

JAN 18 2019

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 many elections in
2 Hawaii are subjected to scrutiny and in the best interest of
3 public trust, there should be a system to ensure that the
4 outcome of the election is correct and transparent.

5 The purpose of this Act is to require a mandatory manual
6 recount of ballots when the margin of victory is equal to or
7 less than one-half of one per cent of the ballots cast.

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

11 "§11- Mandatory manual recount of ballots. (a) The
12 chief election officer, or the clerk in the case of county
13 elections, shall conduct a manual recount of all ballots cast
14 for any office at any election if the official canvass of all of
15 the returns for that office reveals that the difference in the
16 number of ballots cast for a candidate apparently qualified for
17 the general election ballot or elected to office and the number



1 of ballots cast for the closest apparently defeated opponent is
2 equal to or less than one-half of one per cent of the total
3 number of the ballots cast for the contest.

4 (b) No cost of a mandatory manual recount under this
5 section may be charged to any candidate.

6 (c) All mandatory manual recounts of ballots conducted by
7 hand under this section shall be completed and the results
8 publicly announced no later than the ninth day following the
9 election.

10 (d) The chief election officer shall adopt rules pursuant
11 to chapter 91 for the mandatory manual recount of ballots under
12 this section; provided that the rules shall:

13 (1) Authorize candidates affected by the manual recount,
14 or their designated representatives, to attend and
15 witness the manual recount; and

16 (2) Require the notification of the parties described in
17 paragraph (1) of the time and place of the manual
18 recount no later than one day prior to the date of the
19 manual recount.

20 (e) This section shall apply to votes counted pursuant to
21 section 11-151."



1 SECTION 3. Section 11-155, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§11-155 Certification of results of election. On receipt
4 of certified tabulations from the election officials concerned,
5 the chief election officer or county clerk in county elections
6 shall compile, certify, and release the election results after
7 the expiration of the time for bringing an election contest.
8 The certification shall be based on a comparison and
9 reconciliation of the following:

- 10 (1) The results of the canvass of ballots conducted
11 pursuant to chapter 16;
- 12 (2) The audit of pollbooks (and related record books) and
13 resultant overage and underage report;
- 14 (3) The audit results of the manual audit team;
- 15 (4) The results of the absentee ballot reconciliation
16 report compiled by the clerks; [and]
- 17 (5) The results of any mandatory manual recount of ballots
18 conducted pursuant to section 11- ; and
- 19 [-5-] (6) All logs, tally sheets, and other documents
20 generated during the election and in the canvass of
21 the election results.



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

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

15 "(a) In primary and special primary election contests, and
16 county election contests held concurrently with a regularly
17 scheduled primary or special primary election, the complaint
18 shall be filed in the office of the clerk of the supreme court
19 not later than 4:30 p.m. on the sixth day after a primary or
20 special primary election, or county election contests held
21 concurrently with a regularly scheduled primary or special



1 primary election, and shall be accompanied by a deposit for
2 costs of court as established by rules of the supreme court[-];
3 provided that a complaint pertaining to ballots subject to a
4 mandatory manual recount pursuant to section 11- shall be
5 filed no later than 4:30 p.m. on the thirteenth calendar day
6 following the election or the third calendar day following a
7 manual recount, whichever occurs first. The clerk shall issue
8 to the defendants named in the complaint a summons to appear
9 before the supreme court not later than 4:30 p.m. on the fifth
10 day after service [~~thereof.~~] of summons."

11 SECTION 5. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2019-2020 and
14 the same sum or so much thereof as may be necessary for fiscal
15 year 2020-2021 to support a mandatory manual recount of ballots
16 if the margin of victory in any election is equal to or less
17 than one-half of one per cent of the ballots cast.

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

20 SECTION 6. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



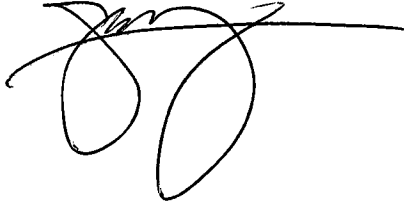


S.B. NO. 359

1 SECTION 7. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:


Karl Rhoads





S.B. NO. 359

Report Title:

Elections; Mandatory Manual Recount of Ballots; Margin of Victory; Appropriation

Description:

Requires a mandatory manual recount of election ballots in any election for any office when the margin of victory is equal to or less than one-half of one per cent of the ballots cast. Makes an appropriation.

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