

A Bill for an Act Relating to Elections.

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

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended in the following respects:

(1) By amending Section 11-11 to read:

**“Sec. 11-11 Registration.** A person who registers as required by law shall be entitled to vote at any election provided that he shall have attained the age of eighteen at the time of that election. The county clerk shall be responsible for voter registration in the respective counties and the keeping of the general register and precinct lists within the county.”

(2) By amending Section 11-12 to read:

**“Sec. 11-12 Age; place of registering.** Every person who has reached the age of eighteen years or will have reached such age within one year of the date of the next election, and is otherwise qualified to register may do so for that election. He shall then be listed upon the appropriate county general register and precinct list. No person shall register or vote in any precinct than that in which he resides except as provided in section 11-21.”

(3) By amending Section 11-14 to read:

**“Sec. 11-14 General county register; restrictions in use.** (a) The clerk of each county shall register all the voters in his county in the general county register. The register shall contain the name, address, and primary ballot selection data essential for election purposes. Additional information required by section 11-15 may be included in the register at the discretion of the clerk. The voter’s name shall be maintained alphabetically in the register and be capable of segregation by precinct and representative district. The clerk shall keep the original or photographic copy of the affidavit of registration required by section 11-15. The general county register shall, at all times during business hours, be open to public inspection, and shall be a public record.

(b) In all primary and special primary elections held in 1970 and subsequently the clerk shall include in the general county register information to show the primary or special primary ballot selected by each of the voters at the next preceding primary or special primary election, or the registered change of primary or special primary ballot selection by any voter. Newly registered voters, those who have failed to select a partisan or nonpartisan primary or special primary ballot since the 1968 primary which shall include those who voted in a separate ballot for the board of education only, those who voted for a disqualified party, and those who registered after having their names removed from the register shall have no such information recorded.”

(4) By amending Section 11-15 to read:

**“Sec. 11-15 Application to register.** Any person qualified to and desiring to register as a voter in any county, may present himself at any time during business hours to the clerk of the county, then and there to be examined under oath as to his qualifications as a voter. Each applicant shall make and subscribe to an application in the form of an affidavit.

The affidavit shall contain the following information:

- (1) Name;
- (2) Social Security number;
- (3) Date of birth;
- (4) Residence, including mailing address;
- (5) That the residence stated in the affidavit is not simply because of the person’s presence in the State but that the residence was acquired with the intent to make Hawaii the person’s legal residence with all the accompanying obligations therein;
- (6) That the person is a citizen.

The applicant shall swear to the truth of the allegations in his application before the clerk, who is authorized to administer oaths. Unless contested by a qualified voter, the clerk may accept as prima facie evidence, the allegation of the applicant in information required in the affidavit in item 5. In any other case

where the clerk shall so desire or believe the same to be expedient, he may demand that the applicant furnish substantiating evidence to the allegations of his application.

If the clerk is satisfied that the applicant is entitled to be registered as a voter, the applicant shall then affix his signature to the affidavit and the clerk shall affix his signature; or the clerk shall enter "Unable to sign" and the reason in the space for the applicant's signature. A voter having once been registered shall not be required to register again for any succeeding election, except as hereinafter provided. The affidavits so approved or accepted by the clerk shall thereupon be numbered appropriately, filed by the clerk and kept in some convenient place so as to be open to public inspection and examination.

The clerk may designate a subordinate or subordinates to act in his place and stead in all matters covered by this section, provided that no parent, spouse, sibling, or offspring of a candidate, nor the candidate, shall be eligible to serve as a subordinate."

(5) By amending Section 11-17 to read:

**"Sec. 11-17 Removal from register upon failure to vote; reregistration.** The clerk shall, not later than 4:30 p.m. on the sixtieth day after every general election, remove the name of any registered voter failing to vote at the election if such voter also failed to vote at the preceding primary election, with the exception of those who submit written requests for absentee ballots as provided in section 15-4. For this purpose "to vote" shall mean the depositing of the ballot in the ballot box whether such ballot is blank or later rejected for any reason. In the case of voting machines "to vote" shall mean the voter has activated the proper mechanism and fed his vote into the machine.

