

JAN 27 2021

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# A BILL FOR AN ACT

RELATING TO ELECTIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that even with its recent  
2 all-mail voting election, Hawaii still has an unacceptably low  
3 voter participation rate. Hawaii has more than two hundred  
4 thousand persons eligible to vote who are not currently  
5 registered. Steps should be taken to increase the number of  
6 registered voters in the State and encourage participation in  
7 the political process.

8           The legislature finds that eligible voters are sometimes  
9 not interested in voting for the available candidates and  
10 refrain from voting. The legislature further finds that  
11 write-in voting would allow voters to support candidates of  
12 their choice when their choice is not among the listed  
13 candidates.

14           The legislature additionally finds that past objections to  
15 write-in voting have included the added difficulty in counting  
16 the ballots, but the legislature finds that the inconvenience  
17 caused to the State in having to count write-in ballots is



1 outweighed by the public's interest in voting for the candidate  
2 of their choice.

3       The purpose of this Act is to allow voters of the State to  
4 vote for declared candidates other than those listed on the  
5 ballot through a write-in voting procedure.

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

9                               **"PART           .   WRITE-IN VOTING**

10       **§11-A Write-in voting.** Write-in voting is permitted for  
11 any state or county election conducted in Hawaii. A voter may  
12 cast a write-in vote for a candidate whose name is not printed  
13 on the ballot by writing in the candidate's name in the  
14 appropriate blank space provided on the ballot. Voters may cast  
15 write-in votes only for candidates who have filed declarations  
16 pursuant to section 12-B. As used in this section, "write-in"  
17 does not include imprinting of any name by rubber stamp or  
18 similar device, or the use of preprinted stickers or labels.

19       **§11-B Write-in candidates.** Any person who desires to be  
20 a write-in candidate shall file a declaration of candidacy with  
21 the chief election officer, or the clerk in case of county



1 offices, no later than 4:30 p.m. on the fortieth calendar day  
2 prior to the election; provided that if that day is a Saturday,  
3 Sunday, or holiday then the person shall file the declaration  
4 of candidacy no later than 4:30 p.m. on the first working day  
5 immediately preceding.

6       **§11-C Write-in vote count.** (a) When only one person is  
7 to be elected to an office, write-in votes shall be officially  
8 counted by the chief election officer only if the total number  
9 of write-in votes cast for the office equals or exceeds the  
10 number of votes for the candidate whose name is printed on the  
11 ballot and who received the highest number of votes for that  
12 office. When more than one person is to be elected to an  
13 office, write-in votes shall be counted only if the total  
14 number of write-in votes for the office equals or exceeds the  
15 number of votes for the candidates whose names are printed on  
16 the ballots and who would otherwise be nominated or elected to  
17 that office.

18       (b) Write-in votes shall not be counted for a candidate:

19       (1) Whose name is printed on the ballot for any office at  
20       the same election;



1           (2) Who is currently a public officer that is ineligible  
2           to run for office pursuant to article II, section 7  
3           of the Hawaii State Constitution; or

4           (3) Who, in the case of a general election, was on the  
5           ballot for the same office for the primary election.

6           (c) In addition to the applicable requirements of  
7           subsection (a), write-in votes for a candidate shall be counted  
8           only if the total number of write-in votes for the candidate is  
9           at least equal to the number of signatures required on  
10          nomination papers for that office.

11          **§11-D Write-in ballots.** Following the names of candidates  
12          for each office there shall be as many blank lines as there are  
13          persons to be elected to that office to allow for write-in  
14          voting. The name of a write-in candidate shall not appear on  
15          the ballot. The ballot in which a write-in candidate is a  
16          candidate shall contain:

17           (1) A blank underlined space designated "Write-in" for the  
18           voter to write in the name of the candidate; and

19           (2) A box or oval adjacent to the blank underlined space  
20           to indicate the voter's choice to write-in a candidate  
21           in lieu of voting for a name printed on the ballot.



1 The write-in vote shall be counted only if the box or oval is  
2 filled in on the ballot and if the write-in name appears on the  
3 ballot as written on the declaration of write-in candidacy;  
4 provided that the name of the write-in candidate is not required  
5 to be spelled correctly on the ballot if the voter's intent, in  
6 the determination of the clerk and the chief election officer,  
7 is evident from the misspelled name.

8       **§11-E Requirements for write-in candidate.** A write-in  
9 candidate determined to be a party or nonpartisan candidate in  
10 the primary or special primary election pursuant to section  
11 12-41, shall meet the following requirements not later than  
12 4:30 p.m. on the fifth day following the primary election. The  
13 candidate shall:

- 14       (1) File a statement in a form prescribed by the chief  
15 election officer containing the following information:
- 16           (A) The name of the candidate;
  - 17           (B) The residence address and county in which the  
18 candidate resides;
  - 19           (C) A certification by the candidate that the  
20 candidate will qualify under the law for the  
21 office the candidate is seeking;



- 1 (D) A certification by a party candidate that the  
2 candidate is a member of the party; and
- 3 (E) The name the candidate wishes inserted on the  
4 ballot and the post office address of the  
5 candidate;
- 6 (2) Register with the campaign spending commission and  
7 comply with the commission's requirements pursuant to  
8 chapter 11 on the same basis as any other candidate;
- 9 (3) File documents required of candidates with the  
10 appropriate ethics commission;
- 11 (4) File a written oath or affirmation as specified in  
12 section 12-7; and
- 13 (5) Deposit the appropriate filing fee specified in the  
14 fee schedule contained in section 12-6, which shall  
15 be deposited into the treasury of the State or  
16 county, as the case may be, except that the chief  
17 election officer or clerk shall waive the filing fee  
18 in the case of a person who declares, by affidavit,  
19 that the person is indigent.
- 20 **§11-F Rules.** The chief election officer shall adopt  
21 rules under chapter 91 to implement this part."



