

JAN 23 2020

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 Act 136, Session
2 Laws of Hawaii 2019, established that all elections statewide
3 were to be conducted by mail beginning with the 2020 primary
4 election. This Act addresses various inconsistencies to clarify
5 and improve the administration of elections by mail.

6 SECTION 2. Section 11-1, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By adding three new definitions to be appropriately
9 inserted and to read:

10 "Ballot marking device" means a device that may be used to
11 mark a ballot or to generate a marked ballot or ballot summary
12 reflecting the ballot selections of the voter.

13 "Ballot summary" means a complete record of ballot
14 selections that is verified by the voter.

15 "Precinct" means the smallest political subdivision
16 established by law."



1 2. By amending the definitions of "ballot" and "district"
2 to read:

3 "Ballot" means a ballot, including an absentee ballot,
4 that is a written or printed, or partly written and partly
5 printed paper or papers containing the names of persons to be
6 voted for, the office to be filled, and the questions or issues
7 to be voted on. "Ballot" includes [a]:

8 (1) A ballot summary reflecting a complete record of the
9 ballot selections made by a voter utilizing an HTML
10 ballot or similar accessible ballot that produces a
11 ballot summary;

12 (2) A voter verifiable paper audit trail in the event
13 there is a discrepancy between a voting machine's
14 electronic record of the voted ballot and the voter
15 verifiable paper audit trail; and

16 (3) A ballot used in an election by mail pursuant to part
17 VIIA, including a ballot approved for electronic
18 transmission.

19 A ballot may consist of one or more cards or pieces of paper, or
20 one face of a card or piece of paper, or a portion of the face
21 of a card or piece of paper, depending on the number of offices,



1 candidates to be elected thereto, questions or issues to be
2 voted on, and the voting system in use.

3 "District" means, unless otherwise specified, the district
4 of political representation [~~with the fewest eligible voters in~~
5 ~~a particular election.~~] associated with a state representative."

6 SECTION 3. Section 11-15, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) Any person qualified to and desiring to register as a
9 voter in any county shall make and subscribe to an application
10 in the form of an affidavit.

11 The affidavit shall contain the following information:

12 (1) Name;

13 (2) The applicant's Hawaii driver's license number or
14 Hawaii state identification card number; provided
15 that:

16 (A) If no driver's license or identification card has
17 been issued to the applicant, the last four
18 digits of the applicant's social security number;
19 and

20 (B) If no social security number has been issued to
21 the applicant, an election official or county



1 clerk shall assign the applicant a unique
2 identification number for voter registration
3 purposes and enroll the applicant in the State's
4 computerized voter registration list, if any;

5 (3) Date of birth;

6 (4) Residence, including mailing address;

7 (5) That the residence stated in the affidavit is not
8 simply because of the person's presence in the State,
9 but that the residence was acquired with the intent to
10 make Hawaii the person's legal residence with all the
11 accompanying obligations therein; and

12 (6) That the person is a citizen.

13 ~~[An application to register to vote shall include a space~~
14 ~~to request a permanent absentee ballot.] "~~

15 SECTION 4. Section 11-15.2, Hawaii Revised Statutes, is
16 amended by amending subsection (g) to read as follows:

17 "(g) The clerk of each county shall add persons who
18 properly register under this section to the respective general
19 county register. Within thirty days of registration, the clerk
20 shall mail to the person a notice including the person's name,
21 current street address, district, precinct, and date of



1 registration. A notice mailed pursuant to this subsection shall
2 serve as prima facie evidence that the person is a registered
3 voter as of the date of registration."

