to the clerk who shall [~~forthwith~~]
14 immediately serve notice thereof on the person challenged. The
15 clerk shall, as soon as possible, investigate and rule on the
16 challenge.

17 (b) Any voter rightfully in [~~the polling place, including~~
18 ~~absentee polling places established pursuant to section 15-7,~~] a
19 voter service center may challenge the right to vote of any
20 person who comes to the [~~preecinct officials~~] voter service
21 center for voting purposes. The challenge shall be on the



1 grounds that the voter is not the person the voter alleges to
2 be, or that the voter is not entitled to vote [~~in that precinct,~~
3 ~~provided that only in an election of members of the board of~~
4 ~~trustees of the office of Hawaiian affairs, a person registered~~
5 ~~to vote in that election may also challenge on the grounds that~~
6 ~~the voter is not Hawaiian]~~. No other or further challenge shall
7 be allowed. Any person [~~thus~~] challenged pursuant to this
8 subsection shall first be given the opportunity to make the
9 relevant correction pursuant to section 11-21. The challenge
10 shall be considered and decided immediately by the [~~precinct~~
11 ~~officials~~] clerk, and the ruling shall be announced.

12 (c) If neither the challenger nor the challenged voter
13 [~~shall appeal~~] appeals the ruling of the clerk [~~or the precinct~~
14 ~~officials~~], then the voter shall either be allowed to vote or be
15 prevented from voting in accordance with the ruling. If an
16 appeal is taken to the board of registration, the challenged
17 voter shall be allowed to vote; provided that the ballot is
18 placed in a sealed envelope to be later counted or rejected in
19 accordance with the ruling on appeal. The chief election
20 officer shall adopt rules in accordance with chapter 91 to
21 safeguard the secrecy of the challenged voter's ballot."



S.B. NO. 2292

1 SECTION 11. Section 11-76, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§11-76 Compensation.** [~~(a) Electronic ballot and voting~~
4 ~~machine elections. Precinct officials and related election day~~
5 ~~nonprofit groups or employees]~~ Election day officials under the
6 supervision and control of the office of elections shall be
7 compensated pursuant to a schedule established by the chief
8 election officer. The schedule shall be contained in rules
9 adopted pursuant to chapter 91.

10 ~~[(b) Paper ballot elections. The chairperson of the~~
11 ~~precinct officials and the precinct officials shall receive the~~
12 ~~same base amounts as in subsection (a). In addition, all~~
13 ~~precinct officials shall be paid \$5 for each three hundred~~
14 ~~ballots or portion thereof cast at that precinct.]"~~

15 SECTION 12. Section 11-77, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§11-77 Appointment of watchers; service.** (a) Each
18 qualified political party shall be entitled to appoint no more
19 than one watcher who may be present at any time [~~in each~~
20 ~~precinct and absentee polling place in which the candidates of~~
21 ~~that political party are on the ballot.]~~ at a voter service



1 center. Each party shall submit its list of watchers not later
2 than 4:30 p.m. on the ~~[tenth]~~ twentieth day ~~[prior to]~~ before
3 any election ~~[to the chief election officer or]~~ to the clerk ~~[in~~
4 ~~county elections]~~. All watchers shall serve without expense to
5 the ~~[State or]~~ county. All watchers so appointed shall be
6 registered voters. ~~[No person shall serve as a watcher who~~
7 ~~could not qualify to serve as a precinct official under section~~
8 ~~{11-72(b)(3)}-.]~~

9 (b) Each watcher shall be provided with identification
10 from ~~[the chief election officer, or by]~~ the clerk ~~[in the case~~
11 ~~of county elections,]~~ stating the watcher's name and the name of
12 the party the watcher represents. ~~[On election day the watcher~~
13 ~~shall present identification to the chairperson of precinct~~
14 ~~officials of the precinct or precincts where the watcher is to~~
15 ~~serve.~~

16 ~~(c) All watchers for precincts shall be permitted to~~
17 ~~observe the conduct of the election in the precinct. The~~
18 ~~watchers may remain in the precinct as long as the precinct is~~
19 ~~in operation subject to section 19-6. Watchers may review the~~
20 ~~polling book pursuant to section 11-97.~~



1 ~~(d)~~ (c) The watcher shall call the attention of the
2 ~~chairperson~~ clerk to any violations of the election laws that
3 the watcher observes. After the ~~chairperson's~~ clerk's
4 attention is called to the violation, the ~~chairperson~~ clerk
5 shall make an attempt to correct ~~such~~ the violation. If the
6 ~~chairperson~~ clerk fails to correct the violation, the watcher
7 may appeal to the ~~clerk of the county~~ chief election officer.

8 ~~[(e) The watchers shall be permitted to observe the~~
9 ~~operations of the absentee polling place. Any violation of the~~
10 ~~election laws shall be reported to the clerk.] "~~

11 SECTION 13. Section 11-92.1, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§11-92.1 Election proclamation; ~~establishment of a new~~
14 ~~precinct.~~ voter service centers and places of deposit. (a)

15 The chief election officer shall issue a proclamation ~~[whenever~~
16 ~~a new precinct is established in any representative district.~~

17 ~~The chief election officer shall provide a suitable polling~~
18 ~~place for each precinct. Schools, recreational halls, park~~
19 ~~facilities, and other publicly owned or controlled buildings,~~

20 ~~whenever possible and convenient, shall be used as polling~~

21 ~~places.] listing all voter service centers and places of deposit~~

1 as may have been determined by the clerk as of the proclamation
2 date. The ~~[chief election officer]~~ clerk shall make
3 arrangements for the rental or erection of suitable shelter for
4 ~~[this purpose]~~ the establishment of a voter service center
5 whenever public buildings are not available and shall cause
6 these ~~[polling places]~~ voter service centers to be equipped with
7 the necessary facilities for lighting, ventilation, and
8 equipment needed for elections on any island. This proclamation
9 may be issued jointly with the proclamation required in section
10 11-91.

11 (b) No change shall be made in the boundaries of any
12 ~~[precinct]~~ district later than 4:30 p.m. on the tenth day prior
13 to the close of filing for an election.

14 (c) Notwithstanding subsection (a), and pursuant to
15 section 15-2.5, the ~~[chief election officer]~~ clerk is not
16 required to establish ~~[polling places]~~ voter service centers for
17 ~~[precincts]~~ districts affected by natural disasters, as provided
18 in section 15-2.5."

19 SECTION 14. Section 11-92.3, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§11-92.3 ~~[Consolidated precincts; natural]~~ Natural
2 disasters; postponement; ~~[absentee voting required;]~~
3 consolidation of districts; special elections. (a) In the
4 event of a flood, tsunami, earthquake, volcanic eruption, high
5 wind, or other natural disaster, occurring ~~[prior to]~~ before an
6 election~~[, that makes a precinct inaccessible, the chief~~
7 ~~election officer or county clerk in the case of county elections~~
8 ~~may consolidate precincts within a representative district. If]~~
9 where the extent of damage caused ~~[by any natural disaster]~~ is
10 such that the ability of voters, in any ~~[precinct]~~ district~~[,]~~
11 or county, to exercise their right to vote is substantially
12 impaired, the chief election officer or ~~[county]~~ clerk in the
13 case of county elections may ~~[require the registered voters of~~
14 ~~the affected precinct to vote by absentee ballot pursuant to~~
15 ~~section 15-2.5 and may]~~ postpone the conducting of an election
16 in the affected ~~[precinct]~~ area for no more than twenty-one
17 days; provided that any ~~[such]~~ postponement shall not affect the
18 conduct of the election, tabulation, or distribution of results
19 for those ~~[precincts]~~ districts~~[,]~~ or counties not designated
20 for postponement. The chief election officer or ~~[county]~~ clerk
21 in the case of county elections shall give notice of the



1 ~~[consolidation,]~~ postponement ~~[, or requirement to vote by~~
2 ~~absentee ballot, in the affected county or precinct prior to the~~
3 ~~opening of the precinct polling place]~~ by whatever possible news
4 or broadcast media are available. ~~[Precinct officials and~~
5 ~~workers affected by any consolidation shall not forfeit their~~
6 ~~pay.]~~

7 (b) In the event the chief election officer or the
8 ~~[county]~~ clerk in a county election determines that the number
9 of candidates or issues on the ballot in a special, special
10 primary, or special general election does not require the full
11 number of established ~~[precincts,]~~ districts, the ~~[precincts]~~
12 districts may be consolidated for the purposes of the special,
13 special primary, or special general election into a small number
14 of special, special primary, or special general election
15 ~~[precincts.]~~ districts.

