

JAN 22 2021

A BILL FOR AN ACT

RELATING TO ELECTIONS BY MAIL.

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.

5 The purpose of this Act is to revise various provisions to
6 clarify and improve the administration of elections by mail,
7 including renaming districts as precincts, extending
8 registration deadlines, and requiring additional voter service
9 centers on election day.

10 SECTION 2. Section 8-1, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§8-1 Holidays designated.** The following days of each
13 year are set apart and established as state holidays:

14 The first day in January, New Year's Day;

15 The third Monday in January, Dr. Martin Luther King, Jr.,
16 Day;

17 The third Monday in February, Presidents' Day;



1 The twenty-sixth day in March, Prince Jonah Kuhio
2 Kalanianaʻole Day;
3 The Friday preceding Easter Sunday, Good Friday;
4 The last Monday in May, Memorial Day;
5 The eleventh day in June, King Kamehameha I Day;
6 The fourth day in July, Independence Day;
7 The third Friday in August, Statehood Day;
8 The first Monday in September, Labor Day;
9 The eleventh day in November, Veterans' Day;
10 The fourth Thursday in November, Thanksgiving Day;
11 The twenty-fifth day in December, Christmas Day;
12 ~~[All election days, except primary and special election~~
13 ~~days, in the county wherein the election is held,]~~
14 Any day designated by proclamation by the President of the
15 United States or by the governor as a holiday."

16 SECTION 3. Section 11-1, Hawaii Revised Statutes, is
17 amended as follows:

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



1 "Ballot marking device" means a device that may be used to
2 mark a ballot or to generate a marked ballot or ballot summary
3 reflecting the ballot selections of the voter.

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

6 "Closing hour of voting" means 7:00 p.m. Hawaii Standard
7 Time on any election day.

8 "Precinct" means the smallest political subdivision
9 established by law.

10 "Provisional ballot" means a ballot and any accompanying
11 materials issued to a voter that is segregated for review and
12 subsequent determination of validity, in accordance with
13 eligibility criteria and other requirements of law."

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

15 "Ballot" means a ballot, including an absentee ballot,
16 that is a written or printed, or partly written and partly
17 printed paper or papers containing the names of persons to be
18 voted for, the office to be filled, and the questions or issues
19 to be voted on. "Ballot" includes [a]:

20 (1) A ballot summary reflecting a complete record of the
21 ballot selections made by a voter utilizing an HTML



1 ballot or similar accessible ballot that produces a
2 ballot summary;

3 (2) A voter verifiable paper audit trail in the event
4 there is a discrepancy between a voting machine's
5 electronic record of the voted ballot and the voter
6 verifiable paper audit trail; and

7 (3) A ballot used in an election by mail pursuant to part
8 VIIA, including a ballot approved for electronic
9 transmission. A ballot may consist of one or more
10 cards or pieces of paper, or one face of a card or
11 piece of paper, or a portion of the face of a card or
12 piece of paper, depending on the number of offices,
13 candidates to be elected thereto, questions or issues
14 to be voted on, and the voting system in use."

15 3. By amending the definition of "district" to read:

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

19 SECTION 4. Section 11-15, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



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

4 The affidavit shall contain the following information:

5 (1) Name;

6 (2) The applicant's Hawaii driver's license number or
7 Hawaii state identification card number; provided
8 that:

9 (A) If no driver's license or identification card has
10 been issued to the applicant, the last four
11 digits of the applicant's social security number;
12 and

13 (B) If no social security number has been issued to
14 the applicant, an election official or county
15 clerk shall assign the applicant a unique
16 identification number for voter registration
17 purposes and enroll the applicant in the State's
18 computerized voter registration list, if any;

19 (3) Date of birth;

20 (4) Residence, including mailing address;



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

6 (6) That the person is a citizen.

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

9 SECTION 5. Section 11-15.2, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "§11-15.2 ~~[Late registration.]~~ Same day in-person
 12 registration. (a) Notwithstanding the closing of the general
 13 county register pursuant to section 11-24, a person who is
 14 ~~[eligible to vote but is]~~ not registered to vote may register by
 15 appearing in person at any voter service center on or before
 16 election day~~[-]~~ or register electronically pursuant to section
 17 15-3.

18 (b) The clerk shall designate a registration clerk~~[-, who~~
 19 ~~may be an election official,]~~ at each voter service center~~[-~~

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



1 affidavit in accordance with section 11-15, which shall include
2 a sworn 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 again in that election, and has
6 not cast and will not cast any absentee ballot
7 pursuant to chapter 15 in 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~~] \$10,000 or imprisonment not
11 exceeding five years, or both.

12 [~~(d)~~] (c) The registration clerk may accept, as prima
13 facie 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). If additional
19 time or information is required to validate an application, the
20 applicant shall be provided a provisional ballot.