4 SECTION 5. Section 11-17, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) The clerk shall also identify or remove the name of
7 any registered voter if the clerk, after mailing a notice or
8 other correspondence, properly addressed, with postage prepaid,
9 receives the notice or other correspondence as return mail with
10 a postal notation that the notice or other correspondence was
11 not deliverable. On election day, any person identified or
12 removed shall have the person's name corrected or restored in
13 the register and shall be allowed to vote if the person
14 completes an affidavit or other form prescribed by the chief
15 election officer affirming that the person:

- 16 (1) Claims the person's legal residence at the address
17 listed on the register;
- 18 (2) Changed the person's legal residence after the closing
19 of the register for that election; or



1 (3) Moved to a new residence within the same [~~district~~]
2 precinct as the person's residence as listed on the
3 register."

4 SECTION 6. Section 11-21, Hawaii Revised Statutes, is
5 amended by amending subsections (c) and (d) to read as follows:

6 "(c) Any person whose name appears on the registered
7 voters list whose residence has changed since the last election,
8 and whom the clerk has not transferred under section 11-20, may
9 apply on a form prescribed by the chief election officer on the
10 day of the election for transfer of registration to the
11 [~~district~~] precinct of the new residence. Any person so
12 transferring voter registration shall be immediately added to
13 the register of the new [~~district~~] precinct.

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

17 SECTION 7. Section 11-22, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) The clerk shall correct the register if at any time
20 it shall be manifest to the clerk that the name of a person
21 registered has been accidentally misspelled, or that the person



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

6 SECTION 8. Section 11-25, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) Any registered voter may challenge the right of a
9 person to be or to remain registered as a voter in any precinct
10 for any cause not previously decided by the board of
11 registration or the supreme court in respect to the same person.
12 The challenge shall be in writing, setting forth the grounds
13 upon which it is based, and be signed by the person making the
14 challenge. The challenge shall be delivered to the clerk who
15 shall immediately serve notice thereof on the person challenged.
16 The clerk shall, as soon as possible, investigate and rule on
17 the challenge."

18 SECTION 9. Section 11-26, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending subsection (a) to read:



1 "(a) In cases where the clerk, or [~~precinct~~] voter service
2 center officials, rules on a challenge on election day, the
3 person ruled against may appeal from the ruling to the board of
4 registration of the person's county for review under part III.
5 The appeal shall be brought before the challenger and challenged
6 party leave the [~~polling place.~~] voter service center. If an
7 appeal is brought, both the challenger and the challenged voter
8 may be parties to the appeal."

9 2. By amending subsection (c) to read:

10 "(c) If the appeal is sustained, the board shall
11 immediately certify that finding to the clerk, who shall
12 thereupon alter the register to correspond to the findings of
13 the board, and when necessary, the clerk shall notify the
14 [~~precinct~~] voter service center officials of the change in the
15 register."

16 SECTION 10. Section 11-92.1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§11-92.1 Election proclamation; establishment of a new
19 precinct; voter service centers and places of deposit; changes
20 to [~~district~~] precinct boundaries. (a) The chief election
21 officer shall issue a proclamation listing all voter service



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

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

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

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

20 "§11-92.3 Natural disasters; postponement; consolidation
21 of [~~districts;~~] precincts; special elections. (a) In the event



1 of a flood, tsunami, earthquake, volcanic eruption, high wind,
2 or other natural disaster, occurring before an election where
3 the extent of damage caused is such that the ability of voters,
4 in any precinct, district, or county, to exercise their right to
5 vote is substantially impaired, the chief election officer or
6 clerk in the case of county elections may postpone the
7 conducting of an election in the affected [area] precinct for no
8 more than twenty-one days; provided that any postponement shall
9 not affect the conduct of the election, tabulation, or
10 distribution of results for those precincts, districts, or
11 counties not designated for postponement. The chief election
12 officer or clerk in the case of county elections shall give
13 notice of the postponement by whatever possible news or
14 broadcast media are available.

15 (b) In the event the chief election officer or the clerk
16 in a county election determines that the number of candidates or
17 issues on the ballot in a special, special primary, or special
18 general election does not require the full number of established
19 [~~districts,~~] precincts, the [~~districts~~] precincts may be
20 consolidated for the purposes of the special, special primary,
21 or special general election into a small number of special,



1 special primary, or special general election [~~districts-~~]
2 precincts.