Any voter whose name has been removed from the register may at any time prior to the closing of the register, as provided in section 11-24, have his name restored in the register by presenting himself to the clerk and reregistering pursuant to section 11-15, or by making application by mail or otherwise pursuant to procedures established by the clerk. The clerk shall require satisfactory evidence to establish the identity of the applicant. The names of all such voters shall be reentered in the register."

(6) By amending Section 11-24 to read:

**"Sec. 11-24 Closing register; list of voters.** At 4:30 p.m. on the thirtieth day prior to each primary, special primary or special election (but if such day is a Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately preceding), the general county register shall be closed to registration for persons seeking to vote at such a primary, special primary or special election and remain closed to such registration until after the election, subject to change only as provided in sections 11-21, 11-22, 11-25, 11-26, and this section.

Notwithstanding the closing of the register for registration to vote at the primary or special primary election, the register shall remain open for the registration of persons seeking to vote at the general or special general election, until 4:30 p.m. on the thirtieth day prior to the general or special general election (but if such day is on Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately preceding), at the end of which period the general

county register shall be closed to registration and remain closed until after the general or special general election next following, subject to change only as provided in sections 11-21, 11-22, 11-25, and 11-26.

Immediately upon the closing of the general county register, the clerk shall proceed to prepare a list of all registered voters in each precinct, separately. The list shall contain, in alphabetical order, without designation of the race or age of voters, the names of all voters so registered in each precinct, and the residence of each. In primary and special primary elections the list shall include the party affiliation or nonpartisanship of the voter, if so contained in the general county register. The list shall be available for inspection at the office of the county clerk prior to election day. On election day the precinct officials shall post the list at the precinct polling place."

(7) By amending Section 11-95 to read:

**"Sec. 11-95 Employees entitled to leave on election day for voting.** Any voter shall on the day of the election be entitled to absent himself from any service or employment in which he is then engaged or employed for a period of two consecutive hours (excluding any lunch or rest periods) between the time of opening and closing the polls. Such voter shall not because of so absenting himself be liable to any penalty, nor shall there be any rescheduling of normal hours or any deduction made on account of the absence from his usual salary or wages; provided that the foregoing shall not be applicable to any employee whose hours of employment are such that he has a period of two consecutive hours (excluding any lunch or rest periods) between the time of opening and closing the polls when he is not working for his employer. If, however, any employee fails to vote after taking time off for that purpose the employer, upon verification of that fact, may make appropriate deductions from the salary or wages of the employee for the period during which the employee is hereunder entitled to absent himself from his employment. Presentation of a voter's receipt by an employee to his employer shall constitute proof of voting by the employee. Any person violating this section shall be guilty of an offense under section 19-8."

(8) By amending Section 11-115 to read:

**"Sec. 11-115 Arrangement of names on the ballot.** The names of the candidates shall be placed upon the ballot for their respective offices in alphabetical order except as provided in section 11-118 and the limitations of the voting system in use, and except for the case of the candidates for vice president and lieutenant governor in the general election whose names shall be placed immediately below the name of the candidate for president or governor of the same political party.

In elections using the paper ballot or electronic voting systems where the names of the candidates are printed and the voter records his vote on the face of the ballot, the following format shall be used: A horizontal line shall be ruled between each candidate's name and the next name, except between the names of presidential and vice presidential candidates and candidates for governor and lieutenant governor of the same political party in the general election. In such case the horizontal line will follow the name of the candidates for vice president and lieutenant governor of the same political party, thereby grouping the candidates for president and vice president and governor and lieutenant

governor of the same political party within the same pair of horizontal lines. Immediately after all the names, on the right side of the ballot, two vertical lines shall be rules, so that in conjunction with the horizontal lines, a box shall be formed opposite each name and its equivalent, if any. In case of the candidates for president and vice president and governor and lieutenant governor of the same political party, only one box shall be formed opposite their set of names and this box which will be the same size as the others on the ballot shall be centered adjacent to the right side of the rectangle containing the names of the two candidates. The boxes shall be of sufficient size to give ample room in which to designate the choice of the voter in the manner prescribed for the voting system in use. All of the names upon a ballot shall be placed at a uniform distance from the left edge and close thereto, and shall be of uniform size and print subject to section 11-119."