1 ~~[(e) Registration may be challenged in accordance with~~
2 ~~section 11-25.~~

3 ~~(f) Notwithstanding subsection (a), registration pursuant~~
4 ~~to this section may also be used by a person who is registered~~
5 ~~to vote but whose name cannot be found on the county register.~~

6 ~~(g) The clerk of each county shall add persons who~~
7 ~~properly register under this section to the respective general~~
8 ~~county register. Within thirty days of registration, the clerk~~
9 ~~shall mail to the person a notice including the person's name,~~
10 ~~current street address, district, and date of registration. A~~
11 ~~notice mailed pursuant to this subsection shall serve as prima~~
12 ~~facie evidence that the person is a registered voter as of the~~
13 ~~date of registration.] "~~

14 SECTION 6. Section 11-17, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§11-17 Removal of names from register, when;**
17 **reregistration.** (a) The clerk, ~~[no later than 4:30 p.m. on the~~
18 ~~sixtieth day]~~ after every general election, shall remove the
19 ~~[name] names of [any] registered [voter] voters who were~~
20 ~~identified as having an outdated or undeliverable address who~~
21 ~~did not vote in [that general election, and also did not vote in~~



1 ~~the primary election preceding that general election, and also~~
2 ~~did not vote in the previous general election, and also did not~~
3 ~~vote in the primary election preceding that general election,~~
4 ~~and also did not vote in the regularly scheduled special~~
5 ~~elections held in conjunction with those primary and general~~
6 ~~elections, if any,] all elections held during the two previous~~
7 ~~federal election cycles with the exception of [+~~
8 ~~(1) Those who submitted written requests for absentee~~
9 ~~ballots as provided in section 15-4, or~~
10 ~~(2) Anyone] anyone who preregistered pursuant to section~~
11 ~~11-12(b).~~
12 ~~[If a person voted, at least once, in any of the above mentioned~~
13 ~~elections, the person's name shall remain on the list of~~
14 ~~registered voters.] For this purpose, "vote" means the~~
15 ~~depositing of the ballot in the ballot box regardless of whether~~
16 ~~the ballot is blank or later rejected for any reason. In the~~
17 ~~case of voting machines, "vote" means the voter has activated~~
18 ~~the proper mechanism and fed the ballot into the machine. In~~
19 ~~the case of an election by mail pursuant to part VIIA, "vote"~~
20 ~~means the voter has returned the ballot to the chief election~~
21 ~~officer or clerk by the United States Postal Service, by~~



1 personal delivery of the ballot to a place of deposit or voter
2 service center, or by electronic transmission under certain
3 circumstances pursuant to part VIIA.

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

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



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

3 (c) Upon identification of names of registered voters as
4 prescribed in section (b) the clerk shall conduct any
5 notification mailings as required by applicable federal law.

6 ~~[(e)]~~ (d) The clerk may also remove the name of any
7 registered voter, if the voter so desires and properly notifies
8 the clerk pursuant to the procedures established by the chief
9 election officer.

10 ~~[(d) Any person whose name has been removed from the~~
11 ~~register, at any time prior to the closing of the register, as~~
12 ~~provided in section 11-24, may have that person's name restored~~
13 ~~in the register by presenting oneself to the clerk and~~
14 ~~reregistering pursuant to section 11-15, or by making~~
15 ~~application by mail or otherwise pursuant to procedures~~
16 ~~established by the clerk. The clerk shall require satisfactory~~
17 ~~evidence to establish the identity of the applicant. The names~~
18 ~~of all those persons shall be reentered in the register.]"~~

19 SECTION 7. Section 11-21, Hawaii Revised Statutes, is
20 amended by amending subsection (c) and (d) to read as follows:



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

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

12 SECTION 8. Section 11-22, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The clerk shall correct the register if at any time
15 it shall be manifest to the clerk that the name of a person
16 registered has been accidentally misspelled, or that the person
17 has been misnamed therein, or that the person has been
18 accidentally registered under the wrong [~~district,~~] precinct, or
19 that the person was accidentally removed pursuant to section 11-
20 17(a), or that the name of the person should be corrected or
21 restored pursuant to section 11-17(b)."



1 SECTION 9. Section 11-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§11-23 Changing register; striking names of disqualified**
4 **voters.** (a) Whenever the clerk receives from the department of
5 health or any informing agency, information of the death, loss
6 of voting rights of a person sentenced for a felony as provided
7 in section 831-2, adjudication as an incapacitated person under
8 the provisions of chapter 560, loss of citizenship, or any other
9 disqualification to vote, [~~of any person registered to vote in~~
10 ~~that county, or who the clerk has reason to believe may be~~
11 ~~registered to vote therein, the clerk shall thereupon make such~~
12 ~~investigation as may be necessary to prove or disprove the~~
13 ~~information, giving the person concerned, if available, notice~~
14 ~~and an opportunity to be heard. If after the investigation the~~
15 ~~clerk finds that the person is dead, or incapacitated to the~~
16 ~~extent that the person lacks sufficient understanding or~~
17 ~~capacity to make or communicate responsible decisions concerning~~
18 ~~voting, or has lost voting rights pursuant to section 831-2, or~~
19 ~~has lost citizenship, or is disqualified for any other reason to~~
20 ~~vote, the clerk shall remove the name of the person from the~~
21 ~~register.~~



