

ACT 133

H.B. NO. 643

A Bill for an Act Relating to Elections.

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

SECTION 1. Section 11-42, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-42 Compensation.** The members of the board of registration shall be paid \$45 a day for each day of actual service.”

SECTION 2. Section 11-73, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-73 Instruction of precinct officials.** Prior to any election, the chief election officer or clerk in county elections shall conduct a school of instruction, if deemed necessary, for persons designated as prospective precinct officials of precincts. They shall notify the precinct officials of the time and place of the school of instruction.

All prospective precinct officials shall attend a school of instruction. The chairman of the precinct officials shall be required to also attend a refresher course before each election. It shall be at the discretion of the chief election officer or the county clerk in county elections to require those precinct officials with previous training to attend a school of instruction prior to each election.

No precinct official shall serve unless he has received instruction and has been certified by the authorized instructor to that effect. This section shall not prevent the assignment of a person who has not received such instruction or such certificate but who is otherwise qualified, to fill a vacancy among precinct officials when a qualified certified person is not available. Periodic recertification shall be required.”

SECTION 3. Section 11-93, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-93 Voting units.** Immediately after the close of registration of voters preceding any election, the chief election officer shall establish one or more voting units in each precinct polling place. All voting units shall be in the same precinct polling place. In a precinct having more than one voting unit, the chief election officer or his authorized representative shall designate each unit by a uniform identification system. The clerk in preparing the list of registered voters shall divide the list, on an alphabetical basis, as equal as possible between or among the voting units.”

SECTION 4. Section 11-119, Hawaii Revised Statutes, is amended 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."

SECTION 5. Section 11-173.5, Hawaii Revised Statutes, is amended to read:

"Sec. 11-173.5 Contests for cause in primary and special primary elections. (a) In primary and special primary election contests, the complaint shall be filed in the office of the clerk of the supreme court not later than 4:30 p.m. on the sixth day after a primary or special primary election and shall be accompanied by a deposit for costs of court as established by rules of the supreme court. The clerk shall issue to the defendants named in the complaint a summons to appear before the supreme court not later than 4:30 p.m. on the fifth day after service thereof.

(b) In primary and special primary election contests the court shall hear the contest in a summary manner and at the hearing the court shall cause the evidence to be reduced to writing and shall not later than 4:30 p.m. on the fourth day after the return give judgment fully stating all findings of fact and of law. The judgment shall decide what candidate was nominated or elected, as the case may be, in the manner presented by the petition, and a certified copy of the judgment shall forthwith be served on the chief election officer or the county clerk, as the case may be, who shall place the name of the candidate declared to be nominated on the ballot for the forthcoming general or special general election. The judgment shall be conclusive of the right of the candidate so declared to be nominated; provided that this subsection shall not operate to amend or repeal section 12-41."

SECTION 6. Section 11-174.5, Hawaii Revised Statutes, is amended to read:

"Sec. 11-174.5 Contests for cause in general, special general, and special elections. (a) In general, special general, or special elections, the complaint shall be filed in the office of the clerk of the supreme court not later 4:30 p.m. on the twentieth day following the general, special general, or special election and shall be accompanied by a deposit for costs of court as established by rules of the supreme court. The clerk shall issue to the defendants named in the complaint a summons to appear before the supreme court not later than 4:30 p.m. on the tenth day after service thereof.

(b) In cases involving general, special general, and special elections the complaint shall be heard by the supreme court in which the complaint was filed as soon as it reasonably may be heard. On the return day, the court, upon its motion or otherwise, may direct summons to be issued to any person who may be interested in the result of the proceedings.

At the hearing, the court shall cause the evidence to be reduced to writing and shall give judgment, stating all findings of fact and of law. The judgment may invalidate the general, special general, or special election on the grounds that a

correct result cannot be ascertained because of a mistake or fraud on the part of the precinct officials; or decide that a certain candidate, or certain candidates, received a majority or plurality of votes cast and were elected. If the judgment should be that the general, special general, or special election was invalid, a certified copy thereof shall be filed with the governor, and he shall duly call a new election to be held not later than on the sixtieth day after the judgment is filed. If the court shall decide which candidate or candidates have been elected, a copy of that judgment shall be served on the chief election officer or county clerk, who shall sign and deliver to the candidate or candidates certificates of election, and the same shall be conclusive of the right of the candidate or candidates to the offices.”

SECTION 7. Chapter 12, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Sec. 12- Nomination papers; when available.** Nomination papers shall be made available from the first working day of February in every even-numbered year; provided that in the case of a special primary or special election, nomination papers shall be made available sixty days prior to the close of filing.”

SECTION 8. Section 15-9, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 15-9 Return and receipt of absentee ballots.** (a) 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.

(b) 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 precinct 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.”

SECTION 9. Statutory material to be repealed is bracketed. New material is

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underscored.*

SECTION 11.† This Act shall take effect upon its approval.

(Approved May 26, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

†So in original. There is no section 10.