16 A special, special primary, or special general election
17 ~~[precinct]~~ district shall be considered the same as an
18 established ~~[precinct]~~ district for all purposes ~~[, including~~
19 ~~precinct official requirements provided in section 11-71]~~.

20 ~~[Not]~~ No later than 4:30 p.m. on the tenth day ~~[prior to]~~ before
21 the special, special primary, or special general election, the



1 chief election officer or the [county] clerk shall give public
2 notice, in the area in which the special, special primary, or
3 special general election is to be held, of the special, special
4 primary, or special general election [~~precincts and their~~
5 ~~polling places. Notices of the consolidation also shall be~~
6 ~~posted on election day at the established precinct polling~~
7 ~~places, giving the location of the special, special primary, or~~
8 ~~special general election precinct polling place.] districts."~~

9 SECTION 15. Section 11-111, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§11-111 Official and facsimile ballots. Ballots issued
12 by the chief election officer in state elections and by the
13 clerk in county elections are official ballots. In elections
14 using the paper ballot and electronic voting systems, the chief
15 election officer or clerk in the case of county elections shall
16 have printed informational posters containing facsimile ballots
17 [~~which~~] that depict the official ballots to be used in the
18 election. [~~The precinct officials shall post the informational~~
19 ~~posters containing the facsimiles of the official ballots near~~
20 ~~the entrance to the polling place where they may be easily seen~~
21 ~~by the voters prior to voting.] "~~



1 SECTION 16. Section 11-119, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§11-119 Printing; quantity.** (a) The ballots shall be
4 printed by order of the chief election officer or the clerk in
5 the case of county elections. In any state or county election,
6 the chief election officer [~~on agreement with the~~] and clerk
7 [~~may~~] shall endeavor to consolidate the printing and package
8 mailing contracts [~~for similar types of ballots~~] where such
9 consolidation will result in lower costs.

10 (b) Whenever the chief election officer is responsible for
11 the printing of ballots, unless provided otherwise, the exact
12 wording to appear thereon, including questions and issues shall
13 be submitted to the chief election officer [~~not~~] no later than
14 4:30 p.m. on the seventy-fifth calendar day [~~prior to~~] before
15 the applicable election.

16 (c) Based upon clarity and available space, the chief
17 election officer or the clerk in the case of county elections
18 shall determine the style and size of type to be used in
19 printing the ballots. The color, size, weight, shape, and
20 thickness of the ballot shall be determined by the chief
21 election officer.



1 ~~[(d) Each precinct shall receive a sufficient number of~~
2 ~~ballots based on the number of registered voters and the~~
3 ~~expected spoilage in the election concerned. A sufficient~~
4 ~~number of absentee ballots shall be delivered to each clerk not~~
5 ~~later than 4:30 p.m. on the fifteenth day prior to the date of~~
6 ~~any election.] "~~

7 SECTION 17. Section 11-131, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§11-131 [Hours of voting.] Voting service center hours.

10 The ~~[polls shall be opened by the precinct officials at]~~ hours
11 of voting at voter service centers shall be:

12 (1) Regular business hours as prescribed in section 11-I

13 and by the clerk; and

14 (2) On an election day, from 7:00 a.m. [of the election

15 ~~day and shall be kept open continuously]~~ until 6:00

16 p.m. of that day.

17 If, at the closing hour of voting, any voter desiring to vote is
18 standing in line ~~[outside the entrance of the polls]~~ with the
19 desire of entering and voting, but due to the ~~[polling place]~~
20 voter service center being overcrowded has been unable to do so,
21 the voter shall be allowed to vote irrespective of the closing



1 hour of voting. No voter shall be permitted to enter or join
2 the line after the prescribed ~~[hour for closing the polls. If~~
3 ~~all of the registered voters of the precinct have cast their~~
4 ~~votes prior to the closing time, the polls may be closed earlier~~
5 ~~but the votes shall not be counted until after closing time~~
6 ~~unless allowed by the chief election officer.]~~ hours of voting."

7 SECTION 18. Section 11-132, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§11-132 Two hundred foot radius ~~[, admission within~~
10 ~~polling place]~~. (a) ~~[The precinct]~~ Election officials shall
11 post in a conspicuous place, ~~[prior to the opening of the~~
12 ~~polls,]~~ before operation, a map designating an area of two
13 hundred feet from the perimeter of ~~[the polling place]~~ any voter
14 service center, place of deposit, and its appurtenances. Any
15 person who remains or loiters within ~~[an]~~ this specified area
16 ~~[of two hundred feet from the perimeter of the polling place and~~
17 ~~its appurtenances]~~ for the purpose of campaigning shall be
18 guilty of a misdemeanor. For the purposes of this section, a
19 ~~[polling place]~~ voter service center, place of deposit, and its
20 appurtenances shall include:



1 (1) The building in which the [~~polling place is~~] a voter
2 service center, place of deposit, or its appurtenances
3 are located;

4 (2) Any parking lot adjacent to the building and routinely
5 used for parking at that building;

6 (3) The routes of access between the building and any
7 parking lot; and

8 (4) Any route of access between any public thoroughfare
9 (right of way) and the [~~polling place~~] voter service
10 center, place of deposit, or its appurtenances, to
11 ensure an open and accessible ingress and egress to
12 and from the [~~polling place~~] voter service center,
13 place of deposit, or appurtenances for voters.

14 (b) The chief election officer may regulate other
15 activities within the area specified in subsection (a) pursuant
16 to rules adopted by the chief election officer under chapter 91
17 in order to ensure the safe and orderly conduct of elections.

18 (c) Admission within the [~~polling place~~] voter service
19 center, place of deposit, or appurtenances shall be limited to
20 the following:

21 (1) Election officials;



- 1 (2) Watchers, if any, pursuant to section 11-77;
- 2 (3) Candidates;
- 3 (4) Any voters actually engaged in voting, going to vote
- 4 or returning from voting;
- 5 (5) Any person, designated by a voter who is physically
- 6 disabled, while the person is assisting the voter;
- 7 (6) Any person or nonvoter group authorized by the ~~chief~~
- 8 ~~election officer or the~~ clerk ~~[in county elections]~~
- 9 to observe the election ~~[at designated precincts]~~ for
- 10 educational purposes; provided that ~~[they]~~ these
- 11 persons conduct themselves so that they do not
- 12 interfere with the election process; and
- 13 (7) A child for the purpose of observing the voting
- 14 process when accompanied by an adult who is voting
- 15 provided that this activity does not disrupt or
- 16 interfere with normal voting procedures.

17 (d) Within the appropriate boundary as established in

18 subsection (a), ~~[and the building in which the polling place is~~

19 ~~located,]~~ the display or distribution of campaign posters,

20 signs, or other campaign materials for the purpose of soliciting

21 votes for or against any person or political party or position



1 on a ballot question is prohibited. Any voter who displays
2 campaign material in the [~~polling place~~] voter service center,
3 place of deposit, or its appurtenances shall remove or cover
4 that material before entering [~~the polling place~~]. The chief
5 election officer may adopt rules pursuant to chapter 91 to
6 address special circumstances regarding the display of campaign
7 materials."

8 SECTION 19. Section 11-137, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§11-137 Secrecy; removal or exhibition of ballot. No
11 person shall look at or ask to see the contents of the ballot or
12 the choice of party or nonpartisan ballot of any voter, except
13 as provided in [~~section~~] sections 11-139 and 11-132, nor shall
14 any person [~~within the polling place~~] attempt to influence a
15 voter in regard to whom the voter shall vote for. When a voter
16 is in the voting booth for the purpose of voting, no other
17 person, except as provided in [~~section~~] sections 11-139 and
18 11-132, shall be allowed to enter the booth or to be in a
19 position from which the person can observe how the voter votes.

