

JAN 19 2024

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 citizens of this
2 State have the right to expect that public servants be people of
3 integrity, and not people who have committed actions that
4 threaten democracy or undermine the vote of the people.

5 Accordingly, the purpose of this Act is to:

6 (1) Specify that election ballots issued by the chief
7 election officer or county clerk shall exclude any
8 candidate who is disqualified by:

9 (A) Section 3 of the Fourteenth Amendment to the
10 Constitution of the United States;

11 (B) Article XVI, section 3, of the Constitution of
12 the State of Hawaii; or

13 (C) Another constitutional or statutory provision;

14 (2) Provide for a process for challenging a candidate's
15 inclusion or exclusion on a ballot issued by the chief
16 election officer or a county clerk;



1 (3) Include the grounds referenced in paragraph (1) as
2 grounds for a complaint regarding an election contest;

3 (4) Specify that electors of presidential and vice
4 presidential candidates shall not be individuals who
5 are disqualified by grounds referenced in
6 paragraph (1), and provide for contests of nominations
7 of individuals disqualified based upon those grounds;
8 and

9 (5) Prohibit electors of presidential and vice
10 presidential candidates from voting for any
11 presidential or vice presidential nominee who has been
12 disqualified pursuant to Section 3 of the Fourteenth
13 Amendment to the Constitution of the United States, as
14 determined by any federal court, or as determined by
15 the state supreme court in an election contest.

16 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
17 by adding a new section to part VIII to be appropriately
18 designated and to read as follows:

19 "§11- Candidates on ballots; inclusion and exclusion;
20 challenges. (a) Each ballot issued by the chief election
21 officer and each clerk shall include the name of each qualified



1 candidate and exclude the name of any disqualified candidate;
2 provided that the chief election officer or clerk shall exclude
3 any candidate who is disqualified by:

4 (1) Section 3 of the Fourteenth Amendment to the
5 Constitution of the United States;

6 (2) Article XVI, section 3, of the Constitution of the
7 State of Hawaii; or

8 (3) Another constitutional or statutory provision.

9 (b) Any challenge to the inclusion or exclusion of any
10 candidate on a ballot issued by the chief election officer or
11 clerk shall be in writing and, no later than the fifty-seventh
12 day prior to the general election, shall be filed with the
13 appropriate district court; provided that for any challenge to
14 the inclusion or exclusion of a presidential candidate on a
15 general election ballot, the appropriate district court shall be
16 the district court of the first circuit. The challenge shall
17 provide notice in a summary manner of the grounds that give rise
18 to the complaint. No later than the fifty-fourth day prior to
19 the general election, the district court shall hold a hearing
20 regarding the challenge. The district court shall assess the
21 validity of the complaint and shall issue findings of fact and



1 conclusions of law no later than the fifty-third day prior to
2 the general election. The party filing the challenge shall have
3 the burden to sustain the challenge by a preponderance of the
4 evidence, unless a higher burden is required by constitutional
5 law.

6 (c) Any order entered by the district court may be
7 reviewed and finally adjudicated by the supreme court of this
8 State if either party makes application to the supreme court no
9 later than the fiftieth day prior to the general election,
10 unless the supreme court, in its discretion, declines
11 jurisdiction of the case. If the supreme court declines to
12 review the proceedings, the decision of the district court shall
13 be final and not subject to further appellate review by any
14 court of this State."