3 A special, special primary, or special general election
4 [~~district~~] precinct shall be considered the same as an
5 established [~~district~~] precinct for all purposes. No later than
6 4:30 p.m. on the tenth day before the special, special primary,
7 or special general election, the chief election officer or the
8 clerk shall give public notice, in the area in which the
9 special, special primary, or special general election is to be
10 held, of the special, special primary, or special general
11 election [~~districts-~~] precincts."

12 SECTION 12. Section 11-101, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[~~§~~11-101[~~§~~] Elections eligible to be conducted by mail.
15 Beginning with the 2020 primary election, all elections shall be
16 conducted by mail in accordance with this title. A voter in an
17 election conducted by mail shall not be precluded from voting by
18 absentee ballot under chapters 15 or 15D, if the voter complies
19 with the applicable requirements."

20 SECTION 13. Section 11-102, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) To the extent practicable, the clerk shall mail a
2 ballot package by non-forwardable mail to each registered voter
3 in the county so as to enable voters to receive the ballot
4 package approximately eighteen days before the election. The
5 clerk shall continue mailing ballot packages to voters who
6 update their voter registration address no later than [~~fourteen~~
7 seven days before the date of the election~~-~~]; provided that the
8 clerk may continue to mail ballots to those who have updated
9 their voter registration address after the seventh day if the
10 clerk believes there is sufficient time for the voter to return
11 the ballot by the applicable deadline, or if another statute
12 provides for the transmittal of the ballot during that time
13 frame. In determining the initial mailing date of the ballot
14 packages, the clerk shall consider the mailing place of origin
15 and the most recent postal service delivery standards. The
16 clerk shall not mail a ballot package to any voter in the county
17 register who is identified as having an outdated or non-
18 deliverable mailing address. Nothing in this part shall be
19 construed to change the responsibilities of the clerk or chief
20 election officer under chapter 15 with respect to voters



1 requesting to vote by absentee ballot or chapter 15D with
2 respect to uniform military and overseas voters."

3 SECTION 14. Section 11-104, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (a) to read:

6 "(a) After a voter receives a ballot package, the voter
7 shall comply with the instructions included in the ballot
8 package in order to cast a valid vote. The instructions shall
9 include directions for:

- 10 (1) Marking the ballot;
- 11 (2) Inserting the marked ballot in the secrecy envelope or
12 secrecy sleeve;
- 13 (3) Inserting the secrecy envelope or secrecy sleeve with
14 the marked ballot in the return identification
15 envelope; and
- 16 (4) Signing the affirmation on the return identification
17 envelope before mailing or delivering the return
18 identification envelope containing the secrecy
19 envelope or secrecy sleeve with the marked ballot.
20 The affirmation shall consist of a statement to be
21 subscribed to by the voter that affirms the fact that



1 the voter is the person voting and that the voter's
2 employer or agent of the employer, agent of the
3 voter's labor union, or any candidate listed on the
4 ballot did not assist the voter, as described in
5 section 11-139, along with the instruction that the
6 voter's ballot will be valid only if the affirmation
7 statement is signed."

8 2. By amending subsection (c) to read:

9 "(c) To cast a valid ballot, the voter shall return the
10 return identification envelope containing the secrecy envelope
11 or secrecy sleeve with the marked ballot:

12 (1) [~~By mail so~~] In any manner so that the return
13 identification envelope is received [~~at the office of~~]
14 by the clerk or the clerk's designee no later than the
15 closing [~~time provided~~] hour on election day in
16 accordance with section 11-131 [~~on the date of the~~
17 election]; provided that anyone who is standing in
18 line at 7:00 p.m. on the date of the election with the
19 intent of returning a ballot shall be permitted to do
20 so;