20 No person shall take a ballot out of the [~~polling place~~]
21 ~~except as provided in sections 11-135 and 11-139. After voting~~



1 ~~the voter shall leave the voting booth and deliver the voter's~~
2 ~~ballot to the precinct official in charge of the ballot boxes.~~
3 ~~The precinct official shall make certain that the precinct~~
4 ~~official has received the correct ballot and no other and then~~
5 ~~shall deposit the ballot into the ballot box. No person shall~~
6 ~~look at or ask to see the contents of the unvoted ballots. If~~
7 ~~any person having received a ballot leaves the polling place~~
8 ~~without first delivering the ballot to the precinct official as~~
9 ~~provided above, or wilfully exhibits the person's ballot or the~~
10 ~~person's unvoted ballots in a special primary or primary~~
11 ~~election, except as provided in section 11-139 and 11-132, after~~
12 ~~the ballot has been marked, the person shall forfeit the~~
13 ~~person's right to vote, and the chairperson of the precinct~~
14 ~~officials shall cause a record to be made of the proceeding.]~~
15 voter service center unless authorized by the chief election
16 officer or a designee of the chief election officer."

17 SECTION 20. Section 11-139, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§11-139 Voting assistance. (a) Except as otherwise
20 provided, any voter who requires assistance [~~to vote at a~~
21 ~~polling place or by absentee ballot~~] may be given assistance by



1 a person of the voter's choice. ~~[If the voter requires~~
2 ~~assistance at a polling place, the voter may choose to receive~~
3 ~~the assistance of two precinct officials who are not of the same~~
4 ~~political party. Additionally, a voter needing assistance at a~~
5 ~~polling place may choose to be handed a ballot outside the~~
6 ~~polling place but within one hundred feet thereof or within the~~
7 ~~polling place parking lot by the precinct officials and in their~~
8 ~~presence but in a secret manner, mark and return the same to the~~
9 ~~precinct officials.]~~ A person with disabilities may be provided
10 assistance at a voter service center pursuant to any state or
11 federal law relating to persons with disabilities. The voter's
12 employer or agent of that employer, agent of the voter's labor
13 union, or a candidate for any office that is listed on the
14 ballot shall not provide assistance. Written or oral
15 instructions delivered via telephone, electronic means, or mail
16 shall not be deemed assistance prohibited by this section;
17 provided that the voter's employer or agent of that employer,
18 agent of the voter's labor union, or a candidate for any office
19 listed on the ballot is not physically present with the voter
20 when the instructions are delivered.



1 ~~[(b) If assistance is provided pursuant to subsection (a),~~
2 ~~the precinct officials providing assistance shall enter in~~
3 ~~writing in the record book the following:~~

4 ~~(1) The voter's name;~~

5 ~~(2) The fact that the voter cannot read the names on the~~
6 ~~ballet, if that is the reason for requiring~~
7 ~~assistance, and otherwise, the specific physical~~
8 ~~disability which requires the voter to receive~~
9 ~~assistance; and~~

10 ~~(3) The name or names of the person or persons furnishing~~
11 ~~the assistance.~~

12 ~~(e)]~~ (b) Violation of this section by an employer or agent
13 of that employer, agent of the voter's labor union, or a
14 candidate shall constitute election fraud as provided under
15 section 19-3."

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

18 "**§11-152 Method of counting.** ~~[(a) In an election using~~
19 ~~the paper ballot voting system, immediately after the close of~~
20 ~~the polls, the chairperson of the precinct officials shall open~~



1 ~~the ballot box. The precinct officials at the precinct shall~~
2 ~~proceed to count the votes as follows.~~

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

6 ~~(2) If the number of ballots corresponds with the number~~
7 ~~of persons recorded by the precinct officials as~~
8 ~~having voted, the precinct officials shall then~~
9 ~~proceed to count the vote cast for each candidate;~~

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

13 ~~(b)]~~ In those [precincts] elections using the electronic
14 voting system, the ballots shall be taken in the sealed ballot
15 [boxes] containers to the counting center according to the
16 procedure and schedule [promulgated] adopted by the chief
17 election officer to promote the security of the ballots. In the
18 presence of official observers, counting center employees may
19 start to count the ballots [~~prior to the closing of the polls~~]
20 before election day; provided that there shall be no printout by
21 the computer or other disclosure of the number of votes cast for



1 a candidate or on a ballot question [~~prior to~~] before the
2 closing [~~of the polls. For the purposes of this section, the~~
3 ~~closing of the polls is that time identified~~] hour provided in
4 section 11-131 [~~as the closing hour of voting~~]."

5 SECTION 22. Section 11-153, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§11-153 More or [~~less~~] fewer ballots than recorded. (a)
8 If there are more ballots than [~~the poll book~~] documented usage
9 indicates, this shall be an overage and if [~~less~~] fewer ballots,
10 it shall be an underage. The election officials or counting
11 center employees responsible for the tabulation of ballots shall
12 make a note of this fact on a form to be provided by the chief
13 election officer. The form recording the overage or underage
14 shall be sent directly to the chief election officer or the
15 clerk in county elections separate and apart from the other
16 election records.

17 (b) If the electronic voting system is being used in an
18 election, the overage or underage shall be recorded after the
19 tabulation of the ballots. In an election using the paper
20 ballot voting system, the [~~precinct officials~~] chief election
21 officer or the chief election officer's designees shall proceed



1 to count the votes cast for each candidate or on a question
2 after recording the overage or underage.

3 (c) The chief election officer or the clerk shall make a
4 list of all ~~[precincts]~~ districts in which an overage or
5 underage occurred and the amount of the overage or underage.
6 This list shall be filed and kept as a public record in the
7 office of the chief election officer or the clerk in county
8 elections ~~[and the clerk's office in counties other than the~~
9 ~~city and county of Honolulu in elections involving state~~
10 ~~candidates]~~.

11 An election contest may be brought under part XI, if the
12 overage or underage in any district could affect the outcome of
13 an election."

14 SECTION 23. Section 11-154, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§11-154 Records, etc.; disposition. ~~[The final duty of~~
17 ~~the precinct officials in the operation of the precinct shall be~~
18 ~~to gather all records and supplies delivered to them and return~~
19 ~~them to the sending official, either the chief election officer~~
20 ~~or the county clerk.]~~



1 The voted ballots shall be kept secure and handled only in
2 the presence of representatives not of the same political party
3 or official observers in accordance with ~~[regulations~~
4 ~~promulgated]~~ rules adopted for the various voting systems.
5 After all the ballots have been tabulated they shall be sealed
6 in containers. Thereafter, these containers shall be unsealed
7 and resealed only as prescribed by rules ~~[and regulations]~~
8 governing ~~[the]~~ elections.

9 The ballots and other election records may be destroyed by
10 the chief election officer or ~~[county]~~ clerk when all elected
11 candidates have been certified by the chief election officer, or
12 in the case of candidates for county offices, by the ~~[county]~~
13 clerk~~[-]~~ and after compliance with retention schedules of
14 applicable federal law."

15 SECTION 24. Section 11-157, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§11-157 In case of tie.** In case of the failure of an
18 election by reason of the equality of vote between two or more
19 candidates, the tie shall be decided by the chief election
20 officer or ~~[county]~~ clerk in the case of county elections ~~[in~~
21 ~~accordance with the following procedure:-~~



1 ~~(1) In the case of an election involving a seat for the~~
2 ~~senate, house of representatives, or county council~~
3 ~~where only voters within a specified district are~~
4 ~~allowed to cast a vote, the winner shall be declared~~
5 ~~as follows:~~

6 ~~(A) For each precinct in the affected district, an~~
7 ~~election rate point shall be calculated by~~
8 ~~dividing the total voter turnout in that precinct~~
9 ~~by the total voter turnout in the district. For~~
10 ~~the purpose of this subparagraph, the absentee~~
11 ~~votes cast for the affected district shall be~~
12 ~~treated as a precinct. The election rate point~~
13 ~~shall be calculated by dividing the total~~
14 ~~absentee votes cast for the affected district by~~
15 ~~the total voter turnout in that district. All~~
16 ~~election rate points shall be expressed as~~
17 ~~decimal fractions rounded to the nearest hundred~~
18 ~~thousandth;~~

19 ~~(B) The candidate with the highest number of votes in~~
20 ~~a precinct shall be allocated the election rate~~
21 ~~point calculated under subparagraph (A) for that~~