1 SECTION 3. Section 11-1, Hawaii Revised Statutes, is  
2 amended by amending the definition of "ballot" to read as  
3 follows:

4 "Ballot", a ballot including an absentee ballot is a  
5 written or printed, or partly written and partly printed paper  
6 or papers containing the names of persons to be voted for<sup>[7]</sup> and  
7 blank spaces for write-in candidates, the office to be filled,  
8 and the questions or issues to be voted on. A ballot may  
9 consist of one or more cards or pieces of paper, or one face of  
10 a card or piece of paper, or a portion of the face of a card or  
11 piece of paper, depending on the number of offices, candidates  
12 to be elected thereto, questions or issues to be voted on, and  
13 the voting system in use. It shall also include the face of the  
14 mechanical voting machine when arranged with cardboard or other  
15 material within the ballot frames, containing the names of the  
16 candidates and questions to be voted on."

17 SECTION 4. Section 11-112, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) The ballot shall contain the names of the candidates,  
20 their party affiliation or nonpartisanship in partisan election  
21 contests, the offices for which they are running, and the



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1 district in which the election is being held. Following the  
2 names of candidates for each office there shall be blank lines  
3 for write-in candidates. In multimember races the ballot shall  
4 state that the voter shall not vote for more than the number of  
5 seats available or the number of candidates listed where such  
6 number is less than the seats available."

7 SECTION 5. Section 11-302, Hawaii Revised Statutes, is  
8 amended by amending the definition of "candidate" to read as  
9 follows:

10 "Candidate" means an individual who seeks nomination for  
11 election or seeks election to office. An individual remains a  
12 candidate until the individual's candidate committee terminates  
13 registration with the commission. An individual is a candidate  
14 if the individual does any of the following:

15 (1) Files nomination papers for an office for the  
16 individual with the county clerk's office or with the  
17 chief election officer's office, whichever is  
18 applicable;

19 (2) Receives contributions, makes expenditures, or incurs  
20 financial obligations of more than \$100 to bring about



1 the individual's nomination for election, or to bring  
2 about the individual's election to office;

3 (3) Gives consent for any other person to receive  
4 contributions, make expenditures, or incur financial  
5 obligations to aid the individual's nomination for  
6 election, or the individual's election, to office;  
7 [~~or~~]

8 (4) Files a declaration of candidacy pursuant to section  
9 11-B; or

10 [~~(4)~~] (5) Is certified to be a candidate by the chief  
11 election officer or county clerk."

12 SECTION 6. Section 12-21, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§12-21 Official party ballots. The primary or special  
15 primary ballot shall be clearly designated as such. The names  
16 of the candidates of each party qualifying under section 11-61  
17 or 11-62 and of nonpartisan candidates may be printed on  
18 separate ballots, or on a single ballot. The name of each party  
19 and the nonpartisan designation shall be distinctly printed and  
20 sufficiently separate from each other. The names of all  
21 candidates shall be printed on the ballot as provided in section



1 11-115. When the names of all candidates of the same party for  
2 the same office exceed the maximum number of voting positions on  
3 a single side of a ballot card, the excess names may be arranged  
4 and listed on both sides of the ballot card and additional  
5 ballot cards if necessary. When separate ballots for each party  
6 are not used, the order in which parties appear on the ballot,  
7 including nonpartisan, shall be determined by lot. Following  
8 the names of candidates for each office, there shall be blank  
9 lines for write-in candidates.

10 The chief election officer or the county clerk, in the case  
11 of county elections, shall approve printed samples or proofs of  
12 the respective party ballots as to uniformity of size, weight,  
13 shape, and thickness prior to final printing of the official  
14 ballots."

15 SECTION 7. In codifying the new sections added by  
16 section 2 of this Act, the revisor of statutes shall substitute  
17 appropriate section numbers for the letters used in designating  
18 the new sections in this Act.

19 SECTION 8. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1           SECTION 9. This Act shall take effect upon its approval;  
2 provided that this Act shall apply to any state or county  
3 election conducted on or after July 1, 2022.

4

INTRODUCED BY: 



# S.B. NO. 1269

**Report Title:**

Elections; Voter Participation; Write-in Ballots

**Description:**

Authorizes write-in voting. Allows voters to vote for declared candidates other than those listed on preprinted ballot through write-in voting procedure. Applies to elections conducted on or after 7/1/2022.

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

