A BILL FOR AN ACT

RELATING TO RANKED-CHOICE VOTING.

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

1   SECTION 1. The legislature finds that the current

2 plurality voting method for most elections in Hawaii allows a

3 candidate to win an election with less than a majority of votes

4 when there are three or more candidates for the office. In

5 elections with many candidates, this may result in candidates

6 who received small percentages of votes or who are not the most

7 favored among the voters winning the election. Ultimately, this

8 voting method may undermine the ability of elected officials to

9 govern effectively due to concerns about a lack of public

10 support for and confidence in winners.

11   The legislature further finds that ranked-choice voting is

12 an election method that allows voters to rank candidates as the

13 voter's first, second, and subsequent choices. Tabulation

14 begins with each voter's first choice vote. If a candidate

15 receives a majority of votes, that candidate wins. If no

16 candidate receives a majority of votes, the candidate with the

17 fewest votes is eliminated and each vote counting for that

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1   candidate counts for the voter's second choice in the subsequent

2   round. If no candidate receives a majority in the second

3   tabulation, the process is repeated by eliminating the candidate

4   with the fewest votes and counting each vote for the highest-

5   ranked remaining candidate in the next round.

6   Unlike plurality voting, ranked-choice voting ensures that

7   elected officials have the support of a majority or near

8   majority of voters because it allows voters to indicate their

9   preferences among more than one candidate. This allows voters

10   to vote for their favorite candidate without fear of helping to

11   elect their least favorite candidate.

12   The legislature also finds that ranked-choice voting has

13   been used effectively around the world, including in national

14   elections in Australia, Ireland, Malta, and the United Kingdom;

15   state primary, congressional, and presidential elections in

16   Alaska and Maine; and for local elections in more than twenty

17   United States cities.

18   In 2022, the legislature established ranked-choice voting

19   for special federal elections and special elections of vacant

20   county council seats in Hawaii. Therefore, Hawaii's voting

21   systems, including optical scanners, should be able to process

1 ranked-choice voting for all elections with little or no

2 difficulty.

3   The purpose of this Act is to expand the use of the

4 ranked-choice voting method for all elections for elective

5 office.

6   SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended

7 by adding five new sections to part VII to be appropriately

8 designated and to read as follows:

9   "**§11-A Ranked-choice method; applicability.** The

10 ranked-choice method shall be used in all contests for elected

11 office. If the ranked-choice voting method is used in a special

12 election, the special election shall consist of only one

13 election contest and no subsequent separate runoff election

14 shall be held.

15   **§11-B Ranked-choice method; ballots.** (a) In addition to

16 the requirements under sections 11-111 and 11-119, in any

17 contest conducted by ranked-choice voting with three or more

18 qualified candidates, including qualified write-ins, the ballot

19 shall allow voters to rank candidates in order of preference.

20   (b) If more than one seat is to be filled by the contest,

21 the voter may be limited to ranking no more than twice the

1 number of candidates as seats to be filled. Instructions on the

2 ballot for contests with more than one seat to be filled shall

3 include the following statement:

4   "You may rank up to twice the number of candidates as seats

5 to be filled in order of preference. Marking a second choice

6 cannot help defeat your first choice. Marking a subsequent

7 choice cannot help defeat your higher-ranked choices."

8   (c) The ballot shall not interfere with a voter's ability

9 to rank a write-in candidate.

10   (d) The chief election officer or county clerk in the case

11 of a county election shall print informational materials

12 containing a facsimile ballot that depicts the official ballot

13 to be used in the election and voting instructions and

14 procedures for the election using the ranked-choice method. The

15 informational materials shall be:

16   (1) Posted near the entrance to the polling place where

17   the information can be easily seen by voters before

18   voting;

19   (2) Posted in or near a voting booth;

20   (3) Included in the instruction materials for mail-in and

21   absentee ballots;

1   (4) Posted on the website of the office of elections or

2   county clerk, as applicable; and

3   (5) Included in any voter education materials distributed

4   by the office of elections or county clerk in the case

5   of a county election held before an election using the

6   ranked-choice method.

7   (e) Before printing the ballots for an election using the

8 ranked-choice method, the chief election officer or county clerk

9 in the case of a county election shall make a sample ballot

10 available on the website of the office of elections or county

11 clerk, as applicable. The sample ballot shall be accessible on

12 the applicable website for no less than fifteen calendar days

13 before printing for public review and comment.