1 ~~precinct. In the event that two or more persons~~
2 ~~are tied in receiving the highest number of votes~~
3 ~~for that precinct, the election rate point shall~~
4 ~~be equally apportioned among these candidates~~
5 ~~involved in that precinct tie;~~

6 ~~(C) After the election rate points calculated under~~
7 ~~subparagraph (A) for all the precincts have been~~
8 ~~allocated as provided under subparagraph (B), the~~
9 ~~election rate points allocated to each candidate~~
10 ~~shall be tallied and the candidate with the~~
11 ~~highest election rate point total shall be~~
12 ~~declared the winner; and~~

13 ~~(D) If there is a tie between two or more candidates~~
14 ~~in the election rate point total, the candidate~~
15 ~~who is allocated the highest election rate points~~
16 ~~from the precinct with the largest voter turnout~~
17 ~~shall be declared the winner;~~

18 ~~(2) In the case of an election involving a federal office~~
19 ~~or an elective office where the voters in the entire~~
20 ~~State or in an entire county are allowed to cast a~~
21 ~~vote, the winner shall be declared as follows:~~



1 ~~(A) For each representative district in the State or~~
2 ~~county, as the case may be, an election rate~~
3 ~~point shall be calculated by dividing the total~~
4 ~~voter turnout in that representative district by~~
5 ~~the total voter turnout in the state, county, or~~
6 ~~federal office district, as the case may be,~~
7 ~~provided that for purposes of this subparagraph:~~

8 ~~(i) The absentee votes cast for a statewide,~~
9 ~~countywide, or federal office shall be~~
10 ~~treated as a separate representative~~
11 ~~district and the election rate point shall~~
12 ~~be calculated by dividing the total absentee~~
13 ~~votes cast for the statewide, countywide, or~~
14 ~~federal office by the total voter turnout in~~
15 ~~the state, county, or federal office~~
16 ~~district, as the case may be, and~~

17 ~~(ii) The overseas votes cast for any election in~~
18 ~~the State for a federal office shall be~~
19 ~~treated as a separate representative~~
20 ~~district and the election rate point shall~~
21 ~~be calculated by dividing the total number~~



~~of overseas votes cast for the affected
federal office by the total voter turnout in
the affected federal office district. The
term "overseas votes" means those votes cast
by absentee ballots for a presidential
election as provided in section 15-3.~~

~~All election rate points shall be expressed as
decimal fractions rounded to the nearest hundred
thousandth,~~

~~(B) The candidate with the highest number of votes in
a representative district shall be allocated the
election rate point calculated under subparagraph
(A) for that district. In the event that two or
more persons are tied in receiving the highest
number of votes for that district, the election
rate point shall be equally apportioned among
those candidates involved in that district tie,~~

~~(C) After the election rate points calculated under
subparagraph (A) for all the precincts have been
allocated as prescribed under subparagraph (B),
the election rate points allocated to each~~



1 ~~candidate shall be tallied and the candidate with~~
2 ~~the highest election rate point total shall be~~
3 ~~declared the winner; and~~

4 ~~(D) If there is a tie between two or more candidates~~
5 ~~in the election rate point total, the candidate~~
6 ~~who is allocated the highest election rate points~~
7 ~~from the representative district with the largest~~
8 ~~voter turnout shall be declared the winner.] by~~
9 lot."

10 SECTION 25. Section 11-173.5, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) In primary and special primary election contests, and
13 county election contests held concurrently with a regularly
14 scheduled primary or special primary election, the complaint
15 shall be filed in the office of the clerk of the supreme court
16 ~~[not]~~ no later than 4:30 p.m. on the ~~[sixth]~~ thirteenth day
17 after a primary or special primary election, or county election
18 contests held concurrently with a regularly scheduled primary or
19 special primary election, and shall be accompanied by a deposit
20 for costs of court as established by rules of the supreme court.
21 The clerk shall issue to the defendants named in the complaint a



1 summons to appear before the supreme court [~~not~~] no later than
2 4:30 p.m. on the fifth day after service thereof."

3 SECTION 26. Section 15-1, Hawaii Revised Statutes, is
4 amended by deleting the definition of "absentee polling place".

5 ["~~"Absentee polling place" means an office or other~~
6 ~~suitable facility designated by the respective clerks for the~~
7 ~~conduct of absentee voting and the processing of absentee~~
8 ~~ballots."~~]

9 SECTION 27. Section 15-4, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§15-4 Request for absentee ballot. [~~(a)~~] Any person
12 registered to vote who is unable to receive a ballot at the
13 person's voter registration address of record may request an
14 absentee ballot [~~or permanent absentee ballot in person or~~] in
15 writing from the clerk at any time but [~~not~~] no later than 4:30
16 p.m. on the seventh day [~~prior to~~] before the election. Any
17 mailed requests for an absentee ballot [~~or permanent absentee~~
18 ~~ballot~~] shall be mailed by the person directly to the clerk.
19 The clerk may waive any or all of the foregoing requirements in
20 special cases as provided in the rules adopted by the chief
21 election officer.



1 The request shall include information such as the last four
2 digits of the person's social security number[7] or the person's
3 driver's license number; date of birth[7]; and the address under
4 which the person is registered to vote. The request shall also
5 include the temporary address to which the person wishes the
6 requested ballot to be forwarded. The request, when made for
7 any primary or special primary election, may include an
8 additional request for an absentee ballot to be voted at any
9 election immediately following the primary or special primary;
10 provided that the person so indicates in the person's request.

11 ~~[Subsequent to the closing of registration for each~~
12 ~~election, the clerk may mail a request form for an absentee~~
13 ~~ballot and permanent absentee ballot to each voter in a remote~~
14 ~~area who has not already made such a request. The request form~~
15 ~~shall be accompanied by:~~

- 16 ~~(1) A stamped, self-addressed envelope; and~~
17 ~~(2) Instructions regarding the manner of completing and~~
18 ~~returning the request form.~~
- 19 ~~(b) Notwithstanding subsection (a), the respective clerk~~
20 ~~shall be allowed to conduct an absentee ballot only election and~~
21 ~~may mail an absentee ballot for each primary, special primary,~~



1 ~~special, general, and special general election to each~~
2 ~~registered voter who resides in the county of Kalawao or on any~~
3 ~~island of a county with a population of less than one hundred~~
4 ~~eighty thousand, except for the island where the county seat of~~
5 ~~government is located. The chief election officer may adopt~~
6 ~~rules to carry out this subsection.~~

7 ~~(c) Notwithstanding any law to the contrary, in the event~~
8 ~~there are fewer than five hundred registered voters as of the~~
9 ~~preceding general election in an area covered by a unique ballot~~
10 ~~type, the clerk shall mail an absentee ballot to each registered~~
11 ~~voter who resides in such an area, if the chief election~~
12 ~~officer, or the clerk in a county only election, determines that~~
13 ~~an election day polling place will not be established for such~~
14 ~~voters.~~

15 ~~(d) For the purposes of this section, "ballot type" means~~
16 ~~the unique ballot containing the contests, questions, or issues~~
17 ~~that will be used by the voters of a specific area.~~

18 ~~(e) When a registered voter requests an absentee ballot,~~
19 ~~the voter also may include an additional request to receive~~
20 ~~absentee ballots permanently. After receiving a request for~~
21 ~~permanent absentee voter status, the clerk shall mail to the~~



~~1 voter who requested permanent absentee voter status an absentee
2 ballot for all subsequent elections conducted in that precinct.
3 The forwarding address for absentee ballots to be permanently
4 mailed shall be the in state mailing address contained in the
5 voter's registration record. Subject to the conditions of
6 subsection (a), a permanent absentee voter may also request from
7 the clerk that the voter's ballot be forwarded temporarily to an
8 address other than the permanent absentee mailing address
9 originally requested, either in or outside of the State, for a
10 single election or for a primary or special primary election and
11 the election immediately following the primary or special
12 primary election. A permanent absentee voter's request for a
13 ballot to be forwarded temporarily shall not serve as a
14 cancellation of the voter's permanent absentee status or as a
15 change to the voter's permanent absentee mailing address. Upon
16 the completion of the election or elections covered by the
17 permanent absentee voter's temporary request under this
18 subsection, the clerk shall resume mailing the voter's ballots
19 to the permanent absentee mailing address originally requested
20 under subsection (a).~~



