

JAN 27 2021

A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended
2 by adding three new sections to part VIIA to be appropriately
3 designated and to read as follows:

4 "§11- Ballot handling and storage; watchers. Watchers
5 appointed pursuant to section 11-77 shall be permitted to be
6 present to observe the handling of ballots in every case where
7 ballots are handled for the purpose of being placed in or
8 removed from storage.

9 §11- Audits of electronic vote tabulation; watchers.
10 Watchers appointed pursuant to section 11-77 shall be permitted
11 to be present to observe all audits of electronic vote
12 tabulation.

13 §11- Transportation of ballots; watchers. Watchers
14 appointed pursuant to section 11-77 shall be permitted to be
15 present in every vehicle used to transport ballots while ballots
16 are in the vehicle, where practicable; provided that this
17 section shall not apply to vehicles operated by the United



1 States Post Office for the purpose of delivering or transporting
2 mail."

3 SECTION 2. Section 11-77, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§11-77 Appointment of watchers; scope; service. (a)

6 Each qualified political party shall be entitled to appoint [æ]
7 more than one watcher who may be present [æt] during any of the
8 following election functions:

- 9 (1) Testing of electronic voting systems before and after
10 elections;
- 11 (2) Mailing of ballots to voters;
- 12 (3) Review of returned ballots;
- 13 (4) Resolution of requests for replacement of defective
14 ballots;
- 15 (5) Sending electronic ballots to voters and processing
16 returned electronic ballots;
- 17 (6) Signature verification;
- 18 (7) Counting and certification of ballots;
- 19 (8) Audit of vote tabulation;
- 20 (9) Handling, transporting, and storing paper ballots;
- 21 (10) Recounts; and



1 (11) At any time at a voter service center[-], counting
2 center, mailing center, place of deposit, and vehicle
3 used for transporting ballot materials, as
4 practicable.

5 Each party shall submit its list of watchers no later than
6 4:30 p.m. on the twentieth day before any election to the clerk.
7 [~~All watchers shall serve without expense to the county.~~] All
8 watchers so appointed shall be registered voters.

9 (b) A media organization shall be entitled to appoint more
10 than one media representative as a watcher who may be present
11 during any of the election functions in which a watcher
12 appointed by a political party pursuant to subsection (a) may be
13 present. Each media organization shall submit its list of
14 watchers no later than 4:30 p.m. on the twentieth day before any
15 election to the clerk. All watchers so appointed shall be
16 registered voters.

17 [~~(b)~~] (c) Each watcher shall be provided with
18 identification from the clerk stating the watcher's name and the
19 name of the party or media organization the watcher represents.

20 [~~(e)~~] (d) The watcher shall call the attention of the
21 clerk to any violations of the election laws that the watcher



1 observes. After the clerk's attention is called to the
2 violation, the clerk shall make an attempt to correct the
3 violation. If the clerk fails to correct the violation, the
4 watcher may appeal to the chief election officer."

5 SECTION 3. Section 11-102, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§11-102[+] Procedures for conducting elections by
8 mail. (a) Ballot packages for elections by mail shall include:

- 9 (1) An official ballot;
10 (2) A return identification envelope with postage prepaid;
11 (3) A secrecy envelope or secrecy sleeve; and
12 (4) Instructions.

13 (b) To the extent practicable, the clerk shall mail a
14 ballot package by non-forwardable mail to each registered voter
15 in the county so as to enable voters to receive the ballot
16 package approximately eighteen days before the election. The
17 clerk shall continue mailing ballot packages to voters who
18 update their voter registration address no later than fourteen
19 days before the date of the election. In determining the
20 initial mailing date of the ballot packages, the clerk shall
21 consider the mailing place of origin and the most recent postal



1 service delivery standards. The clerk shall not mail a ballot
2 package to any voter in the county register who is identified as
3 having an outdated or non-deliverable mailing address. Nothing
4 in this part shall be construed to change the responsibilities
5 of the clerk or chief election officer under chapter 15D with
6 respect to uniform military and overseas voters.

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

10 (d) In every case where ballots or ballot packages are
11 handled by the clerk or other election officials or election
12 employees in preparation for mailing to voters, watchers
13 appointed pursuant to section 11-77 shall be permitted to be
14 present."

15 SECTION 4. Section 11-105, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) Upon receipt of a completed replacement ballot
18 application form, the clerk shall:

19 (1) Verify the registration of the voter and ensure that
20 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
7 voter[-];

8 provided that watchers appointed pursuant to section 11-77 shall
9 be permitted to be present."

10 SECTION 5. Section 11-107, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) If a ballot package is not received by a voter by the
13 fifth day before the date of the election or a voter otherwise
14 requires a replacement ballot within five days of an election,
15 the voter may request that a ballot be forwarded by electronic
16 transmission; provided that a voter with special needs may
17 request that a ballot be forwarded by electronic transmission at
18 any time. Upon receipt of such a request and confirmation that
19 proper application was made, the clerk may transmit the
20 appropriate ballot[-] together with a form containing the
21 affirmations, information, and a waiver of the right to secrecy



1 under section 11-137[-]; provided that watchers appointed
2 pursuant to section 11-77 shall be permitted to be present."

3 SECTION 6. Section 11-108, Hawaii Revised Statutes, is
4 amended by amending subsections (c) and (d) to read as follows:

5 "(c) Any ballot the validity of which cannot be
6 established upon receipt shall be retained by the clerk and
7 shall not be commingled with ballots for which validity has been
8 established until the validity of the ballot in question can be
9 verified by the clerk. No ballot shall be included in an
10 initial tabulation until the clerk has determined its validity.
11 The clerk shall make reasonable efforts to determine the
12 validity of ballots within seven days following an election day.
13 Watchers appointed pursuant to section 11-77 shall be permitted
14 to be present during all procedures intended to determine the
15 validity of ballots, including the verification of signatures.

16 (d) Any initial recount provided by law shall include only
17 ballots verified for the purpose of the initial tabulation. In
18 no event shall a recount of an initial tabulation include
19 ballots the validity of which could not be verified by 6:00 a.m.
20 on the day following an election day. Watchers appointed



1 pursuant to section 11-77 shall be permitted to be present
2 during all recounts."

3 SECTION 7. Section 11-109, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Voter service centers shall be open from the tenth
6 business day preceding the day of the election during regular
7 business hours until the time provided in section 11-131 on the
8 date of the election and at the same times statewide. Watchers
9 appointed pursuant to section 11-77 shall be permitted to be
10 present at voter service centers whenever the voter service
11 center is open and ballots are being handled or processed."

12 SECTION 8. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY:





S.B. NO. 1289

Report Title:

Elections; Ballots; Watchers

Description:

Expands access of election watchers during elections to include all instances in which ballots are handled, prepared, tabulated, or reviewed. Allows for more than one election watcher to be appointed by a political party. Allows for election watchers to be appointed by media organizations.

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