14   **§11-C Ranked-choice voting tabulation.** (a) Single winner

15 tabulation. In any contest for exactly one office conducted by

16 ranked-choice voting, tabulation shall proceed in rounds. Each

17 round shall proceed sequentially as follows:

18   (1) To determine the winner in an election using the

19   ranked-choice method, election officials shall

20   initially count the ballots according to the first-

21   choice candidate marked on each ballot. If at the end

1   of the initial count, one candidate receives a

2   majority of the first-choice votes cast, then that

3   candidate shall be deemed to have received the

4   greatest number of votes and tabulation shall be

5   declared complete; and

6   (2) If at the end of the initial count, no candidate

7   receives a majority of the first-choice votes cast,

8   the chief election officer or county clerk, as

9   applicable, shall declare that no candidate has

10   received a majority of first-choice votes and that the

11   candidate with the fewest first-choice votes shall be

12   declared defeated. The chief election officer or

13   county clerk, as applicable, shall recalculate the

14   votes using the continuing candidate with the next

15   highest ranking on each of the ballots for each voter

16   who had selected a defeated candidate. If after the

17   first round of recalculating votes, no candidate has

18   received a majority of votes cast for the office, the

19   process of eliminating last-place candidates,

20   recalculating the eliminated candidates' votes

21   (including any previously recalculated votes) to

1   continuing candidates, and tabulating results shall

2   continue until one candidate receives a majority of

3   the votes cast or the majority of the votes cast for

4   the two remaining candidates. Blank and spoiled votes

5   shall not be tabulated.

6   (b)   Multi-winner tabulation. In any contest for more than

7   one office conducted by ranked-choice voting, tabulation shall

8   proceed in rounds. If, in the initial tabulation, the number of

9   candidates is less than or equal to the number of offices to be

10   elected, then all candidates shall be declared elected and

11   tabulation shall be declared complete. Otherwise, each round

12   shall proceed sequentially, until tabulation is complete, as

13   follows:

14   (1)   Each ballot shall count, at its current transfer

15   value, for the highest-ranked continuing candidate on

16   that ballot. If the sum of the number of elected

17   candidates and the number of continuing candidates is

18   equal to the sum of one and the number of offices to

19   be elected, then the candidate with the fewest votes

20   shall be declared defeated, all other continuing

1   candidates shall be declared elected, and tabulation

2   shall be declared complete;

3   (2)   If at least one continuing candidate has more votes

4   than the election threshold for the contest, then each

5   of those candidates shall be declared elected. Each

6   ballot counting for an elected candidate shall be

7   assigned a new transfer value equal to the product of

8   the ballot's current transfer value and the surplus

9   fraction for the elected candidate, rounded down to

10   four decimal places and ignoring any remainder. Each

11   candidate elected under this paragraph shall be deemed

12   to have a number of votes equal to the election

13   threshold for the contest in all subsequent rounds. A

14   new round shall begin with paragraph (1); and

15   (3)   If no candidate is elected under paragraph (2), then

16   the continuing candidate with the fewest votes shall

17   be declared defeated, and a new round shall begin with

18   paragraph (1).

19   (c)   Inactive ballots. In any round of tabulation in a

20   contest conducted by ranked-choice voting, a ballot that does

21   not contain a highest-ranked continuing candidate shall not

1   count for any candidate. Instead, it shall be counted as an

2   overvote, abstention, or exhausted ballot.

3   (d) For the purposes of this section:

4   "Abstention" means a ballot that does not contain a

5   highest-ranked continuing candidate and either more than one

6   ranking order contains the same candidate or one or more ranking

7   orders did not contain any candidate.

8   "Election threshold" means the number of votes sufficient

9   for a candidate to be elected in a multi-winner contest. The

10 election threshold is calculated by dividing the total number of

11 votes counting for continuing candidates in the first round by

12 the sum of one plus the number of offices to be filled, rounding

13 up to four decimal places.

14   "Exhausted ballot" means a ballot that does not contain a

15 highest-ranked continuing candidate and is not an abstention or

16 an overvote.

17   "Overvote" means a ballot that does not contain a highest-

18 ranked continuing candidate because the highest ranking order

19 contains more than one candidate, is not a skipped ranking, and

20 does not contain a candidate who is declared elected or

21 defeated.