~~(f) The chief election officer shall inform voters of the option of applying for permanent absentee voter status and shall provide any necessary form to request the permanent absentee ballot option to any registered voter requesting an absentee ballot and any person applying to register to vote.~~

~~(g) A permanent absentee voter shall be responsible for informing the clerk of any changes to personal information, including changes to the voter's forwarding address.~~

~~(h) Except as provided in subsection (c), a voter's permanent absentee voter status shall be terminated if any of the following conditions apply:~~

~~(1) The voter requests in writing that such status be terminated;~~

~~(2) The voter dies, loses voting rights, registers to vote in another jurisdiction, or is otherwise disqualified from voting;~~

~~(3) The voter's absentee ballot, voter notification postcard, or any other election mail is returned to the clerk as undeliverable for any reason, or~~



~~(4) The voter does not return a voter ballot by 6:00 p.m. on election day in both the primary and general election of an election year.~~

~~(i) If a voter's permanent absentee voter status has been terminated due to one or more of the conditions specified in subsection (h), the voter shall be responsible for again requesting permanent absentee status as specified in subsection (e).]~~ Upon the completion of the election or elections covered by the voter's temporary request under this section, the clerk shall resume mailing the voter's ballot package to the mailing address noted in the voter's registration record."

SECTION 28. Section 15-6.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[§]~~ **§15-6.5** ~~[§]~~ **Absentee postage.** The mailed distribution and return of absentee ballots shall be at no cost to the voter. The State and counties shall share in the cost of all postage associated with the distribution and return of absentee ballots pursuant to sections 11-182~~[,]~~ and 11-183, ~~[and 11-184,]~~ if the costs are not covered by the federal government."

SECTION 29. Section 15-9, Hawaii Revised Statutes, is amended to read as follows:



1 "§15-9 Return and receipt of absentee ballots. (a) The
2 return envelope shall be:

3 (1) Mailed and ~~[must be]~~ received by the clerk issuing the
4 absentee ballot ~~[not]~~ no later than the closing ~~[of~~
5 ~~the polls on any]~~ hour on election day~~[+]~~ in
6 accordance with section 11-131; or

7 (2) Delivered other than by mail to the clerk issuing the
8 absentee ballot, or ~~[another election official~~
9 ~~designated by the clerk to act on the clerk's behalf,~~
10 ~~not]~~ to a voter service center no later than the
11 closing ~~[of polls on any]~~ hour on election day~~[+ or~~

12 ~~(3) Delivered other than by mail to any polling place~~
13 ~~within the county in which the voter is registered and~~
14 ~~deposited by a precinct official in the ballot box~~
15 ~~before the closing of the polls on any election day.]~~
16 in accordance with section 11-131.

17 (b) Upon receipt of the return envelope from any person
18 voting under this chapter, the clerk may prepare the ballots for
19 counting pursuant to this section and section 15-10.



1 (c) ~~[Prior to]~~ Before opening the return and ballot
2 envelopes and counting the ballots, the return envelopes shall
3 be checked for the following:

4 (1) Signature on the affirmation statement;

5 (2) Whether the signature corresponds with the absentee
6 request or register as prescribed in the rules adopted
7 by the chief election officer; and

8 (3) Whether the person is a registered voter and has
9 complied with the requirements of sections 11-15 and
10 11-16.

11 (d) If any ~~[of the above requirements]~~ requirement listed
12 in subsection (c) is not met or if the return or ballot envelope
13 appears to be tampered with, the clerk or the absentee ballot
14 team official shall mark across the face of the envelope
15 "invalid" and it shall be kept in the custody of the clerk and
16 disposed of as prescribed for ballots in section 11-154.

17 ~~[(e) If an absentee polling place is established at the~~
18 ~~clerk's office prior to election day, the officials of the~~
19 ~~absentee polling place shall check the return or ballot~~
20 ~~envelopes for the above requirements prior to depositing them in~~
21 ~~the correct absentee ballot box.] "~~



1 SECTION 30. Section 15-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§15-10 Counting of absentee ballots.** If the requirements
4 in section 15-9 are met, the return and ballot envelopes may be
5 opened and the ballot counted as prescribed by law for the
6 voting system in use.

7 ~~[In those absentee polling places using paper ballots,~~
8 ~~counting of the absentee ballots may begin after noon of~~
9 ~~election day.~~

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

16 ~~Any person violating this section shall be guilty of an~~
17 ~~election offense under section 19-6.] "~~

18 SECTION 31. Section 15D-3, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**[+] §15D-3 [+] Elections covered.** The voting procedures in
21 this chapter apply to:



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

11 SECTION 32. Section 16-25, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§16-25 Order and method of counting.** Each ballot shall
14 be counted and finished as to all the candidates thereon before
15 counting a second and subsequent ballots. ~~[Except as provided~~
16 ~~in section 11-71, the]~~ The ballots shall be counted by teams in
17 the following manner only: by one ~~[preenet]~~ election official
18 announcing the vote in a loud clear voice, one ~~[preenet]~~
19 election official tallying the vote, one ~~[preenet]~~ election
20 official watching the ~~[preenet]~~ election official announcing
21 the vote and one ~~[preenet]~~ election official watching the



1 ~~[precinct]~~ election official tallying the vote. The ~~[precinct]~~
2 election official doing the announcing or tallying and the
3 ~~[precinct]~~ election official watching that official shall not be
4 of the same political party."

5 SECTION 33. Section 16-43, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§16-43 Ballot handling.** In every case where the ballots
8 are handled by election officials or election employees ~~[, from~~
9 ~~the time the ballots are delivered to the several precincts to~~
10 ~~the time they are returned to the chief election officer or~~
11 ~~clerk in county elections]~~ for disposition upon completion of
12 the tabulation, they shall be handled in the presence of not
13 less than two officials assigned in accordance with ~~[sections~~
14 ~~11-71 and 11-72 or]~~ section 16-45."

15 SECTION 34. Section 16-46, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§16-46 Counting defective ballots.** Counting center
18 employees ~~[in the presence of at least two official observers]~~
19 shall prepare a new ballot to replace each defective ballot~~[-]~~;
20 provided that the replacement ballot may not be counted until
21 reviewed by at least two official observers. The defective



1 ballots shall be segregated and the replacement ballots counted
2 pursuant to rules [~~promulgated~~] adopted by the chief election
3 officer."

4 SECTION 35. Section 19-6, Hawaii Revised Statutes, is
5 amended to read as follows:

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

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

17 (2) Any person who wilfully tears down [~~or~~], destroys, or
18 defaces any election proclamation [~~or any~~], poster
19 [~~or~~], notice [~~or~~], list of voters [~~or~~], visual aids,
20 or facsimile ballot, issued or posted by authority of
21 law;



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

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

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



1 (6) Any person, other than those designated by section 11-
2 132, who remains or loiters within the area set aside
3 for voting as set forth in section 11-132 during the
4 time appointed for voting;

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

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

15 (B) The use of public address systems and other
16 public communication media;

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

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

20 (8) Any person who opens a return envelope containing
21 ~~[an]~~ :



S.B. NO. 2292

(A) An absentee ballot voted under chapter 15 other than those persons authorized to do so under chapter 15; or

(B) A ballot voted by mail under part of chapter 11 other than those persons authorized to do so under part of chapter 11;

(9) Any unauthorized person found in possession of any voting machine or keys thereof; and

(10) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise specified in this chapter [~~especially provided for~~]."

SECTION 36. Section 11-71, Hawaii Revised Statutes, is repealed.

