

JAN 25 2023

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 write
11 in voting would allow voters to support candidates of their
12 choice when their choice is not among the listed candidates.

13 The legislature additionally finds that past objections to
14 write-in voting have included the added difficulty in counting
15 the ballots, but the legislature finds that the inconvenience
16 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 the State. A voter
12 may cast a write-in vote for a candidate whose name is not
13 printed 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 11-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 this chapter 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" means a ballot, including an absentee ballot,
5 that is a written or printed, or partly written and partly
6 printed paper or papers containing the names of persons to be
7 voted for~~[7]~~ and blank spaces for write-in candidates, the
8 office to be filled, and the questions or issues to be voted on.

9 "Ballot" includes:

- 10 (1) A ballot summary reflecting a complete record of the
11 ballot selections made by a voter utilizing an HTML
12 ballot or similar accessible ballot that produces a
13 ballot summary;
- 14 (2) A voter verifiable paper audit trail in the event
15 there is a discrepancy between a voting machine's
16 electronic record of the voted ballot and the voter
17 verifiable paper audit trail; and
- 18 (3) A ballot used in an election by mail pursuant to part
19 VIIA, including a ballot approved for electronic
20 transmission. A ballot may consist of one or more
21 cards or pieces of paper, or one face of a card or



1 piece of paper, or a portion of the face of a card or
2 piece of paper, depending on the number of offices,
3 candidates to be elected thereto, questions or issues
4 to be voted on, and the voting system in use."

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

7 "(a) The ballot shall contain the names of the candidates,
8 their party affiliation or nonpartisanship in partisan election
9 contests, the offices for which they are running, and the
10 district in which the election is being held. Following the
11 names of candidates for each office there shall be blank lines
12 for write-in candidates. In multimember races the ballot shall
13 state that the voter shall not vote for more than the number of
14 seats available or the number of candidates listed where the
15 number of candidates is fewer than the number of seats
16 available."

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

20 ""Candidate" means an individual who seeks nomination for
21 election or seeks election to office. An individual remains a



1 candidate until the individual's candidate committee terminates
2 registration with the commission. An individual is a candidate
3 if the individual does any of the following:

4 (1) Files nomination papers for an office for the
5 individual with the county clerk's office or with the
6 chief election officer's office, whichever is
7 applicable;

8 (2) Receives contributions, makes expenditures, or incurs
9 financial obligations of more than \$100 to bring about
10 the individual's nomination for election, or to bring
11 about the individual's election to office;

12 (3) Gives consent for any other person to receive
13 contributions, make expenditures, or incur financial
14 obligations to aid the individual's nomination for
15 election, or the individual's election, to office;
16 [~~or~~]

17 (4) Files a declaration of candidacy pursuant to section
18 11-B; or

19 [~~(4)~~] (5) Is certified to be a candidate by the chief
20 election officer or county clerk."



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

3 "§12-21 Official party ballots. The primary or special
4 primary ballot shall be clearly designated as such. The names
5 of the candidates of each party qualifying under section 11-61
6 or 11-62 and of nonpartisan candidates may be printed on
7 separate ballots, or on a single ballot. The name of each party
8 and the nonpartisan designation shall be distinctly printed and
9 sufficiently separate from each other. The names of all
10 candidates shall be printed on the ballot as provided in section
11 11-115. When the names of all candidates of the same party for
12 the same office exceed the maximum number of voting positions on
13 a single side of a ballot card, the excess names may be arranged
14 and listed on both sides of the ballot card and additional
15 ballot cards if necessary. When separate ballots for each party
16 are not used, the order in which parties appear on the ballot,
17 including nonpartisan, shall be determined by lot. Following
18 the names of candidates for each office, there shall be blank
19 lines for write-in candidates.

20 The chief election officer or the county clerk, in the case
21 of county elections, shall approve printed samples or proofs of



1 the respective party ballots as to uniformity of size, weight,
2 shape, and thickness prior to final printing of the official
3 ballots."

4 SECTION 7. In codifying the new sections added by section
5 2 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

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

10 SECTION 9. This Act shall take effect upon its approval;
11 provided that this Act shall apply to any state or county
12 election conducted on or after July 1, 2023.

13

INTRODUCED BY: 



S.B. NO. 1186

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 7/1/2023.

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