(9) By amending Section 11-119 to read:

**"Sec. 11-119 Printing; quantity.** The ballots shall be printed by order of the chief election officer or the clerk in the case of county elections. In any state or county election the chief election officer on agreement with the clerk may consolidate the printing contracts for similar types of ballots where such consolidation will result in lower costs.

Based upon clarity and available space, the chief election officer or the clerk in the case of county elections shall determine the type, style and size to be used in printing the ballots.

Each precinct shall receive a sufficient number of ballots based on the number of registered voters and the expected spoilage in the election concerned. A sufficient number of absentee ballots shall be delivered to each clerk not later than 4:30 p.m. on the tenth day prior to the date of any election. Each clerk shall, as soon as may be practical after the election, certify to the chief election officer the actual number of ballots delivered or mailed to absentee voters."

(10) By amending Section 11-184 to read:

**"Sec. 11-184 Election expenses and responsibilities in combined State and county elections.** Election expenses in elections involving both State and county offices shall be shared as set forth below:

(1) The State shall pay and be responsible for:

- (A) Precinct officials;
- (B) Instruction of precinct officials when initiated or approved by the chief election officer;
- (C) Boards of registration;
- (D) Polling place costs other than supplies: installation rentals, ballot boxes, voting booths, custodians, telephones, and maintenance;
- (E) Other equipment such as ballot transport containers;
- (F) Temporary election employees hired to do strictly State work; and
- (G) Extraordinary voter registration and voter education costs when approved by the chief election officer.

(2) The county shall pay and be responsible for:

- (A) Normal voter registration, voters list maintenance, and all printing

connected with voter registration, including printing of the voters list:

- (B) Temporary election employees hired to do strictly county work;
  - (C) Maintenance of existing voting machines, including parts, freight, storage, programming, and personnel;
  - (D) Maintenance and storage of voting devices and other equipment; and
  - (E) Employees assigned to conduct absentee polling place functions.
- (3) The remaining election expenses shall be divided in half between the State and the counties. Each county will pay a proration of expenses as a proportion of the registered voters at the time of the general election. These expenses shall include but not be limited to:
- (A) Polling place supplies;
  - (B) All printing, including ballots, but excluding printing connected with voter registration;
  - (C) Temporary election employees not including voting machine programmers doing work for both the State and county;
  - (D) Ballot preparation and packing; and
  - (E) All other costs for which the State or county are not specifically responsible relating to the operation of voting machines, electronic voting systems, and other voting systems except paper ballots to include but not be limited to real property rentals, equipment rentals, personnel, mileage, telephones, supplies, publicity, computer programming, and freight.

The responsibility for the above functions shall be determined by the chief election officer where the responsibility for such functions has not been assigned by the legislature.

Any future expenses not presently incurred under any voting system now in use or to be used shall be assigned to paragraphs (1), (2), or (3) above by the chief election officer upon agreement with the clerks or by the legislature.”

SECTION 2. Chapter 12, Hawaii Revised Statutes, is amended in the following respects:

- (1) By amending Section 12-2 to read:

**“Sec. 12-2 Primary held when; candidates only those nominated.** The primary shall be held at the polling place for each precinct on the first Saturday of October in every even numbered year.

No person shall be a candidate for any general or special general election unless he has been nominated in the immediately preceding primary or special primary.”