~~["§11-71 Precinct officials; precinct requirements. There shall be not less than three precinct officials for each precinct one of whom shall be the chairperson; provided that in precincts where more than one voting unit has been established, there shall be three precinct officials for each unit. The chairperson of precinct officials shall have authority in all units of the precinct.~~



1 ~~In all precincts, the chief election officer may assign~~
2 ~~additional precinct officials, at least one of whom may be~~
3 ~~designated a voter assistance official.~~

4 ~~So far as reasonably practicable, excepting the~~
5 ~~chairperson, not more than fifty per cent of the precinct~~
6 ~~officials in any precinct shall be of the same political~~
7 ~~party."]~~

8 SECTION 37. Section 11-72, Hawaii Revised Statutes, is
9 repealed.

10 ~~["§11-72 Precinct officials; submission of names and~~
11 ~~assignment; vacancies. (a) All qualified political parties~~
12 ~~shall submit names for precinct officials to the chief election~~
13 ~~officer not later than 4:30 p.m. on the sixtieth day prior to~~
14 ~~the close of filing for any primary, special primary, or special~~
15 ~~election. All precinct officials shall be able to read and~~
16 ~~write the English language. If any party fails to submit the~~
17 ~~required names by the above deadline, or names sufficient to~~
18 ~~fill the positions to which it would be entitled, assignment of~~
19 ~~positions to which the party would otherwise be entitled~~
20 ~~pursuant to subsection (b), may be made without regard to party~~
21 ~~affiliation.~~



1 ~~(b) In assigning the precinct officials, the following~~
2 ~~criteria shall be followed:~~

3 ~~(1) The precinct officials shall be registered voters of~~
4 ~~the precinct in which they serve, but if qualified~~
5 ~~persons in the precinct or representative district are~~
6 ~~not readily available to serve, they may be chosen~~
7 ~~from without the precinct or representative district,~~
8 ~~or if qualified persons either in or without the~~
9 ~~precinct or representative district are not available~~
10 ~~to serve, the chief election officer may designate~~
11 ~~precinct officials who are not registered voters if~~
12 ~~the persons so designated are otherwise qualified and~~
13 ~~shall have attained the age of sixteen years on or~~
14 ~~before June 30, of the year of the election in which~~
15 ~~they are appointed to work,~~

16 ~~(2) The chief election officer may designate more precinct~~
17 ~~officials than are needed in order to create a pool of~~
18 ~~qualified precinct officials who may be assigned to~~
19 ~~fill vacancies or to perform their duties as needed in~~
20 ~~any precinct,~~



1 ~~(3) No parent, spouse, reciprocal beneficiary, child, or~~
2 ~~sibling of a candidate shall be eligible to serve as a~~
3 ~~precinct official in any precinct in which votes may~~
4 ~~be cast for the candidate; nor shall any candidate for~~
5 ~~any elective office be eligible to serve as a precinct~~
6 ~~official in the same election in which the person is a~~
7 ~~candidate. No candidate who failed to be nominated in~~
8 ~~the primary or special primary election shall be~~
9 ~~eligible to serve as a precinct official in the~~
10 ~~general election next following; and~~

11 ~~(4) The chairperson of the precinct officials shall be the~~
12 ~~first named precinct official on the list prepared by~~
13 ~~the chief election officer. The remainder of the~~
14 ~~precinct officials shall be apportioned as follows:~~

15 ~~(A) The total votes cast, except those cast for~~
16 ~~nonpartisan candidates, for all of the following~~
17 ~~offices that were on the ballot in the next~~
18 ~~preceding general election shall be divided into~~
19 ~~the total votes cast for all the candidates of~~
20 ~~each party for these offices: president and~~
21 ~~vice president, United States senator, United~~



1 ~~States representative, governor and lieutenant~~
2 ~~governor, state senator, and state~~
3 ~~representative,~~

4 ~~(B) If a party's proportion of votes cast exceeds~~
5 ~~fifty per cent, its share shall be one half of~~
6 ~~the precinct officials. The remaining one half~~
7 ~~shall be divided among the remaining parties in~~
8 ~~proportion to their respective total of votes~~
9 ~~cast for the offices set forth in subparagraph~~

10 ~~(A),~~

11 ~~(C) In the case of the above division resulting in~~
12 ~~parties having fractional positions, a whole~~
13 ~~position shall go to the party with the larger~~
14 ~~number of votes cast, and~~

15 ~~(D) Newly qualified parties may be assigned up to ten~~
16 ~~per cent of the total positions available at the~~
17 ~~discretion of the chief election officer.~~

18 ~~(e) In the recruitment and placement of precinct~~
19 ~~officials, any or all of the requirements of subsection (b) may~~
20 ~~be waived by the chief election officer if it is determined that~~



1 ~~minority language assistance or other special needs warrant such~~
2 ~~waiver, except as provided in subsection (b) (3).~~

3 ~~(d) In case of inability, failure, or refusal of any~~
4 ~~person so assigned to serve as a precinct official, the chief~~
5 ~~election officer shall appoint a person to fill the vacancy."]~~

6 SECTION 38. Section 11-73, Hawaii Revised Statutes, is
7 repealed.

8 ~~["§11-73 Instruction of precinct officials. Prior to any~~
9 ~~election, the chief election officer or clerk in county~~
10 ~~elections shall conduct a school of instruction, if deemed~~
11 ~~necessary, for persons designated as prospective precinct~~
12 ~~officials of precincts. They shall notify the precinct~~
13 ~~officials of the time and the place of the school of~~
14 ~~instruction.~~

15 ~~All prospective precinct officials shall attend a school of~~
16 ~~instruction. The chairperson of the precinct officials shall be~~
17 ~~required to also attend a refresher course before each election.~~
18 ~~It shall be at the discretion of the chief election officer or~~
19 ~~the county clerk in county elections to require those precinct~~
20 ~~officials with previous training to attend a school of~~
21 ~~instruction prior to each election.~~



~~No precinct official shall serve unless the official has received instruction and has been certified by the authorized instructor to that effect. This section shall not prevent the assignment of a person who has not received such instruction or such certificate but who is otherwise qualified, to fill a vacancy among precinct officials when a qualified certified person is not available. Periodic recertification shall be required."]~~

SECTION 39. Section 11-74, Hawaii Revised Statutes, is repealed.

~~["§11-74 Meetings of precinct officials; procedure; oaths. The chairperson of the precinct officials shall preside at all meetings of the precinct officials. Any decision of the precinct officials shall require a majority vote of the precinct officials in the unit or precinct.~~

~~In all cases under this title, where duties are to be performed by the chairperson of the precinct officials, the duties may be performed by one of the other precinct officials, whenever the chairperson is temporarily absent or is otherwise for the time being unable to perform the duties.~~



1 ~~Each precinct official may administer any oath in this~~
2 ~~title provided to be administered by the precinct officials."]~~

3 SECTION 40. Section 11-75, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§11-75 Duties of precinct officials. The duties of the~~
6 ~~precinct officials shall vary with the voting system in use in~~
7 ~~the precinct. The duties for the particular system shall be~~
8 ~~assigned by the chief election officer by regulations adopted~~
9 ~~for such purpose."]~~

10 SECTION 41. Section 11-91.5, Hawaii Revised Statutes, is
11 repealed.

12 ~~["§11-91.5 Federal, state, and county elections by mail.~~
13 ~~(a) Any federal, state, or county election held other than on~~
14 ~~the date of a regularly scheduled primary or general election~~
15 ~~may be conducted by mail.~~

16 ~~(b) The chief election officer shall determine whether a~~
17 ~~federal or state election, other than a regularly scheduled~~
18 ~~primary or general election, may be conducted by mail or at~~
19 ~~polling places.~~

20 ~~(c) The county clerk shall determine whether a county~~
21 ~~election, held other than on the date of a regularly scheduled~~



1 ~~primary or general election, may be conducted by mail or at~~
2 ~~polling places. An election by mail in the county shall be~~
3 ~~under the supervision of the county clerk.~~

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

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

10 SECTION 42. Section 11-92.2, Hawaii Revised Statutes, is
11 repealed.

12 ~~["§11-92.2 Multiple polling place sites. (a) The chief~~
13 ~~election officer may establish multiple polling place sites for~~
14 ~~contiguous precincts, notwithstanding district boundaries, when~~
15 ~~it is convenient and readily accessible for the voters of the~~
16 ~~precincts involved.~~

17 ~~(b) No multiple polling place site shall be established~~
18 ~~later than 4:30 p.m. on the tenth day prior to the close of~~
19 ~~filing for an election."]~~