1 ~~(b) The clerk shall make and keep an index of all~~
2 ~~information furnished to the clerk under any requirements of law~~
3 ~~concerning any of the matters in this section. Whenever any~~
4 ~~person applies to register as a voter, the clerk shall, before~~
5 ~~registering the person, consult the index for the purpose of~~
6 ~~ascertaining whether or not the person is in any manner~~
7 ~~disqualified to vote.] the clerk may accept the reported~~
8 ~~information as prima facie evidence to maintain and update the~~
9 ~~general register. Any person whose name is removed from the~~
10 ~~register of voters under this section may re-register to vote or~~
11 ~~appeal in the manner provided by sections 11-26 and 11-51, and~~
12 ~~such proceedings shall be had upon the appeal as in other~~
13 ~~appeals under these sections."~~

14 SECTION 10. Section 11-24, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§11-24 Closing register.** (a) At 4:30 p.m. on the
17 [~~thirtieth~~] tenth day prior to each [~~primary, special primary,~~
18 ~~or special~~] election, but if the day is a Saturday, Sunday, or
19 holiday then at 4:30 p.m. on the first working day immediately
20 thereafter, the general county register shall be closed to
21 registration for persons seeking to vote [~~at the primary,~~



1 ~~special primary, or special election]~~ and remain closed to
2 registration until after the election, subject to change only as
3 provided in sections 11-15.2, 11-21(c), 11-22, 11-25, 11-26, and
4 this section.

5 (b) Notwithstanding the ~~[closing of the register for~~
6 ~~registration to vote at the primary or special primary election,~~
7 ~~the register shall remain open for the registration of persons~~
8 ~~seeking to vote at the general or special general election,~~
9 ~~until 4:30 p.m. on the thirtieth day prior to the general or~~
10 ~~special general election, but if the day is a Saturday, Sunday,~~
11 ~~or holiday then at 4:30 p.m. on the first working day~~
12 ~~immediately thereafter, at the end of which period the general~~
13 ~~county register shall be closed to registration and remain~~
14 ~~closed until after the general or special general election next~~
15 ~~following, subject to change only as provided in sections 11-~~
16 ~~21(e), 11-22, 11-25, and 11-26.] time of closing the general~~
17 county registrar under subsection (a), the clerk may accept an
18 application submitted on the tenth day if it was received
19 electronically in accordance with section 11-15.3 or received as
20 part of a drivers licensing transaction. The clerk shall also



1 accept an application that is postmarked prior to or on the
2 tenth day before the election."

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

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

15 SECTION 12. Section 11-26, Hawaii Revised Statutes, is
16 amended as follows:

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

18 "(a) In cases where the clerk, or [~~precinct~~] voter service
19 center officials, rules on a challenge on election day, the
20 person ruled against may appeal from the ruling to the board of
21 registration of the person's county for review under part III.



1 The appeal shall be brought before the challenger and challenged
 2 party leave the [~~polling place.~~] voter service center. If an
 3 appeal is brought, both the challenger and the challenged voter
 4 may be parties to the appeal."

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

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

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

14 "§11-92.1 Election proclamation; establishment of a new
 15 precinct; voter service centers and places of deposit; changes
 16 to [~~district~~] precinct boundaries. (a) The chief election
 17 officer shall issue a proclamation listing all voter service
 18 centers and places of deposit as may have been determined by the
 19 clerk as of the proclamation date[~~-~~] and whenever a new precinct
 20 is established in any representative district. The clerk shall
 21 make arrangements for the rental or erection of suitable shelter



1 for the establishment of a voter service center whenever public
 2 buildings are not available and shall cause these voter service
 3 centers to be equipped with the necessary facilities for
 4 lighting, ventilation, and equipment needed for elections on any
 5 island. This proclamation may be issued jointly with the
 6 proclamation required in section 11-91.

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

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

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

16 "§11-92.3 Natural disasters; postponement; consolidation
 17 of [~~districts;~~] precincts; special elections. (a) In the event
 18 of a flood, tsunami, earthquake, volcanic eruption, high wind,
 19 or other natural disaster, occurring before an election where
 20 the extent of damage caused is such that the ability of voters,
 21 in any precinct, district, or county, to exercise their right to



1 vote is substantially impaired, the chief election officer or
2 clerk in the case of county elections may postpone the
3 conducting of an election in the affected [~~area~~] precinct for no
4 more than twenty-one days; provided that any postponement shall
5 not affect the conduct of the election, tabulation, or
6 distribution of results for those precincts, districts, or
7 counties not designated for postponement. The chief election
8 officer or clerk in the case of county elections shall give
9 notice of the postponement by whatever possible news or
10 broadcast media are available.