- (2) By amending Section 12-6 to read:

**“Sec. 12-6 Nomination papers: time for filing; fees.** Nomination papers shall be filed as follows:

- (1) For members of Congress, State, and county offices, with the chief election officer or clerk in case of county offices not later than 4:30 p.m. on the forty-fifth day prior to the primary, special primary, or special election (but if such day is a Saturday, Sunday or holiday then not later

than 4:30 p.m. on the first working day immediately preceding); provided that any State candidate from the counties of Hawaii, Maui, and Kauai may file his declaration of candidacy with his respective clerk. The clerk shall transmit to the office of the chief election officer the State candidate's declaration of candidacy without delay. However, if a special primary or special election is to be held by a county and the county charter requires that the council shall issue a proclamation calling for the election to be held within a specified period of time, and if that requirement would not allow the filing of nomination papers with the appropriate office by the sixtieth day prior to the day for holding such primary or special election, the council shall establish the deadline for the filing of nomination papers in the proclamation calling for the election.

- (2) There shall be deposited with each nomination a fee on account of the expenses attending the holding of the primary, special primary, or special election which shall be paid into the treasury of the State, or the county, as the case may be, as a realization:
  - (A) For governor, lieutenant governor, United States senators, and United States representatives—\$75;
  - (B) For mayor—\$50; and
  - (C) For all other offices—\$25.
- (3) Upon the receipt by the chief election officer or the clerk of the nomination paper of a candidate, the day, hour, and minute when it was received shall be endorsed thereon.
- (4) The chief election officer or clerk shall waive the filing fee in the case of a person who declares himself, by affidavit, to be indigent and who has filed a petition signed by at least one-half of one percent of the total voters registered at the time of filing in the respective district or districts which correspond to the specific office for which the indigent person is a candidate. This petition shall be submitted in lieu of nomination papers required by this chapter, provided it be in a form prescribed by the chief election officer containing substantially the same information as required for nomination papers by sections 12-3 and 12-7."

SECTION 3. Section 13-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 13-4 Board Members; general election.** The names of the candidates in each party and the nonpartisan candidates shall be arranged alphabetically."

SECTION 4. Chapter 15, Hawaii Revised Statutes, is amended in the following respects:

- (1) By amending Section 15-1 to read:

**"Sec. 15-1 Definitions.** As used in this chapter, unless the context otherwise requires:

"Absentee ballot" means a ballot as defined in section 11-1 used in absentee voting.

"Absentee polling place" means an office or other suitable facility designated by the respective clerks for the conduct of absentee voting and the processing of absentee ballots.

“Invalid ballot” means any absentee ballot which does not meet the requirements for a ballot to be counted as listed in section 15-9.

“Voter in a remote area” means any registered voter who resides ten miles or more from his designated polling place by the most direct route for public travel.”

(2) By amending Section 15-7 to read:

“**Sec. 15-7 Absentee polling place.** An absentee polling place shall be established at the office of the respective clerks or a place designated by the clerk under the provisions prescribed in the rules promulgated by the chief election officer. The absentee polling place shall be open before election day to handle the absentee voters who are voting in person.”

(3) By amending Section 15-8 to read:

“**Sec. 15-8 Absentee ballot container.** An absentee ballot container or containers shall be provided in the absentee polling place for the purpose of depositing the reply envelopes and the ballots cast by those who vote in person at the absentee polling place. The container shall be secured in accordance with rules promulgated by the chief election officer.

Tampering with the container or opening it before the time prescribed in section 15-9 shall be an election offense under section 19-6.”

(4) By amending Section 15-9 to read:

“**Sec. 15-9 Return and receipt of absentee ballots.** The reply envelope shall be:

- (1) Mailed and must be received by the clerk issuing the absentee ballot not later than the closing of the polls on any election day; or
- (2) Delivered other than by mail to the clerk issuing the absentee ballot not later than the closing of the polls on any election day.

Upon receipt of the reply envelope from any person voting under this chapter, the clerk or the officials of the absentee polling place shall time stamp the reply envelope and deposit it in the correct absentee ballot container. On election day the container shall be opened by the officials of the absentee polling place.