15 SECTION 3. Section 11-113, Hawaii Revised Statutes, is
16 amended by amending subsection (e) to read as follows:

17 "(e) [~~If the~~] Any applicant~~[, or]~~; any other party,
18 individual, or group with a candidate on the presidential
19 ballot~~[,]~~; or any group of no less than thirty voters of any
20 election district that objects to the finding of eligibility or
21 disqualification [~~the person~~] may~~[, not later than 4:30 p.m. on~~



1 ~~the fifth day after the finding, file a request in writing with~~
 2 ~~the chief election officer for a hearing on the question. A~~
 3 ~~hearing shall be called not later than 4:30 p.m. on the tenth~~
 4 ~~day after the receipt of the request and shall be conducted in~~
 5 ~~accord with chapter 91. A decision shall be issued not later~~
 6 ~~than 4:30 p.m. on the fifth day after the conclusion of the~~
 7 ~~hearing.] pursue a challenge pursuant to section 11- . If the
 8 candidate in question is excluded from the presidential ballot
 9 pursuant to section 11- , another candidate may be selected
 10 pursuant to a procedure conducted pursuant to subsection (c)."~~

11 SECTION 4. Section 11-172, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "**§11-172 Contests for cause; generally.** (a) With respect
 14 to any election, any candidate, or qualified political party
 15 directly interested, or any thirty voters of any election
 16 district, may file a complaint in the supreme court.

17 (b) The complaint shall set forth any cause or causes,
 18 [~~such as but not limited to, provable~~] including:

- 19 (1) Provable fraud, overages, or underages, that could
 20 cause a difference in the election results[-]; and
 21 (2) A candidate's disqualification pursuant to:



1 (A) Section 3 of the Fourteenth Amendment to the
2 Constitution of the United States;
3 (B) Article XVI, section 3, of the Constitution of
4 the State of Hawaii; and
5 (C) Another constitutional or statutory provision;
6 provided that a complaint filed pursuant to this
7 subsection shall be dismissed if the facts alleged
8 cannot be proven by a preponderance of the evidence,
9 or by any higher burden of proof required by
10 constitutional law, or if the complaint is based on
11 facts or substantially similar facts previously
12 adjudicated pursuant to section 11- or this
13 paragraph, and the previous action failed.

14 (c) The complaint shall also set forth any reasons for
15 reversing, correcting, or changing the decisions of the voter
16 service center officials or the officials at a counting center
17 in an election using the electronic voting system.

18 (d) A copy of the complaint shall be delivered to the
19 chief election officer or the clerk in the case of county
20 elections."

1 SECTION 5. Section 14-21, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§14-21 **Nomination of presidential electors and**
4 **alternates; certification by parties; notification of nominees;**
5 **pledge.** (a) In each year when electors of president and vice
6 president of the United States are to be chosen, each of the
7 political parties or parties or groups qualified under section
8 11-113 shall hold a state party or group convention pursuant to
9 the constitution, bylaws, and rules of the party or group; and
10 nominate as candidates for its party or group as many electors,
11 and a first and second alternate for each elector, of president
12 and vice president of the United States as the State is then
13 entitled. The electors and alternates shall be registered
14 voters of the State[-] and shall not be individuals who are
15 disqualified by Section 3 of the Fourteenth Amendment to the
16 Constitution of the United States; article XVI, section 3 of the
17 Constitution of the State of Hawaii; or another constitutional
18 or statutory provision. The names and addresses of the nominees
19 shall be certified by the chairperson and secretary of the
20 convention of the respective parties or groups and submitted to
21 the chief election officer no later than 4:30 p.m. on the



1 sixtieth day before the general election of the same year. The
2 chief election officer upon receipt thereof, shall immediately
3 notify each of the nominees for elector and alternate elector of
4 the nomination.

5 (b) Each elector nominee and alternate elector nominee of
6 a political party or group shall execute the following pledge:
7 "If selected for the position of elector, I agree to serve and
8 to mark my ballots for president and vice president for the
9 nominees for those offices of the party or group that nominated
10 ~~[me"-]~~ me, except that I may decline to vote for any nominee who
11 has died. I also agree not to mark my ballot for any nominee
12 who is disqualified under Section 3 of the Fourteenth Amendment
13 to the Constitution of the United States." The executed pledges
14 shall accompany the submission of the corresponding names to the
15 chief election officer. Electors shall not be ~~[released from~~
16 ~~their pledge if the presidential candidate whom they are pledged~~
17 ~~to vote for dies. Electors]~~ required to vote for any nominee
18 who has died. Further, electors shall not ~~[be released from~~
19 ~~their pledge under any circumstance other than the death of the~~
20 ~~presidential candidate for whom they are pledged to vote.]~~ vote
21 for any presidential or vice presidential nominee who has been



1 disqualified from the presidency or vice presidency pursuant to
2 Section 3 of the Fourteenth Amendment to the Constitution of the
3 United States, as determined by any federal court, or as
4 determined by the state supreme court pursuant to part XI of
5 chapter 11."