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

20 A special, special primary, or special general election
21 [~~district~~] precinct shall be considered the same as an



1 established [~~district~~] precinct for all purposes. No later than
2 4:30 p.m. on the tenth day before the special, special primary,
3 or special general election, the chief election officer or the
4 clerk shall give public notice, in the area in which the
5 special, special primary, or special general election is to be
6 held, of the special, special primary, or special general
7 election [~~districts-~~] precincts."

8 SECTION 15. Section 11-101, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~{}~~§11-101~~{}~~ Elections eligible to be conducted by mail.
11 Beginning with the 2020 primary election, all elections shall be
12 conducted by mail in accordance with this title. A voter in an
13 election conducted by mail shall not be precluded from voting by
14 absentee ballot under chapters 15 or 15D, if the voter complies
15 with the applicable requirements."

16 SECTION 16. Section 11-102, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

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



1 clerk shall continue mailing ballot packages to voters who
2 register to vote no later than ten days before the date of the
3 election and to voters who update their voter registration
4 address no later than [~~fourteen~~] seven days before the date of
5 the election[-] and who have not yet voted; provided that the
6 clerk may continue mailing ballot packages beyond the deadlines
7 established by this subsection if the clerk determines that
8 there is reasonable time for a voter to receive and submit the
9 ballot package before the election. In determining the initial
10 mailing date of the ballot packages, the clerk shall consider
11 the mailing place of origin and the most recent postal service
12 delivery standards. The clerk shall not mail a ballot package
13 to any voter in the county register who is identified as having
14 an outdated or non-deliverable mailing address. Nothing in this
15 part shall be construed to change the responsibilities of the
16 clerk or chief election officer under chapter 15 with respect to
17 voters requesting to vote by absentee ballot or chapter 15D with
18 respect to uniform military and overseas voters."

19 SECTION 17. Section 11-104, Hawaii Revised Statutes, is
20 amended as follows:

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



1 "(a) After a voter receives a ballot package, the voter
2 shall comply with the instructions included in the ballot
3 package in order to cast a valid vote. The instructions shall
4 include directions for:

- 5 (1) Marking the ballot;
- 6 (2) Inserting the marked ballot in the secrecy envelope or
7 secrecy sleeve;
- 8 (3) Inserting the secrecy envelope or secrecy sleeve with
9 the marked ballot in the return identification
10 envelope; and
- 11 (4) Signing the affirmation on the return identification
12 envelope before mailing or delivering the return
13 identification envelope containing the secrecy
14 envelope or secrecy sleeve with the marked ballot.
15 The affirmation shall consist of a statement to be
16 subscribed to by the voter that affirms the fact that
17 the voter is the person voting and that the voter's
18 employer or agent of the employer, agent of the
19 voter's labor union, or any candidate listed on the
20 ballot did not assist the voter, as described in
21 section 11-139, along with the instruction that the



1 voter's ballot will be valid only if the affirmation
2 statement is signed."

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

4 "(c) To cast a valid ballot, the voter shall return the
5 return identification envelope containing the optional secrecy
6 envelope or secrecy sleeve with the marked ballot:

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

15 (2) [~~By personal delivery at~~] In any manner to any place
16 of deposit no later than [~~7:00 p.m. on the date of the~~
17 ~~election,~~] the closing hour of voting; provided that
18 [~~any voter~~] anyone who is standing in line at a place
19 of deposit at 7:00 p.m. on the date of the election
20 with the intent of returning a ballot [~~and casting a~~



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

12 SECTION 18. Section 11-105, Hawaii Revised Statutes, is
13 amended by amending subsections (b) and (c) to read as follows:

14 "(b) Upon receipt of a completed replacement ballot
15 application form~~[7]~~ or request, the clerk shall:

- 16 (1) Verify the registration of the voter and ensure that
- 17 another ballot has not been returned by the voter;
- 18 (2) Record that the voter has requested a replacement
- 19 ballot;
- 20 (3) Mark the return identification envelope as containing
- 21 a replacement ballot; and



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

3 (c) Voters who obtain a replacement ballot shall return
4 the return identification envelope containing [~~the secrecy~~
5 ~~envelope or secrecy sleeve with~~] the marked replacement ballot [+

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

10 ~~(2) By personal delivery to any place of deposit no later~~
11 ~~than 7:00 p.m. on the date of the election; provided~~
12 ~~that any voter who is standing in line at a place of~~
13 ~~deposit at 7:00 p.m. on the date of the election with~~
14 ~~the intent of returning a ballot and casting a vote~~
15 ~~shall be allowed to vote; or~~

16 ~~(3) By personal delivery to any voter service center no~~
17 ~~later than the closing time provided in section 11-131~~
18 ~~on the date of the election; provided that any voter~~
19 ~~who is standing in line at a voter service center at~~
20 ~~the closing time provided in section 11-131 on the~~
21 ~~date of the election with the intent of returning a~~



1 ~~ballot and casting a vote shall be allowed to vote.]~~
2 in the same manner as provided in section 11-104(c)."