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1   "Surplus fraction" means a number equal to the quotient of

2   the difference between an elected candidate's vote total and the

3   election threshold, divided by the candidate's vote total,

4   rounded down to four decimal places, ignoring any remainder.

5   "Transfer value" means the proportion of a vote that a

6   ballot will contribute to its highest-ranked continuing

7   candidate. Each ballot begins with a transfer value of 1. If a

8   ballot contributes to the election of a candidate under the

9   multi-winner tabulation, it receives a new transfer value.

10   **§11-D Ranked-choice method; vote count.** (a) Each voter's

11   ballot shall count for no more than one candidate per contest in

12   each round of tabulation. Once a ballot in a contest using the

13   ranked-choice method has no more available choices ranked on it,

14   the ballot shall be deemed exhausted for that contest.

15   (b) If a ballot in a contest using the ranked-choice

16   method skips a ranking by leaving a ranking blank and then

17   ranking a candidate at a subsequent ranking, the ballot for that

18   contest shall be deemed exhausted. A ballot that gives two or

19   more candidates the same ranking in a single contest shall be

20   deemed exhausted when that ranking is reached, unless only one

1 of the candidates so ranked is still in the race when the vote

2 is due to be transferred pursuant to section 11-C(b).

3   (c) If a tie between candidates for last place, and thus

4 elimination, occurs during any round of tabulation, the tie

5 shall be resolved by eliminating the candidate who received the

6 fewest number of combined first-choice votes and recalculated

7 votes at the previous round of tabulation. In the case of a tie

8 to which a previous round of tabulation does not apply, or where

9 the previous round of tabulation was also a tie, the tie shall

10 be resolved by drawing lots; provided that if a tie occurs when

11 there are only two candidates remaining, the tie shall be

12 resolved as set forth in section 11-157.

13   (d) In any contest conducted by ranked-choice voting, the

14 chief election official may modify the tabulation to include

15 batch elimination. If the tabulation includes batch

16 elimination, then at any time the continuing candidate with the

17 fewest votes would be declared defeated, each continuing

18 candidate in the elimination batch shall be declared

19 simultaneously defeated instead. A continuing candidate shall

20 be in the elimination batch if the number of elected and

21 continuing candidates with more votes than that candidate is

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1   greater than the number of offices to be elected, and it is

2   deemed mathematically impossible for that candidate to be

3   elected for any of the following reasons:

4   (1)   The candidate has fewer votes than any other

5   continuing candidate;

6   (2)   The candidate's current vote total plus all votes that

7   could possibly be transferred to the candidate in

8   future rounds would not be deemed to be enough to

9   equal or surpass the continuing candidate with the

10   next higher current vote total;

11   (3)   The candidate has a lower current vote total than the

12   continuing candidate who is described under paragraph

13   (2); or

14   (4)   The number of ballots with any highest-ranked

15   continuing candidate, on which that candidate is

16   ranked at any ranking order, is fewer than the

17   following:

18   (A)   For contests for exactly one office, the current

19   vote total of the continuing candidate with the

20   greatest number of votes; or

1   (B)   For contests for more than one office, the

2   current vote total of any of the top "x"

3   continuing candidates with the highest current

4   vote totals, where "x" is the number of offices

5   to be elected.

6   §11-E Rulemaking authority. (a)   The chief election

7   officer shall adopt rules pursuant to chapter 91 to implement

8   the use of mechanical, electronic, or other means devised for

9   marking, sorting, and counting the ballots and tabulating and

10 transferring the votes in an election using the ranked-choice

11 method.

12   (b)   The chief election official may make any changes to

13 the ranked-choice voting ballot and tabulation process necessary

14 to preserve the secrecy of the ballot and ensure the integrity

15 and smooth functioning of the election; provided that

16 ranked-choice voting shall still be used and the smallest number

17 of changes are made to achieve its purposes."

18   SECTION 3.   Section 11-1, Hawaii Revised Statutes, is

19 amended by adding five new definitions to be appropriately

20 inserted and to read as follows:

1   ""Continuing candidate" means any candidate that has not

2   been declared defeated or elected.

3   "Highest-ranked continuing candidate" means the candidate

4   assigned to the highest ranking order that is not a skipped

5   ranking, does not follow two consecutive skipped rankings, and

6   does not contain a candidate who is declared elected or

7   defeated.