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1 (2) ~~[By personal delivery at]~~ In any manner to any place
 2 of deposit no later than 7:00 p.m. on the date of the
 3 election; provided that ~~[any voter]~~ anyone who is
 4 standing in line at a place of deposit at 7:00 p.m. on
 5 the date of the election with the intent of returning
 6 a ballot ~~[and casting a vote]~~ shall be ~~[allowed to~~
 7 ~~vote;]~~ permitted to do so; or

8 (3) ~~[By personal delivery]~~ In any manner to any voter
 9 service center no later than the closing time provided
 10 in section 11-131 on the date of the election;
 11 provided that ~~[any voter]~~ anyone who is standing in
 12 line at a voter service center at the closing time
 13 provided in section 11-131 on the date of the election
 14 with the intent of returning a ballot ~~[and casting a~~
 15 ~~vote]~~ shall be ~~[allowed to vote.]~~ permitted to do so."

16 SECTION 15. Section 11-105, Hawaii Revised Statutes, is
 17 amended by amending subsections (b) and (c) to read as follows:

18 "(b) ~~[Upon receipt of a completed replacement ballot~~
 19 ~~application form, the]~~ The clerk shall:

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



- 1 (2) Record that the voter has requested a replacement
2 ballot;
- 3 (3) Mark the return identification envelope as containing
4 a replacement ballot; and
- 5 (4) Issue the replacement ballot package by mail or make
6 the ballot package available for pick-up by the voter.
- 7 (c) Voters who obtain a replacement ballot shall return
8 the return identification envelope containing the secrecy
9 envelope or secrecy sleeve with the marked replacement ballot:
- 10 (1) ~~[By mail so]~~ In any manner so that the return
11 identification envelope is received ~~[at the office of]~~
12 by the clerk or the clerk's designee no later than the
13 closing ~~[time provided]~~ hour on election day in
14 accordance with section 11-131 ~~[on the date of the~~
15 election]; provided that anyone who is standing in
16 line at 7:00 p.m. on the date of the election with the
17 intent of returning a ballot shall be permitted to do
18 so;
- 19 (2) ~~[By personal delivery]~~ In any manner to any place of
20 deposit no later than 7:00 p.m. on the date of the
21 election; provided that ~~[any voter]~~ anyone who is



1 standing in line at a place of deposit at 7:00 p.m. on
 2 the date of the election with the intent of returning
 3 a ballot [~~and casting a vote~~] shall be [~~allowed to~~
 4 ~~vote,~~] permitted to do so; or

- 5 (3) [~~By personal delivery~~] In any manner to any voter
 6 service center no later than the closing [~~time~~
 7 ~~provided~~] hour in accordance with section 11-131 on
 8 the date of the election; provided that [~~any voter~~]
 9 anyone who is standing in line at a voter service
 10 center at the closing [~~time provided~~] hour in
 11 accordance with section 11-131 on the date of the
 12 election with the intent of returning a ballot [~~and~~
 13 ~~casting a vote~~] shall be [~~allowed to vote.~~] permitted
 14 to do so."

15 SECTION 16. Section 11-106, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "[~~§~~11-106[~~§~~] Deficient return identification envelopes.

18 If:

- 19 (1) A return identification envelope is returned with an
 20 unsigned affirmation;



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

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

6 the clerk shall make an attempt to notify the voter by first
7 class mail, telephone, or electronic mail to inform the voter of
8 the procedure to correct the deficiency. The voter shall have
9 [~~five business~~] seven days after the date of the election to
10 cure the deficiency. The chief election officer may adopt rules
11 regarding requirements and procedures for correcting deficient
12 return identification envelopes. The counting of ballots and
13 disclosure of subsequent election results may continue during
14 the time period permitted to cure a deficiency under this
15 section. The clerk's inability to contact voters under this
16 section shall not be grounds for a contest for cause under
17 section 11-172. This section shall apply to all return
18 identification envelopes, including ballots utilizing the
19 provisions of section 11-107, chapter 15, or chapter 15D."