6 SECTION 6. Section 14-22, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§14-22 **Contested nominations of presidential electors and**
9 **alternates.** (a) If ~~more~~:

10 (1) More than one certificate of choice and selection of
11 presidential electors and alternate electors of the
12 same political party or group; or

13 (2) Any party, individual, or group with a candidate on
14 the presidential ballot; or any group of no less
15 than thirty voters of any election district asserts
16 that an elector or alternate is disqualified pursuant
17 to:

18 (A) Section 3 of the Fourteenth Amendment to the
19 Constitution of the United States;

20 (B) Article XVI, section 3, of the Constitution of
21 the State of Hawaii; or



1 (C) Another constitutional or statutory provision,
2 and a complaint is filed with the chief election officer, as
3 chairperson of the contested presidential electors' committee
4 hereby constituted, the chief election officer shall notify the
5 state comptroller and attorney general, who are the remaining
6 members of the committee, of the date, time, and place of [the]
7 a hearing [to].

8 (b) The hearing shall be held for the purposes of [making
9 ~~a determination of which]~~ determining:

10 (1) Which set of electors and alternative electors were
11 lawfully chosen and selected by the political party or
12 group[-]; or

13 (2) Whether an elector or alternate is disqualified as
14 described in subsection (a) (2),
15 as the case may be.

16 (c) Notice of the hearing shall be given to the
17 chairperson of the state central committee of each political
18 party and the chairperson of each party or group qualified under
19 section 11-113, contestants for the positions of electors and
20 alternate electors by written notice, and to all other
21 interested parties by public notice at least once. A



1 determination shall be made by the contested presidential
2 electors' committee by majority vote not later than 4:30 p.m. on
3 October 30 of the same year and the determination shall be
4 final. Notice of the results shall be given to the nominees
5 duly determined to have been chosen. The contested presidential
6 electors' committee shall have all the powers enumerated in
7 section 11-43."

8 SECTION 7. Section 14-23, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§14-23 Time for election, number to be chosen. In each
11 presidential election year there shall be elected at large, at
12 the general election, by the voters of the State, as many
13 electors and alternates of president and vice president of the
14 United States as the State is then entitled to elect, in the
15 manner provided under section 11-113. The electors and the
16 alternates [~~must~~] shall be registered voters of the State[-] and
17 shall not be individuals who are disqualified by Section 3 of
18 the Fourteenth Amendment to the Constitution of the United
19 States; article XVI, section 3 of the Constitution of the State
20 of Hawaii; or another constitutional or statutory provision.
21 The election shall be conducted and the results thereof



1 determined in conformity with the laws governing general
2 elections except as otherwise provided."

3 SECTION 8. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

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

8 SECTION 10. This Act shall take effect upon its approval.

9

INTRODUCED BY:

Kal Rho



S.B. NO. 2392

Report Title:

Elections; Candidates; Ballots; Electors; Disqualification

Description:

Specifies that election ballots issued by the chief election officer or county clerk shall exclude any candidate who is disqualified by a constitutional or statutory provision. Provides for a process for challenging an inclusion or exclusion of a candidate from a ballot. Includes a candidate's disqualification as grounds for an election contest complaint. Specifies that electors of presidential and vice presidential candidates shall not be individuals who are disqualified by a constitutional or statutory provision. Prohibits electors from voting for any presidential or vice presidential nominee who has been disqualified pursuant to Section 3 of the Fourteenth Amendment to the Constitution of the United States.

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