3 SECTION 19. Section 11-106, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~{}~~§11-106~~{}~~ Deficient return identification envelopes.

6 If:

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

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

11 (3) A return identification envelope contains another
12 condition that would not allow the counting of the
13 ballot,

14 the clerk shall make an attempt to notify the voter by first
15 class mail, telephone, or electronic mail to inform the voter of
16 the procedure to correct the deficiency. The voter shall have
17 ~~[five business]~~ seven days after the date of the election to
18 cure the deficiency. The chief election officer may adopt rules
19 regarding requirements and procedures for correcting deficient
20 return identification envelopes. The counting of ballots and
21 disclosure of subsequent election results may continue during



1 the time period permitted to cure a deficiency under this
2 section. The clerk's inability to contact voters under this
3 section shall not be grounds for a contest for cause under
4 section 11-172. This section shall apply to all return
5 identification envelopes, including ballots utilizing the
6 provisions of section 11-107, chapter 15, or chapter 15D."

7 SECTION 20. Section 11-107, Hawaii Revised Statutes, is
8 amended to read as follows:

9 " ~~[§]11-107 [§]~~ **Electronic transmission under certain**
10 **circumstances.** (a) If a ballot package is not received by a
11 voter by the fifth day before the date of the election or a
12 voter otherwise requires a replacement ballot within five days
13 of an election, the voter may request that a ballot be forwarded
14 by electronic transmission ~~[, provided that a voter with special~~
15 ~~needs may request that a ballot be forwarded by electronic~~
16 ~~transmission at any time]~~. Upon receipt of such a request and
17 confirmation that ~~[proper application was made,]~~ the voter has
18 not already voted, the clerk may transmit the appropriate
19 ballot, ~~[together with a form containing the affirmations,]~~
20 voting information, and a waiver of the right to secrecy under
21 section 11-137. The waiver of the right to secrecy shall not be



1 required if the voted ballot is returned in a signed ballot
2 return identification envelope issued to the voter pursuant to
3 section 11-102.

4 (b) The voter may return the completed replacement ballot
5 and executed forms:

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

12 [~~By mail so that the completed replacement ballot and~~
13 ~~executed forms are received at the office of the clerk~~
14 ~~no later than the closing time provided in section 11-~~
15 ~~131 on the date of the election;~~

16 [~~3) By personal delivery to any place of deposit no later~~
17 ~~than 7:00 p.m. on the date of the election; provided~~
18 ~~that any voter who is standing in line at a place of~~
19 ~~deposit at 7:00 p.m. on the date of the election with~~
20 ~~the intent of returning a ballot and casting a vote~~
21 ~~shall be allowed to vote; or~~



1 ~~(4) By personal delivery to a voter service center no~~
2 ~~later than the closing time provided in section 11-131~~
3 ~~on the date of the election; provided that any voter~~
4 ~~who is standing in line at a voter service center at~~
5 ~~the closing time provided in section 11-131 on the~~
6 ~~date of the election with the intent of returning a~~
7 ~~ballot and casting a vote shall be allowed to vote.]~~

8 In the same manner as provided in section 11-104.

9 (c) A voter with special needs may request that a ballot
10 be forwarded by electronic transmission at any time, but no
11 earlier than the date that the voter's initial ballot package
12 was or would have been transmitted. Upon receipt of such a
13 request and confirmation that the voter has not already voted,
14 the clerk may transmit the appropriate ballot, voting
15 information, and a means of electronic authentication that does
16 not include the voter's hand written signature or a waiver of
17 secrecy. The special needs voter may return the completed
18 ballot and executed forms by any of the methods specified in
19 subsection (b); provided that the voter's hand written signature
20 or a waiver of secrecy shall not be required.



1 [~~(e)~~] (d) Upon receipt, the clerk shall verify compliance
2 with the requirements of this part; provided that if the voter
3 returns multiple voted ballots for the same election, the clerk
4 shall prepare only the first ballot returned that is not
5 spoiled.

6 (e) The clerk may maintain a listing of voters with
7 special needs that utilize a ballot forwarded by electronic
8 transmission to facilitate the provision of voting services in
9 subsequent elections."

10 SECTION 21. Section 11-108, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) Any ballot the validity of which cannot be
13 established upon receipt shall be retained by the clerk and
14 shall not be commingled with ballots for which validity has been
15 established until the validity of the ballot in question can be
16 verified by the clerk. No ballot shall be included in an
17 initial tabulation until the clerk has determined its validity.
18 The clerk shall make reasonable efforts to determine the
19 validity of ballots within [~~seven~~] ten days following an
20 election day. No ballot shall be validated beyond the tenth day
21 following an election."



1 SECTION 22. Section 11-109, Hawaii Revised Statutes, is
2 amended as follows:

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

4 "(a) [~~Voter~~] A voter service [centers] center shall be
5 established at the office of the clerk[, and may be established
6 at additional locations within a county as may be designated by
7 a clerk to service the particular needs of a county's voters.]
8 in each county that shall be open from the tenth business day
9 preceding the day of the election during regular business hours
10 and until the closing hour of voting on the date of the
11 election.