20 SECTION 17. Section 11-107, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) to read as follows:



1 "(a) If a ballot package is not received by a voter by the
2 fifth day before the date of the election or a voter otherwise
3 requires a replacement ballot within five days of an election,
4 the voter may request that a ballot be forwarded by electronic
5 transmission; provided that a voter with special needs may
6 request that a ballot be forwarded by electronic transmission at
7 any time, but no earlier than the date that the voter's initial
8 ballot package was or would have been transmitted. Upon receipt
9 of such a request and confirmation that [~~proper application was~~
10 ~~made,~~] the voter has not already voted, the clerk may transmit
11 the appropriate ballot, together with a form containing the
12 affirmations, information, and a waiver of the right to secrecy
13 under section 11-137.

14 (b) The voter may return the completed replacement ballot
15 and executed forms:

16 (1) By electronic transmission so that the completed
17 replacement ballot and executed forms are received [~~at~~
18 ~~the office of~~] by the clerk or the clerk's designee no
19 later than the closing [~~time~~] hour provided in section
20 11-131 on the date of the election;



- 1 (2) ~~[By mail]~~ In any manner so that the completed
2 replacement ballot and executed forms are received [at
3 ~~the office of]~~ by the clerk or the clerk's designee no
4 later than the closing time provided in section 11-131
5 on the date of the election;
- 6 (3) ~~[By personal delivery]~~ In any manner to any place of
7 deposit no later than 7:00 p.m. on the date of the
8 election; provided that ~~[any voter]~~ anyone who is
9 standing in line at a place of deposit at 7:00 p.m. on
10 the date of the election with the intent of returning
11 a ballot ~~[and casting a vote]~~ shall be ~~[allowed to~~
12 ~~vote,]~~ permitted to do so; or
- 13 (4) ~~[By personal delivery]~~ In any manner to a voter
14 service center no later than the closing time provided
15 in section 11-131 on the date of the election;
16 provided that ~~[any voter]~~ anyone who is standing in
17 line at a voter service center at the closing time
18 provided in section 11-131 on the date of the election
19 with the intent of returning a ballot ~~[and casting a~~
20 ~~vote]~~ shall be ~~[allowed to vote.]~~ permitted to do so."



1 SECTION 18. Section 11-108, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) Any ballot the validity of which cannot be
4 established upon receipt shall be retained by the clerk and
5 shall not be commingled with ballots for which validity has been
6 established until the validity of the ballot in question can be
7 verified by the clerk. No ballot shall be included in an
8 initial tabulation until the clerk has determined its validity.
9 The clerk shall make reasonable efforts to determine the
10 validity of ballots within [~~seven~~] ten days following an
11 election day. No ballots shall be validated beyond the tenth
12 day following an election."

13 SECTION 19. Section 11-109, Hawaii Revised Statutes, is
14 amended as follows:

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

16 "(a) Voter service centers shall be established [~~at the~~
17 ~~office of the clerk, and may be established at additional~~
18 ~~locations within a county as may be designated by a clerk]~~ by
19 the clerks to service the particular needs of [a] each county's
20 voters.



1 (b) ~~[Voter]~~ In each county, a voter service [centers]
2 center shall be open from the tenth business day preceding the
3 day of the election during regular business hours until the time
4 provided in section 11-131 on the date of the election and at
5 the same times statewide. The clerks may operate additional
6 voter services centers with varying days or hours of operations
7 to service the voters of particular areas that otherwise could
8 not support the operation of a voter service center for ten
9 business days or the same times statewide; provided that on
10 election day all additional voter service centers shall be open
11 until 7:00 p.m. Anyone standing in line at a voter service
12 center at the closing time provided in section 11-131 on the
13 date of the election with the intent of voting shall be
14 permitted to do so. A person eligible to vote but who is not
15 registered to vote standing in line at a voter service center at
16 the closing time provided in section 11-131 on the date of the
17 election shall be permitted to apply under section 11-15.2 to
18 register to vote and subsequently vote that election day. To
19 the extent the registration clerk determines the applicant to be
20 registered at that time, the applicant will be permitted to vote
21 a regular ballot. If additional time is required to process the



1 application, the applicant will be provided a provisional
2 ballot."