Prior to opening the envelopes and counting the ballots, the envelopes shall be checked for the following:

- (1) Signature on the affirmation statement;
- (2) Whether the signature corresponds with the absentee request or register; and
- (3) Whether the person is a registered voter and has complied with the requirements of sections 11-15 and 11-16.

If any of the above requirements is not met or if the envelope appears to be tampered with, the clerk or the official shall mark across the face of the envelope “invalid” and it shall be kept in the custody of the clerk and disposed of as prescribed for ballots in section 11-154.

If an absentee polling place is established at the clerk’s office prior to election day, the officials of the absentee polling place shall check the envelopes for the above requirements prior to depositing them in the correct absentee ballot container. All envelopes that have been marked as invalid prior to election day shall be rechecked on election day.”



(5) By amending Section 15-10 to read:

**“Sec. 15-10 Counting of absentee ballots.** If the requirements in section 15-9 are met, the reply envelope may be opened and the ballot counted as prescribed by law for the voting system in use.

In those absentee polling places using paper ballots, counting of the absentee votes may begin after noon of election day.

In those absentee polling places using the electronic voting system, the absentee ballots shall be transported to the counting center in a manner and by a schedule as provided in the rules promulgated by the chief election officer. In no case, however, shall the results of the absentee count become publicly known before the polls have officially closed.

Any person violating this section shall be guilty of an election offense under section 19-6.”

(6) By amending Section 15-13 to read:

**“Sec. 15-13 Death of voter prior to opening of polls.** Whenever sufficient proof is shown to the clerk that an absentee voter who has returned his reply envelope has died prior to the opening of the polls on the date of election, his ballot shall be deemed invalid and disposed of pursuant to section 11-154. The casting of any such ballot shall not invalidate the election.”

SECTION 5. Section 19-6, Hawaii Revised Statutes, is amended to read:

**“Sec. 19-6 Misdemeanors.** The following persons shall be guilty of a misdemeanor:

- (1) Any person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for his benefit, to any voter to induce him to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing.
- (2) Any person who wilfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or visual aids or specimen ballot, issued or posted by authority of law.
- (3) Any person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness, or color, to the official ballot so that it could be cast or counted as an official ballot in an election.
- (4) Every person who is disorderly or creates a disturbance whereby any meeting of the precinct officials or the board of registration of voters during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at any election; and every person assisting or aiding or abetting any disturbance.
- (5) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding

of any meeting of the board of registration of voters, or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election.

- (6) Any person, other than those designated by section 11-132, who remains or loiters within the area set aside for voting as set forth in section 11-132 during the time appointed for voting.
- (7) Any person, including candidates carrying on any campaign activities within the area described in section 11-132 on the day on which an election is being held for the purpose of influencing votes. Campaign activities shall include the following:
  - (A) Any distribution, circulation, carrying, holding, posting, or staking of campaign cards, pamphlets, posters and other literature;
  - (B) The use of public address systems and other public communication media;
  - (C) The use of motor caravans or parades; and
  - (D) The use of entertainment troupes or the free distribution of goods and services.

The "day of election" as used in this paragraph shall commence at midnight of the day before the polls are opened and shall end with the closing of the polls.

- (8) Any person who opens a reply envelope containing an absentee ballot voted under chapter 15 other than those authorized to do so under chapter 15.
- (9) Any voter who makes any false statement in any affidavit required for absentee voting under chapter 15.
- (10) Any authorized person found in possession of any voting machine or keys thereof.
- (11) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for.
- (12) Any person who, knowing that he is not entitled to register or to vote, registers or votes; and any person taking any oath in this title prescribed or authorized to be administered and wilfully making oath to any false statement of fact, or wilfully making a false answer to any question put to him thereunder.

SECTION 6. Statutory 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 7. This Act shall take effect upon its approval.

(Approved May 14, 1976.)

\*Edited accordingly.