12 (b) [~~Voter service centers shall be open from the tenth~~
13 ~~business day preceding the day of the election during regular~~
14 ~~business hours until the time provided in section 11-131 on the~~
15 ~~date of the election and at the same times statewide.] The
16 clerks may operate additional voter services centers with
17 varying days or hours of operations to service the voters of
18 particular areas that otherwise could not support the operation
19 of a voter service center for ten business days or the same
20 times statewide; provided that on election day the clerk of any
21 county with a population less than 500,000 shall operate one~~



1 additional voter service center on each island of at least 1,000
2 inhabitants and the clerk of any county with a population of
3 500,000 or more shall operate three additional voter service
4 centers, one of which shall be on the Windward side; provided
5 further that on election day all additional voter service
6 centers shall be open until 7:00 p.m. Anyone standing in line
7 at a voter service center at the closing hour of voting on the
8 date of the election with the intent of voting shall be
9 permitted to do so. A person eligible to vote but who is not
10 registered to vote standing in line at a voter service center at
11 the closing hour of voting on the date of the election shall be
12 permitted to apply under section 11-15.2 to register to vote and
13 subsequently vote that election day. To the extent the
14 registration clerk determines the applicant to be registered at
15 that time, the applicant will be permitted to vote a regular
16 ballot. If additional time is required to process the
17 application, the applicant will be provided a provisional
18 ballot."

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

20 "(d) The clerks may designate and provide for places of
21 deposit to be open [~~five business days before the election until~~



1 ~~7:00 p.m. on the day of the election;~~] as early as the mailing
2 of ballots by the clerks; provided that the locations and
3 apparatus for receiving voted ballots can be securely maintained
4 during the period of use for each election, and as may be
5 permitted by the operational hours."

6 SECTION 23. Section 11-117, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) On receipt of the notice of death, withdrawal, or
9 upon determination of disqualification, the chief election
10 officer or the clerk shall inform the chairperson of the
11 political party of which the person deceased, withdrawing, or
12 disqualified was a candidate. When a candidate dies, withdraws,
13 or is disqualified after the close of filing and the ballots
14 have been printed, the chief election officer or the clerk may
15 order the candidate's name stricken from the ballot or order
16 that a notice of the death, withdrawal, or disqualification be
17 prominently posted at the appropriate [~~polling places~~] voter
18 service centers on election day."

19 SECTION 24. Section 11-131, Hawaii Revised Statutes, is
20 amended to read as follows:



1 **"§11-131 Voter service center hours.** The hours of voting
2 at voter service centers shall be:

3 (1) Regular business hours as prescribed in section 11-109
4 and by the clerk; and

5 (2) On an election day, from 7:00 a.m. until [~~7:00 p.m. of~~
6 ~~that day.~~] the closing hour of voting as defined in
7 section 11-1.

8 If, at [~~7:00 p.m. on an election day,~~] the closing hour of
9 voting, any voter is standing in line at a voter service center
10 with the desire of entering and voting, but due to the voter
11 service center being overcrowded has been unable to do so, the
12 voter shall be allowed to vote. No voter shall be permitted to
13 enter or join the line after the prescribed hours of voting
14 specified in this section."

15 SECTION 25. Section 11-138, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§11-138 Time allowed voters.** A voter shall be allowed to
18 remain in the voting booth for five minutes, and having voted
19 the voter shall at once emerge and leave the voting booth. If
20 the voter refuses to leave when so requested by a majority of
21 [~~precinct~~] voter service center officials after the lapse of



1 five minutes, the voter shall be removed by the [~~precinct~~] voter
2 service center officials."

3 SECTION 26. Section 11-153, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The chief election officer or the clerk shall make a
6 list of all [~~districts~~] precincts in which an overage or
7 underage occurred and the amount of the overage or underage.
8 This list shall be filed and kept as a public record in the
9 office of the chief election officer or the clerk in county
10 elections.

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 27. Section 11-155, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§11-155 Certification of results of election.** On receipt
17 of certified tabulations from the election officials concerned,
18 the chief election officer, or county clerk in a county
19 election, shall compile, certify, and release the election
20 results after the expiration of the time for bringing an



1 election contest. The certification shall be based on a
2 comparison and reconciliation of the following:

- 3 (1) The results of the canvass of ballots conducted
4 pursuant to chapter 16;
- 5 (2) The audit of [~~pollbooks (and related record books)~~]
6 records and resultant overage and underage report;
- 7 (3) The audit results of the manual audit team;
- 8 [~~(4) The results of the absentee ballot reconciliation~~
9 ~~report compiled by the clerks,~~
- 10 ~~(5)]~~ (4) The results of any mandatory recount of votes
11 conducted pursuant to section 11-158; and
- 12 [~~(6)]~~ (5) All logs, tally sheets, and other documents
13 generated during the election and in the canvass of
14 the election results.