3 2. By amending subsection (d) to read:

4 "(d) The clerks may designate and provide for places of
5 deposit to be open five business days before the election until
6 7:00 p.m. on the day of the election; provided that the
7 locations and apparatus for receiving voted ballots can be
8 securely maintained during the period of use for each election,
9 and as may be permitted by the operational hours. The clerks
10 may provide additional places of deposit with varying or shorter
11 days or hours of operations."

12 SECTION 20. Section 11-117, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) On receipt of the notice of death, withdrawal, or
15 upon determination of disqualification, the chief election
16 officer or the clerk shall inform the chairperson of the
17 political party of which the person deceased, withdrawing, or
18 disqualified was a candidate. When a candidate dies, withdraws,
19 or is disqualified after the close of filing and the ballots
20 have been printed, the chief election officer or the clerk may
21 order the candidate's name stricken from the ballot or order



1 that a notice of the death, withdrawal, or disqualification be
2 prominently posted at the appropriate [~~polling places~~] voter
3 service centers on election day."

4 SECTION 21. Section 11-138, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§11-138 Time allowed voters. A voter shall be allowed to
7 remain in the voting booth for five minutes, and having voted
8 the voter shall at once emerge and leave the voting booth. If
9 the voter refuses to leave when so requested by a majority of
10 [~~precinct~~] voter service center officials after the lapse of
11 five minutes, the voter shall be removed by the [~~precinct~~] voter
12 service center officials."

13 SECTION 22. Section 11-153, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) The chief election officer or the clerk shall make a
16 list of all [~~districts~~] precincts in which an overage or
17 underage occurred and the amount of the overage or underage.
18 This list shall be filed and kept as a public record in the
19 office of the chief election officer or the clerk in county
20 elections.



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

4 SECTION 23. Section 11-155, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§11-155 Certification of results of election.** On receipt
7 of certified tabulations from the election officials concerned,
8 the chief election officer, or county clerk in a county
9 election, shall compile, certify, and release the election
10 results after the expiration of the time for bringing an
11 election contest. The certification shall be based on a
12 comparison and reconciliation of the following:

- 13 (1) The results of the canvass of ballots conducted
14 pursuant to chapter 16;
- 15 (2) The audit of [~~pollbooks (and related record books)]~~
16 records and resultant overage and underage report;
- 17 (3) The audit results of the manual audit team;
- 18 (4) The results of the absentee ballot reconciliation
19 report compiled by the clerks;
- 20 (5) The results of any mandatory recount of votes
21 conducted pursuant to section 11-158; and



1 (6) All logs, tally sheets, and other documents generated
2 during the election and in the canvass of the election
3 results.

4 A certificate of election or a certificate of results declaring
5 the results of the election as of election day shall be issued
6 pursuant to section 11-156; provided that in the event of an
7 overage or underage, a list of all precincts in which an overage
8 or underage occurred shall be attached to the certificate. The
9 number of candidates to be elected receiving the highest number
10 of votes in any election district shall be declared to be
11 elected. Unless otherwise provided, the term of office shall
12 begin or end as of the close of [~~polls~~] voter service centers on
13 election day. The position on the question receiving the
14 appropriate majority of the votes cast shall be reflected in a
15 certificate of results issued pursuant to section 11-156."