8   "Ranking order" means the number available to be assigned

9   by a voter to a candidate to express the voter's choice for that

10 candidate. The number "1" is the highest ranking order,

11 followed by "2", and then "3", and so on.

12   "Round" means an instance of the sequence of voting

13 tabulation whether for single winner contests or multi-winner

14 contests.

15   "Skipped ranking" means a voter has left a ranking order

16 unassigned but ranks a candidate at a subsequent ranking order."

17   SECTION 4. Section 11-91, Hawaii Revised Statutes, is

18 amended by amending subsection (c) to read as follows:

19   "(c) For any election conducted by ranked-choice voting

20 pursuant to [section 11-100,] sections 11-A to 11-E, the

21 election proclamation shall include a statement that votes shall

1 be cast and tabulated using ranked-choice voting and shall

2 provide an explanation of ranked-choice voting."

3   SECTION 5. Section 11-112, Hawaii Revised Statutes, is

4 amended by amending subsection (g) to read as follows:

5   "(g) The ballot may include information necessary to use

6 ranked-choice voting as described in [section 11-100.] sections

7 11-A to 11-E."

8   SECTION 6. Section 11-151, Hawaii Revised Statutes, is

9 amended to read as follows:

10   "§11-151 **Vote count.** Except for contests conducted by

11 ranked-choice voting pursuant to [section 11-100,] sections 11-A

12 to 11-E, each contest or question on a ballot shall be counted

13 independently as follows:

14   (1) If the votes cast in a contest or on a question are

15   equal to or less than the number to be elected or

16   chosen for that contest or question, the votes for

17   that contest or question shall be counted;

18   (2) If the votes cast in a contest or question exceed the

19   number to be elected or chosen for that contest or

20   question, the votes for that contest or question shall

21   not be counted; and

1   (3)   If a contest or question requires a majority of the

2   votes for passage, any blank, spoiled, or invalid

3   ballot shall not be tallied for passage or as votes

4   cast except that such ballots shall be counted as

5   votes cast in ratification of a constitutional

6   amendment or a question for a constitutional

7   convention."

8   SECTION 7.   Section 11-152, Hawaii Revised Statutes, is

9   amended by amending subsection (b) to read as follows:

10   "(b)   In an election conducted by ranked-choice voting,

11   votes shall be counted as provided in [section 11-100.] sections

12   11-A to 11-E."

13   SECTION 8.   Section 11-155, Hawaii Revised Statutes, is

14   amended to read as follows:

15   "§11-155 **Certification of results of election.** On receipt

16   of certified tabulations from the election officials concerned,

17   the chief election officer in a state election, or county clerk

18   in a county election, shall compile, certify, and release the

19   election results by district and precinct after the expiration

20   of the time for bringing an election contest. The certification

1 shall be based on a comparison and reconciliation of the

2 following:

3   (1)   The results of the canvass of ballots conducted

4   pursuant to chapter 16;

5   (2)   The audit of records and resultant overage and

6   underage report;

7   (3)   The audit results of the manual audit team;

8   (4)   The results of any mandatory recount of votes

9   conducted pursuant to section 11-158; and

10   (5)   All logs, tally sheets, and other documents generated

11   during the election and in the canvass of the election

12   results.

13 A certificate of election or a certificate of results declaring

14 the results of the election as of election day shall be issued

15 pursuant to section 11-156; provided that in the event of an

16 overage or underage, a list of all precincts in which an overage

17 or underage occurred shall be attached to the certificate. The

18 candidates to be elected who receive the most votes in any

19 election district shall be declared to be elected; provided that

20 candidates for offices elected by ranked-choice voting shall be

21 declared to be elected pursuant to [section 11-100.] sections

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1   11-A to 11-E. Unless otherwise provided, the term of office

2   shall begin or end as of the close of 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 9. Section 11-100, Hawaii Revised Statutes, is

7   repealed.