20 SECTION 43. Section 11-93, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§11-93 Voting units. Immediately after the close of~~
2 ~~registration of voters preceding any election, the chief~~
3 ~~election officer shall establish one or more voting units in~~
4 ~~each precinct polling place. All voting units shall be in the~~
5 ~~same precinct polling place. In a precinct having more than one~~
6 ~~voting unit the chief election officer or the officer's~~
7 ~~authorized representative shall designate each unit by a uniform~~
8 ~~identification system. The clerk in preparing the list of~~
9 ~~registered voters shall divide the list, on an alphabetical~~
10 ~~basis, as equal as possible between or among the voting units."]~~

11 SECTION 44. Section 11-94, Hawaii Revised Statutes, is
12 repealed.

13 ~~["§11-94 Exemptions of voters on election day. Every~~
14 ~~voter shall be privileged from arrest on election day while at~~
15 ~~the voter's polling place and in going to and returning~~
16 ~~therefrom, except in case of breach of the peace then committed,~~
17 ~~or in case of treason or felony."]~~

18 SECTION 45. Section 11-95, Hawaii Revised Statutes, is
19 repealed.

20 ~~["§11-95 Employees entitled to leave on election day for~~
21 ~~voting. (a) Any voter shall on the day of the election be~~



1 ~~entitled to be absent from any service or employment in which~~
2 ~~such voter is then engaged or employed for a period of not more~~
3 ~~than two hours (excluding any lunch or rest periods) between the~~
4 ~~time of opening and closing the polls to allow two consecutive~~
5 ~~hours in which to vote. Such voter shall not because of such~~
6 ~~absence be liable to any penalty, nor shall there be any~~
7 ~~rescheduling of normal hours or any deduction made, on account~~
8 ~~of the absence from any usual salary or wages; provided that the~~
9 ~~foregoing shall not be applicable to any employee whose hours of~~
10 ~~employment are such that the employee has a period of two~~
11 ~~consecutive hours (excluding any lunch or rest periods) between~~
12 ~~the time of opening and closing the polls when the employee is~~
13 ~~not working for the employer. If, however, any employee fails~~
14 ~~to vote after taking time off for that purpose the employer,~~
15 ~~upon verification of that fact, may make appropriate deductions~~
16 ~~from the salary or wages of the employee for the period during~~
17 ~~which the employee is hereunder entitled to be absent from~~
18 ~~employment. Presentation of a voter's receipt by an employee to~~
19 ~~the employer shall constitute proof of voting by the employee.~~

20 ~~(b) Any person, business, or corporation who refuses an~~
21 ~~employee the privileges conferred by this section, or subjects~~



1 ~~an employee to a penalty or deduction of wages because of the~~
2 ~~exercise of the privileges, or who directly or indirectly~~
3 ~~violates this section, shall be subject to a fine of not less~~
4 ~~than \$50 nor more than \$300.~~

5 ~~(c) Any action taken to impose or collect the fines~~
6 ~~established in this section shall be a civil action."]~~

7 SECTION 46. Section 11-120, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§11-120 Distribution of ballots; record. The chief~~
10 ~~election officer or the county clerk in county elections shall~~
11 ~~forward the official ballots, specimen ballots, and other~~
12 ~~materials to the precinct officials of the various precincts.~~
13 ~~They shall be delivered and kept in a secure fashion in~~
14 ~~accordance with rules and regulations promulgated by the chief~~
15 ~~election officer. In no case shall they arrive later than the~~
16 ~~opening of the polls on election day.~~

17 ~~A record of the number of ballots sent to each precinct~~
18 ~~shall be kept by the chief election officer or the clerk."]~~

19 SECTION 47. Section 11-133, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§11-133 Voting booths; placement of visual aids. The~~
2 ~~precinct officials shall provide sufficient voting booths within~~
3 ~~the polling place at or in which the voters may conveniently~~
4 ~~cast their ballots. The booths shall be so arranged that in~~
5 ~~casting the ballots the voters are screened from the observation~~
6 ~~of others.~~

7 ~~Visual aids shall be posted at or in each voting booth and~~
8 ~~in conspicuous places outside the polling place before the~~
9 ~~opening of the polls."]~~

10 SECTION 48. Section 11-134, Hawaii Revised Statutes, is
11 repealed.

12 ~~["§11-134 Ballot transport containers; ballot boxes. (a)~~
13 ~~The seals of the ballot transport containers shall be broken and~~
14 ~~opened on election day only in the presence of at least two~~
15 ~~precinct officials not of the same political party.~~

16 ~~(b) The chief election officer shall provide suitable~~
17 ~~ballot boxes for each polling place needed. They shall have a~~
18 ~~hinged lid fastened securely by a nonreusable seal. In the~~
19 ~~center of the lid there shall be an aperture of the appropriate~~
20 ~~size for the voting system used. The ballot boxes shall be~~



1 ~~placed at a point convenient for the deposit of ballots and~~
2 ~~where they can be observed by the precinct officials.~~

3 ~~(c) At the opening of the polls for election, the~~
4 ~~chairperson of the precinct officials shall publicly open the~~
5 ~~ballot boxes and expose them to all persons present to show that~~
6 ~~they are empty. The ballot boxes shall be closed and sealed,~~
7 ~~they shall remain sealed until transported to the counting~~
8 ~~center; provided that, in precincts where the electronic voting~~
9 ~~system is used, the ballot boxes shall not be opened at the~~
10 ~~polling places except as provided by rules adopted pursuant to~~
11 ~~chapter 91-."]~~

12 SECTION 49. Section 11-135, Hawaii Revised Statutes, is
13 repealed.

14 ~~["§11-135 Early collection of ballots. In an electronic~~
15 ~~ballot system election the chief election officer may authorize~~
16 ~~collection of voted ballots before the closing of the polls in~~
17 ~~order to facilitate the counting of ballots; provided that the~~
18 ~~voted ballots shall be returned to the counting center in sealed~~
19 ~~ballot boxes-."]~~

20 SECTION 50. Section 11-136, Hawaii Revised Statutes, is
21 repealed.



S.B. NO. 2292

1 ~~["§11-136 Poll book, identification, voting. Every person~~
2 ~~upon applying to vote shall sign the person's name in the poll~~
3 ~~book prepared for that purpose. This requirement may be waived~~
4 ~~by the chairperson of the precinct officials if for reasons of~~
5 ~~illiteracy or blindness or other physical disability the voter~~
6 ~~is unable to write. Every person shall provide identification~~
7 ~~if so requested by a precinct official. A poll book shall not~~
8 ~~contain the social security number of any person.~~

9 ~~After signing the poll book and receiving the voter's~~
10 ~~ballot, the voter shall proceed to the voting booth to vote~~
11 ~~according to the voting system in use in the voter's precinct.~~
12 ~~The precinct official may, and upon request shall, explain to~~
13 ~~the voter the mode of voting."]~~

14 SECTION 51. Section 11-184, Hawaii Revised Statutes, is
15 repealed.

16 ~~["§11-184 Election expenses and responsibilities in~~
17 ~~combined state and county elections. Election expenses in~~
18 ~~elections involving both state and county offices shall be~~
19 ~~shared as set forth below:~~

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

21 ~~(A) Precinct officials,~~



S.B. NO. 2292

- 1 ~~(B) Instruction of precinct officials when initiated~~
2 ~~or approved by the chief election officer;~~
- 3 ~~(C) Boards of registration;~~
- 4 ~~(D) Polling place costs other than supplies:~~
5 ~~installation rentals, ballot boxes, voting~~
6 ~~booths, custodians, telephones, and maintenance;~~
- 7 ~~(E) Other equipment such as ballot transport~~
8 ~~containers;~~
- 9 ~~(F) Temporary election employees hired to do strictly~~
10 ~~state work; and~~
- 11 ~~(G) Extraordinary voter registration and voter~~
12 ~~education costs when approved by the chief~~
13 ~~election officer.~~
- 14 ~~(2) The county shall pay and be responsible for:~~
- 15 ~~(A) Normal voter registration, voters list~~
16 ~~maintenance, and all printing connected with~~
17 ~~voter registration, including printing of the~~
18 ~~voters list;~~
- 19 ~~(B) Temporary election employees hired to do strictly~~
20 ~~county work;~~



~~(C) Maintenance of existing voting machines,
including parts, freight, storage, programming,
and personnel;~~