16 SECTION 24. Section 11-172, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§11-172 Contests for cause; generally.** With respect to
19 any election, any candidate, or qualified political party
20 directly interested, or any thirty voters of any election
21 district, may file a complaint in the supreme court. The



1 complaint shall set forth any cause or causes, such as but not
2 limited to, provable fraud, overages, or underages, that could
3 cause a difference in the election results. The complaint shall
4 also set forth any reasons for reversing, correcting, or
5 changing the decisions of the [~~precinct~~] voter service center
6 officials or the officials at a counting center in an election
7 using the electronic voting system. A copy of the complaint
8 shall be delivered to the chief election officer or the clerk in
9 the case of county elections."

10 SECTION 25. Section 11-174.5, Hawaii Revised Statutes, is
11 amended by amending subsection (b) to read as follows:

12 "(b) In cases involving general, special general, special,
13 or runoff elections the complaint shall be heard by the supreme
14 court in which the complaint was filed as soon as it reasonably
15 may be heard. On the return day, the court, upon its motion or
16 otherwise, may direct summons to be issued to any person who may
17 be interested in the result of the proceedings.

18 At the hearing, the court shall cause the evidence to be
19 reduced to writing and shall give judgment, stating all findings
20 of fact and of law. The judgment may invalidate the general,
21 special general, special, or runoff election on the grounds that



1 a correct result cannot be ascertained because of a mistake or
2 fraud on the part of the [~~precinct~~] voter service center
3 officials; or decide that a certain candidate, or certain
4 candidates, received a majority or plurality of votes cast and
5 were elected. If the judgment should be that the general,
6 special general, special, or runoff election was invalid, a
7 certified copy thereof shall be filed with the governor, and the
8 governor shall duly call a new election to be held not later
9 than one hundred twenty days after the judgment is filed. If
10 the court shall decide which candidate or candidates have been
11 elected, a copy of that judgment shall be served on the chief
12 election officer or county clerk, who shall sign and deliver to
13 the candidate or candidates certificates of election, and the
14 same shall be conclusive of the right of the candidate or
15 candidates to the offices."

16 SECTION 26. Section 15-2, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§15-2 Who may vote by absentee ballot. Any person
19 registered to vote may cast an absentee ballot in any election,
20 including an election conducted by mail, in the manner provided



1 in this chapter and rules adopted by the chief election
2 officer."

3 SECTION 27. Section 15-2.5, Hawaii Revised Statutes, is
4 amended by amending its title and subsections (a) and (b) to
5 read as follows:

6 "§15-2.5 Voting by mail in [~~district~~] precinct affected by
7 natural disasters. (a) If the chief election officer and clerk
8 of a county affected as a result of a natural disaster determine
9 that the opening of a designated voter service center will
10 adversely affect the health and safety of voters or precinct
11 officials, the chief election officer and county clerk, by
12 written order, may require the registered voters of any
13 [~~district~~] precinct to vote by mail as provided in part VIIA of
14 chapter 11.

15 (b) Within thirty days after the issuance of such an
16 order, the chief election officer and county clerk shall notify
17 all registered voters in the affected [~~district~~] precinct of the
18 issuance of the order."

19 SECTION 28. Section 15-9, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§15-9 Return [and], receipt, processing, and treatment of
2 absentee ballots. [~~(a) The return envelope shall be:~~

3 ~~(1) Mailed and must be received by the clerk issuing the~~
4 ~~absentee ballot no later than the closing hour on~~
5 ~~election day in accordance with section 11 131; or~~

6 ~~(2) Delivered other than by mail to the clerk issuing the~~
7 ~~absentee ballot, or to a voter service center no later~~
8 ~~than the closing hour on election day in accordance~~
9 ~~with section 11 131.~~

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

13 ~~(c) Before opening the return and ballot envelopes and~~
14 ~~counting the ballots, the return envelopes shall be checked for~~
15 ~~the following:~~

16 ~~(1) Signature on the affirmation statement;~~

17 ~~(2) Whether the signature corresponds with the absentee~~
18 ~~request or register as prescribed in the rules adopted~~
19 ~~by the chief election officer; and~~



1 ~~(3) Whether the person is a registered voter and has~~
2 ~~complied with the requirements of sections 11-15 and~~
3 ~~11-16.~~