8   ["~~[§11-100] Ranked-choice voting; application; procedure.~~

9   ~~(a) Any federal election not held on the date of a regularly~~

10 ~~scheduled primary or general election and any special election~~

11 ~~for a vacant seat on a county council shall be conducted by~~

12 ~~ranked-choice voting.~~

13 ~~(b) Except as provided in subsections (c) and (d), the~~

14 ~~following procedures shall be used to determine the winner of an~~

15 ~~election conducted by ranked-choice voting:~~

16   ~~(1) Tabulation of votes shall proceed in rounds;~~

17   ~~(2) In each round, the number of votes for each continuing~~

18   ~~candidate shall be counted, with each continuing~~

19   ~~ballot counting as one vote for its highest-ranked~~

20   ~~continuing candidate for that round;~~

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1   (3) Inactive ballots shall not be counted for any

2   continuing candidate; and

3   (4) The round shall end with one of two potential

4   outcomes:

5   (A) If there are two or fewer continuing candidates,

6   the candidate with the most votes shall be

7   declared the winner of the election; or

8   (B) If there are more than two continuing candidates,

9   the last-place candidate shall be defeated and a

10   new round shall begin.

11   (c) A tie under this section between candidates for the

12 most votes in the final round or a tie between last-place

13 candidates in any round shall be decided by lot, and the

14 candidate chosen by lot shall be:

15   (1) Declared the winner if the tie is between candidates

16   for the most votes in the final round; or

17   (2) Defeated if the tie is between last-place candidates

18   in any round.

19   (d) The office of elections may modify a ranked-choice

20 voting ballot and tabulation; provided that:

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1   (1) The number of allowable rankings shall be limited to

2   no fewer than six candidates; and

3   (2) Two or more candidates may be defeated simultaneously

4   by batch elimination in any round of tabulation.

5   (e) For the purposes of this section:

6   "Batch elimination" means the simultaneous defeat of

7   multiple candidates for whom it is mathematically impossible to

8   be elected.

9   "Continuing ballot" means a ballot that is not an inactive

10   ballot.

11   "Continuing candidate" means a candidate who has not been

12   defeated.

13   "Highest continuing ranking" means the highest ranking on a

14   voter's ballot for a continuing candidate.

15   "Inactive ballot" means a ballot that does not rank any

16   continuing candidate, contains an overvote at the highest

17   continuing ranking, or contains two or more sequential skipped

18   rankings before its highest continuing ranking.

19   "Last-place candidate" means the candidate with the fewest

20   votes in a round of ranked-choice voting tabulation.

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1   "Mathematically impossible to be elected", with respect to

2   a candidate, means that:

3   (1)   The candidate cannot be elected because the

4   candidate's vote total in a round of the ranked-choice

5   voting tabulation, plus all votes that could possibly

6   be transferred to the candidate in future rounds from

7   candidates with an equal or lower number of votes,

8   would not be enough to surpass the candidate with the

9   next-higher vote total in the round; or

10   (2)   The candidate has a lower vote total than a candidate

11   described in paragraph (1).

12   "Overvote" means a circumstance in which a voter has ranked

13   more than one candidate at the same ranking on a ballot.

14   "Ranked-choice voting" means the method of casting and

15   tabulating votes in which voters rank candidates in order of

16   preference, tabulation proceeds in sequential rounds in which

17   last-place candidates are defeated, and the candidate with the

18   most votes in the final round is elected.

19   "Ranking" means the number assigned on a ballot by a voter

20   to a candidate to express the voter's preference for that

1   ~~candidate, in which the lowest number is the highest ranking,~~

2   ~~and the highest number is the lowest ranking.~~

3   ~~"Round" means an instance of the sequence of voting~~

4   ~~tabulation steps established in subsection (b).~~

5   ~~"Skipped ranking" means a circumstance in which a voter has~~

6   ~~left a ranking blank and ranks a candidate at a subsequent~~

7   ~~ranking.~~]"

8   SECTION 10. In codifying the new sections added by section

9   2 of this Act, the revisor of statutes shall substitute

10 appropriate section numbers for the letters used in designating

11 the new sections in this Act.

12 SECTION 11. Statutory material to be repealed is bracketed

13 and stricken. New statutory material is underscored.

14 SECTION 12. This Act shall take effect on July 1, 2023;

15 provided that this Act shall not apply to any election to be

16 held before July 1, 2023; provided further that the chief

17 election officer and each county clerk shall commence rulemaking

18 pursuant to chapter 91, Hawaii Revised Statutes, to effectuate

19 the purposes of this Act immediately upon the effective date of

20 this Act.

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INTRODUCED BY: _____MAB_____

JAN 2 5 2023

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Report Title:
Elections; Ranked-Choice Voting

Description:
Establishes the ranked-choice voting method of tabulation for all elections for elected office to ensure that elected officials receive the majority of votes cast by the electorate.

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