15 A certificate of election or a certificate of results declaring
16 the results of the election as of election day shall be issued
17 pursuant to section 11-156; provided that in the event of an
18 overage or underage, a list of all precincts in which an overage
19 or underage occurred shall be attached to the certificate. The
20 number of candidates to be elected receiving the highest number
21 of votes in any election district shall be declared to be



1 elected. Unless otherwise provided, the term of office shall
2 begin or end as of the close of [~~polls~~] voter service centers on
3 election day. The position on the question receiving the
4 appropriate majority of the votes cast shall be reflected in a
5 certificate of results issued pursuant to section 11-156."

6 SECTION 28. Section 11-172, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§11-172 **Contests for cause; generally.** With respect to
9 any election, any candidate, or qualified political party
10 directly interested, or any thirty voters of any election
11 district, may file a complaint in the supreme court. The
12 complaint shall set forth any cause or causes, such as but not
13 limited to, provable fraud, overages, or underages, that could
14 cause a difference in the election results. The complaint shall
15 also set forth any reasons for reversing, correcting, or
16 changing the decisions of the [~~precinct~~] voter service center
17 officials or the officials at a counting center in an election
18 using the electronic voting system. A copy of the complaint
19 shall be delivered to the chief election officer or the clerk in
20 the case of county elections."



1 SECTION 29. Section 11-174.5, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

9 At the hearing, the court shall cause the evidence to be
10 reduced to writing and shall give judgment, stating all findings
11 of fact and of law. The judgment may invalidate the general,
12 special general, special, or runoff election on the grounds that
13 a correct result cannot be ascertained because of a mistake or
14 fraud on the part of the [~~precinct~~] voter service center
15 officials; or decide that a certain candidate, or certain
16 candidates, received a majority or plurality of votes cast and
17 were elected. If the judgment should be that the general,
18 special general, special, or runoff election was invalid, a
19 certified copy thereof shall be filed with the governor, and the
20 governor shall duly call a new election to be held not later
21 than one hundred twenty days after the judgment is filed. If



1 the court shall decide which candidate or candidates have been
2 elected, a copy of that judgment shall be served on the chief
3 election officer or county clerk, who shall sign and deliver to
4 the candidate or candidates certificates of election, and the
5 same shall be conclusive of the right of the candidate or
6 candidates to the offices."

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

9 "§15-2 Who may vote by absentee ballot. Any person
10 registered to vote may cast an absentee ballot in any election,
11 including an election conducted by mail, in the manner provided
12 in this chapter and rules adopted by the chief election
13 officer."

14 SECTION 31. Section 15-2.5, Hawaii Revised Statutes, is
15 amended by amending its title and subsections (a) and (b) to
16 read as follows:

17 "§15-2.5 Voting by mail in [~~district~~] precinct affected by
18 natural disasters. (a) If the chief election officer and clerk
19 of a county affected as a result of a natural disaster determine
20 that the opening of a designated voter service center will
21 adversely affect the health and safety of voters or precinct



1 officials, the chief election officer and county clerk, by
2 written order, may require the registered voters of any
3 ~~[district]~~ precinct to vote by mail as provided in part VIIA of
4 chapter 11.

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

9 SECTION 32. Section 15-9, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§15-9 Return [and], receipt, processing, and treatment of
12 absentee ballots. [~~(a) The return envelope shall be:~~

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

16 ~~(2) Delivered other than by mail to the clerk issuing the~~
17 ~~absentee ballot, or to a voter service center no later~~
18 ~~than the closing hour on election day in accordance~~
19 ~~with section 11-131.~~



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

4 ~~(c) Before opening the return and ballot envelopes and~~
5 ~~counting the ballots, the return envelopes shall be checked for~~
6 ~~the following:~~

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

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

11 ~~(3) Whether the person is a registered voter and has~~
12 ~~complied with the requirements of sections 11-15 and~~
13 ~~11-16.~~

14 ~~(d) If any requirement listed in subsection (c) is not met~~
15 ~~or if the return or ballot envelope appears to be tampered with,~~
16 ~~the clerk or the absentee ballot team official shall mark across~~
17 ~~the face of the envelope "invalid" and it shall be kept in the~~
18 ~~custody of the clerk and disposed of as prescribed for ballots~~
19 ~~in section 11-154.] An absentee ballot shall be returned,~~
20 ~~received, processed, and treated in the same manner as a return~~



1 identification envelope in an election by mail as provided by
2 part VIIA of chapter 11."

3 SECTION 33. Section 15-11, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§15-11 **Voting by absentee voter at polls prohibited.** Any
6 person having voted an absentee ballot pursuant to this chapter
7 shall not be entitled to cast a ballot at [~~the polls~~] a voter
8 service center on election day. An absentee voter who does cast
9 a ballot at [~~the polls~~] a voter service center shall be guilty
10 of an election offense under section 19-3(5)."