4 ~~(d) If any requirement listed in subsection (c) is not met~~
5 ~~or if the return or ballot envelope appears to be tampered with,~~
6 ~~the clerk or the absentee ballot team official shall mark across~~
7 ~~the face of the envelope "invalid" and it shall be kept in the~~
8 ~~custody of the clerk and disposed of as prescribed for ballots~~
9 ~~in section 11-154.]~~

10 An absentee ballot shall be returned, received, processed,
11 and treated in the same manner as a return identification
12 envelope in an election by mail as provided by part VIIA of
13 chapter 11."

14 SECTION 29. Section 15-11, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§15-11 Voting by absentee voter at [polls] voter services
17 centers prohibited. Any person having voted an absentee ballot
18 pursuant to this chapter shall not be entitled to cast a ballot
19 at [the polls] a voter service center on election day. An
20 absentee voter who does cast a ballot at [the polls] a voter



1 service center shall be guilty of an election offense under
2 section 19-3(5)."

3 SECTION 30. Section 15D-10, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+] §15D-10 [+] **Receipt of voted ballot.** A valid military-
6 overseas ballot shall be counted if it is received by the close
7 of the [~~polls~~] voter service center on the day of the election
8 and meets the requirements prescribed under section 15-9."

9 SECTION 31. Section 16-23, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§16-23 **Paper ballot; voting.** Upon receiving the ballot
12 the voter shall proceed into one of the voting booths provided
13 for the purpose, and shall mark the voter's ballot in the manner
14 prescribed by section 16-22.

15 The voter shall then leave the booth and deliver the ballot
16 to the [~~precinct~~] voter service center official in charge of the
17 ballot boxes. The [~~precinct~~] voter service center official
18 shall be sufficiently satisfied that there is but one ballot
19 enclosed, whereupon the ballot shall be immediately dropped into
20 the proper box by the [~~precinct~~] voter service center official."



1 SECTION 32. Section 16-26, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§16-26 Questionable ballots. A ballot shall be
4 questionable if:

- 5 (1) A ballot contains any mark or symbol whereby it can be
6 identified, or any mark or symbol contrary to the
7 provisions of law; or
8 (2) Two or more ballots are found in the ballot box so
9 folded together as to make it clearly evident that
10 more than one ballot was put in by one person, the
11 ballots shall be set aside as provided below.

12 Each ballot which is held to be questionable shall be
13 endorsed on the back by [~~the chairperson of precinct officials~~
14 ~~with the chairperson's~~] a voter service center official with
15 their name or initials, and the word "questionable". All
16 questionable ballots shall be set aside uncounted and disposed
17 of as provided for ballots in section 11-154."

18 SECTION 33. Section 16-27, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§16-27 Number of blank and questionable ballots; record
21 of. In addition to the count of the valid ballots, the



1 [precinct] voter service center officials shall, as to each
2 separate official ballot, also determine and record the number
3 of totally blank ballots and the number of questionable
4 ballots."

5 SECTION 34. Section 16-28, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§16-28 Declaration of results.** When the [precinct] voter
8 service center officials have ascertained the number of votes
9 given for each candidate they shall make public declaration of
10 the whole number of votes cast, the names of the persons voted
11 for, and the number of votes for each person."

12 SECTION 35. Section 11-181, Hawaii Revised Statutes, is
13 repealed.

14 [~~"§11-181 Capital equipment. The State shall pay for all~~
15 ~~voting system capital equipment. This shall include, but not be~~
16 ~~limited to voting machines, voting devices, and initial computer~~
17 ~~programs."~~]

18 SECTION 36. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20



S.B. NO. 2794

1 SECTION 37. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____

Karl Rhoad



S.B. NO. 2794

Report Title:

Elections; Vote by Mail

Description:

Makes housekeeping amendments to elections laws to clarify the administration of elections by mail.

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