~~(D) Maintenance and storage of voting devices and
other equipment; and~~

~~(E) Employees assigned to conduct absentee polling
place functions.~~

~~(3) The remaining election expenses shall be divided in
half between the State and the counties. Each county
will pay a proration of expenses as a proportion of
the registered voters at the time of the general
election. These expenses shall include but not be
limited to:~~

~~(A) Polling place supplies;~~

~~(B) All printing, including ballots, but excluding
printing connected with voter registration;~~

~~(C) Temporary election employees not including voting
machine programmers doing work for both the State
and county;~~

~~(D) Ballot preparation and packing; and~~



S.B. NO. 2292

1 ~~(E) All other costs for which the State or county are~~
2 ~~not specifically responsible relating to the~~
3 ~~operation of voting machines, electronic voting~~
4 ~~systems, and other voting systems except paper~~
5 ~~ballots to include but not be limited to real~~
6 ~~property rentals, equipment rentals, personnel,~~
7 ~~mileage, telephones, supplies, publicity,~~
8 ~~computer programming, and freight.~~

9 ~~The responsibility for the above functions shall~~
10 ~~be determined by the chief election officer where the~~
11 ~~responsibility for such functions has not been~~
12 ~~assigned by the legislature.~~

13 ~~Any future expenses not presently incurred under any voting~~
14 ~~system now in use or to be used shall be assigned to paragraphs~~
15 ~~(1), (2), or (3) above by the chief election officer upon~~
16 ~~agreement with the clerks or by the legislature."]~~

17 SECTION 52. Section 15-7, Hawaii Revised Statutes, is
18 repealed.

19 ~~["§15-7 Absentee polling place; registration at absentee~~
20 ~~polling place. (a) Absentee polling places shall be~~
21 ~~established at the office of the respective clerks, and may be~~



1 ~~established at other sites as may be designated by the clerk~~
2 ~~under the provisions prescribed in the rules adopted by the~~
3 ~~chief election officer. Section 11-21 relating to changes and~~
4 ~~transfers of registration shall apply to the absentee polling~~
5 ~~place as though it were the precinct at which a person's name~~
6 ~~properly appears on the list of registered voters.~~

7 ~~(b) The absentee polling places shall be open no later~~
8 ~~than ten working days before election day, and all Saturdays~~
9 ~~falling within that time period, or as soon thereafter as~~
10 ~~ballots are available; provided that all absentee polling places~~
11 ~~shall be open on the same date statewide, as determined by the~~
12 ~~chief election officer.~~

13 ~~(c) A person who is eligible to vote but is not registered~~
14 ~~to vote may register by appearing in person at the absentee~~
15 ~~polling place for the county in which the person maintains~~
16 ~~residence.~~

17 ~~(d) The county clerk shall designate a registration clerk,~~
18 ~~who may be an election official, at each of the absentee polling~~
19 ~~places established in the county.~~

20 ~~(e) The registration clerk shall process applications for~~
21 ~~any person not registered to vote who submits a signed affidavit~~



1 ~~in accordance with section 11-15, which shall include a sworn~~
2 ~~affirmation:~~

3 ~~(1) Of the person's qualification to vote,~~

4 ~~(2) Acknowledging that the person has not voted and will~~
5 ~~not vote at any other polling place for that election~~
6 ~~and has not cast and will not cast any absentee ballot~~
7 ~~pursuant to chapter 15 for that election; and~~

8 ~~(3) Acknowledging that providing false information may~~
9 ~~result in a class C felony, punishable by a fine not~~
10 ~~exceeding \$1,000 or imprisonment not exceeding five~~
11 ~~years, or both.~~

12 ~~(f) The registration clerk may accept, as prima facie~~
13 ~~evidence, the allegation of the person in the application~~
14 ~~regarding the person's residence in accordance with section 11-~~
15 ~~15(b), unless the allegation is contested by a qualified voter.~~

16 ~~The registration clerk may demand that the person furnish~~
17 ~~substantiating evidence to the other allegations of the person's~~
18 ~~application in accordance with section 11-15(b).~~

19 ~~(g) Registration may be challenged in accordance with~~
20 ~~section 11-25.~~



~~(h) Notwithstanding subsection (c), registration pursuant to this section may be used by a person who is registered to vote but whose name cannot be found on the precinct list for the polling place associated with the person's residence.~~

~~(i) The clerk of each county shall add persons who properly register at an absentee polling place to the respective general county register. Within thirty days of registration at an absentee polling place, the county clerk shall mail to the person a notice including the person's name, current street address, district and precinct, and date of registration. A notice mailed pursuant to this subsection shall serve as prima facie evidence that the person is a registered voter as of the date of registration."]~~

SECTION 53. Section 15-8, Hawaii Revised Statutes, is repealed.

~~["§15-8 Absentee ballot box. An absentee ballot box or boxes shall be provided in the absentee polling place for the purpose of depositing the return envelopes and the ballot envelopes of those who vote in person at the absentee polling place. The ballot box shall be secured in accordance with rules promulgated by the chief election officer.~~



1 ~~Tampering with the ballot box or opening it before the time~~
2 ~~prescribed in section 15-9 shall be an election offense under~~
3 ~~section 19-6-"]~~

4 SECTION 54. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$4,828,510 or so much
6 thereof as may be necessary for fiscal year 2018-2019 for the
7 purpose of preparing for, implementing, and administering
8 elections by mail, including voter education and public
9 awareness programs, and funds for the counties' start-up costs
10 and mailing and related costs; provided that any amounts made
11 available to the counties shall be in proportion to each
12 county's respective percentage of registered voters; provided
13 further that any amounts made available for the counties' share
14 of mailing and related costs shall be reimbursed to the State.

15 The sum appropriated shall be expended by the office of
16 elections or distributed by the office of elections to the
17 counties for expenditure for the purposes of this Act.

18 SECTION 55. No later than twenty days before the convening
19 of each of the regular sessions of 2019, 2020, 2021, 2022, and
20 2023, the office of elections shall submit a report to the
21 legislature that includes:



- 1 (1) The office's progress in implementing this Act;
- 2 (2) A summary of the office's discussions with the county
- 3 clerks to determine areas of joint implementation of
- 4 this Act;
- 5 (3) Any additional resources the county clerks or the
- 6 office may require to implement this Act;
- 7 (4) Any developments in assistive technology that may be
- 8 implemented by the State, the counties, or nonprofit
- 9 associations to ensure that persons with disabilities
- 10 are not, on the whole, disadvantaged by implementation
- 11 of this Act, including the costs associated with such
- 12 technology;
- 13 (5) Any difficulties encountered;
- 14 (6) Specific steps taken and recommendations necessary to
- 15 prevent fraud and ensure the integrity of the election
- 16 process; and
- 17 (7) Any other findings and recommendations, including any
- 18 proposed legislation necessary to clarify and make consistent
- 19 chapters 11, 12, 15, 15D, 16, and 19, Hawaii Revised Statutes,
- 20 in light of the transition to statewide elections by mail.



S.B. NO. 2292

1 SECTION 56. In codifying the new sections added by section
2 2 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 57. If any provision of this Act, or the
6 application thereof to any person or circumstance, is held
7 invalid, the invalidity does not affect other provisions or
8 applications of the Act that can be given effect without the
9 invalid provision or application, and to this end the provisions
10 of this Act are severable.

11 SECTION 58. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 59. This Act shall take effect on January 1, 2020;
14 provided that section 54 and 55 shall take effect on July 1,
15 2018.

16

INTRODUCED BY:

Kal Rhoads

D. J. O'Neil



S.B. NO. 2292

Report Title:

Voting by Mail; Voter Service Centers; Places of Deposit;
Appropriation

Description:

Enacts voting by mail uniformly across all counties for all elections commencing in 2020. Establishes a limited number of voter service centers that would remain open from the tenth business day preceding an election through the day of the election to receive personal delivery of mail-in ballots, accommodate voters with special needs, offer same day registration and voting, and provide other election services. Allows for additional places of deposit for personal delivery of mail-in ballots. Appropriates funds for the implementation and administration of the election by mail program. Requires the office of elections to submit a report to the legislature prior to the convening of each regular session from 2019 through 2023, regarding the implementation of a vote by mail system. Takes effect on 1/1/2020.

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

