

ACT 42

S. B. 168.

A Bill for an Act Relating to Voting by New Residents in Presidential Elections.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency:

The right to vote for the President and Vice President of the United States should be available to every citizen who would otherwise be qualified to vote in state elections. However, because of the one year residence requirement applicable to state elections, new residents of this State are unable to vote in the presidential election although they do not cast their vote in any other state. Accordingly, it is necessary to correct this inequity by enacting legislation which would provide a procedure whereby a new resident of this State would be able to vote in a presidential election.

SECTION 2. Chapter 11, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new part thereto to be designated and to read as follows:

**"PART VII. UNIFORM ACT FOR VOTING BY NEW RESIDENTS
IN PRESIDENTIAL ELECTIONS**

§ 11.230. Eligibility of new residents to vote. Each citizen of the United States who, immediately prior to his removal to this State, was a citizen of another state and who has been a resident of this State for less than one year prior to a presidential election is entitled to vote for presidential and vice-presidential electors, as provided for in section 11-39.5, at that election, but for no other offices, if

- (1) he otherwise possesses the substantive qualifications to vote in this State, except the requirements of residence and registration, and
- (2) he complies with the provisions of this Act.

§ 11.231. Application for presidential ballot by new residents. A person desiring to qualify under this Act in order to vote for presidential and vice-presidential electors is not required to register but on or before the last date for registration, as provided for in section 11-14, shall make an application in the form of an affidavit executed in duplicate in the presence of the clerk of the county substantially as follows:

AFFIDAVIT ON APPLICATION
FOR PRESIDENTIAL BALLOT
BY NEW RESIDENT

No.....

State of Hawaii }
County of }SS.

I,....., do solemnly swear that:

1. I am a citizen of the United States.
2. Before becoming a resident of this State, I resided at
..... Street, in the town or city
of....., County of....., State
of.....
3. On the day of the next presidential election, I shall be at least 20
years of age. I have been a resident of this State since.....,
19.... and am now residing atStreet, in
the precinct of therepresentative district
of.....County.
4. I am able to speak, read and write the English or Hawaiian lan-
guage.
5. I have not been convicted of any felony for which I have not been
pardoned and my civil rights restored.
6. I hereby make application for a presidential and vice-presidential
ballot. I have not voted and will not vote otherwise than by this ballot at the
presidential election to be held on November, 19.....

Signed.....
(Applicant)

Subscribed and sworn to
before me this day
of....., 19.....
Signed.....

§ 11-232. Mailing duplicate application. The county clerk shall
immediately mail to the appropriate official of the state in which the appli-
cant last resided the duplicate of the application.

§ 11-233. Filing and indexing information from other states.
The county clerk shall file each duplicate application or other official infor-
mation received by him from another state indicating that a former resident
of this State has made application to vote at a presidential election in an-
other state and shall maintain an alphabetical index thereof, for a period of
one year after the election.

§ 11-234. Printing and delivery of ballot to applicant. There
shall be printed a special ballot containing the names of the candidates for
president and vice-president of the United States which shall be used only by
voters qualified to vote under this part.

If satisfied that the application is proper and that the applicant is quali-
fied to vote under this Act the county clerk shall deliver to the applicant a

special ballot for presidential and vice-presidential electors, as provided for above, not sooner than sixty days nor later than five days prior to the next presidential election.

§ 11-235. Voting by new residents. (a) The applicant, upon receiving the ballot for presidential and vice-presidential electors shall mark forthwith the ballot in the presence of the county clerk but in a manner that the official cannot know how the ballot is marked. He shall then fold the ballot in the county clerk's presence so as to conceal the markings, and deposit and seal it in an envelope furnished by the county clerk.

(b) The voter shall enclose the envelope containing the ballot in a carrier envelope which shall be security sealed. There shall be imprinted on the outside of the carrier envelope a statement substantially as follows:

Certification of New Resident Voter.

I have qualified as a new resident voter in this State to vote for presidential and vice-presidential electors. I have not applied nor do I intend to apply for an absentee voter's ballot from the state from which I have removed. I have not voted and will not vote otherwise than by this ballot.

Dated:

.....
(Signature of Voter)

Witness:

(County Clerk)

The voter shall sign the certification upon the carrier envelope as set forth above, and shall then deliver the sealed carrier envelope to the county clerk, who shall keep the carrier envelope in his office until delivered by him to the election inspectors concerned.

§ 11-236. List of applicants open for public inspection. The county clerk shall keep open to public inspection a list of all persons who have applied under this Act to vote as new residents with their names, addresses and application dates.

§ 11-237. Delivery and deposit of ballots. (a) The county clerk shall prepare and deliver the ballots for new residents to the appropriate election inspectors in the manner prescribed by law for absentee ballots. The ballots shall be processed in accordance therewith.

(b) The appropriate election inspector shall record the new resident voter's name with a notation designating him as a new resident voting for presidential and vice-presidential electors only.

§ 11-238. Challenge of new resident's vote. The vote of any new resident may be challenged for cause. Challenges shall be handled in the manner provided for by law.

§ 11-239. Penalties. Any person wilfully making a false statement or affidavit under this Act shall be subject to the same penalties as provided for in section 11-212.

§ 11-240. Application of other statutes. Except as provided in this

Act, the provisions of law relating to absentee ballots apply also to the casting and counting of ballots and challenging of votes by new residents, the furnishing of election supplies, ballots, canvassing of ballots, and making proper returns of the results of the election.

§ 11-241. **Definition of state.** As used in this Act "state" includes the District of Columbia.

§ 11-242. **Uniformity of interpretation.** This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 11-243. **Severability.** If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

§ 11-244. **Short title.** This Act may be cited as the Uniform Act for Voting by New Residents in Presidential Elections."

SECTION 3. Section 121-1, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the last sentence in the paragraph beginning with the words " 'Resident' means" to read as follows:

"No person shall be deemed to have gained or lost a residence simply because of his presence or absence in compliance with military or naval orders of the United States, or by his filing an application for a presidential ballot under the 'Uniform Act for Voting by New Residents in Presidential Elections' in this State pursuant to section . . . of this act or in any other state or while engaged in aviation or navigation or while a student at any institution of learning."

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.
(Approved May 8, 1968.)

* Edited accordingly.