11 SECTION 34. Section 15D-10, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§15D-10[+] **Receipt of voted ballot.** A valid military-
14 overseas ballot shall be counted if it is received by the close
15 of the [~~polls~~] voter service center on the day of the election
16 and meets the requirements [~~prescribed under~~] applied to
17 absentee ballots pursuant to section 15-9."

18 SECTION 35. Section 16-23, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§16-23 **Paper ballot; voting.** Upon receiving the ballot
21 the voter shall proceed into one of the voting booths provided



1 for the purpose, and shall mark the voter's ballot in the manner
2 prescribed by section 16-22.

3 The voter shall then leave the booth and deliver the ballot
4 to the [~~precinct~~] voter service center official in charge of the
5 ballot boxes. The [~~precinct~~] voter service center official
6 shall be sufficiently satisfied that there is but one ballot
7 enclosed, whereupon the ballot shall be immediately dropped into
8 the proper box by the [~~precinct~~] voter service center official."

9 SECTION 36. Section 16-26, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§16-26 Questionable ballots. A ballot shall be
12 questionable if:

13 (1) A ballot contains any mark or symbol whereby it can be
14 identified, or any mark or symbol contrary to the
15 provisions of law; or

16 (2) Two or more ballots are found in the ballot box so
17 folded together as to make it clearly evident that
18 more than one ballot was put in by one person, the
19 ballots shall be set aside as provided below.

20 Each ballot which is held to be questionable shall be
21 endorsed on the back by [~~the chairperson of precinct officials~~]



1 ~~with the chairperson's]~~ a voter service center official with the
2 official's name or initials, and the word "questionable". All
3 questionable ballots shall be set aside uncounted and disposed
4 of as provided for ballots in section 11-154."

5 SECTION 37. Section 16-27, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§16-27 Number of blank and questionable ballots; record**
8 **of.** In addition to the count of the valid ballots, the
9 [~~precinct~~] voter service center officials shall, as to each
10 separate official ballot, also determine and record the number
11 of totally blank ballots and the number of questionable
12 ballots."

13 SECTION 38. Section 16-28, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§16-28 Declaration of results.** When the [~~precinct~~] voter
16 service center officials have ascertained the number of votes
17 given for each candidate they shall make public declaration of
18 the whole number of votes cast, the names of the persons voted
19 for, and the number of votes for each person."

20 SECTION 39. Section 19-6, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§19-6 Misdemeanors. The following persons shall be
2 guilty of a misdemeanor:

- 3 (1) Any person who offers any bribe or makes any promise
4 of gain, or with knowledge of the same, permits any
5 person to offer any bribe or make any promise of gain
6 for the person's benefit to any voter to induce the
7 voter to sign a nomination paper, and any person who
8 accepts any bribe or promise of gain of any kind as
9 consideration for signing the same, whether the bribe
10 or promise of gain be offered or accepted before or
11 after the signing;
- 12 (2) Any person who wilfully tears down, destroys, or
13 defaces any election proclamation, poster, notice,
14 ~~[list of voters, visual aids, or]~~ facsimile ballot, or
15 election signage issued or posted by authority of law;
- 16 (3) Any person printing or duplicating or causing to be
17 printed or duplicated any ballot, conforming as to the
18 size, weight, shape, thickness, or color to the
19 official ballot so that it could be cast or counted as
20 an official ballot in an election;



- 1 (4) Every person who is disorderly or creates a
2 disturbance whereby any meeting of the board of
3 registration of voters during an election is disturbed
4 or interfered with; or whereby any person who intends
5 to be lawfully present at any meeting or election is
6 prevented from attending; or who causes any
7 disturbance at any election; and every person
8 assisting or aiding or abetting any disturbance;
- 9 (5) Every person who, either in person or through another,
10 in any manner breaks up or prevents, or endeavors to
11 break up or prevent, the holding of any meeting of the
12 board of registration of voters, or in any manner
13 breaks up or prevents, or endeavors to break up or
14 prevent, the holding of any election;
- 15 (6) Any person, other than those designated by section 11-
16 132, who remains or loiters within the area set aside
17 for voting as set forth in section 11-132 during the
18 time appointed for voting;
- 19 (7) Any person, including candidates carrying on any
20 campaign activities within the area described in
21 section 11-132 during the period of time starting one



1 hour before voting opens and ending when voting closes
2 for the purpose of influencing votes. Campaign
3 activities shall include the following:

4 (A) Any distribution, circulation, carrying, holding,
5 posting, or staking of campaign cards, pamphlets,
6 posters, and other literature;

7 (B) The use of public address systems and other
8 public communication media;

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

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

12 (8) Any person who opens a return envelope containing:

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

16 (B) A ballot voted by mail under part VIIA of chapter
17 11 other than those persons authorized to do so
18 under part VIIA of chapter 11;

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



S.B. NO. 548

Report Title:

Elections; Vote by Mail

Description:

Makes amendments to elections laws to clarify the administration of elections by mail. Renames districts as precincts. Extends voter registration deadlines. Requires additional voter service centers on election day. Repeals election days as designated state holidays.

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

