

ACT 139

S.B. NO. 9

A Bill for an Act Relating to Primary Elections (Constitutional Amendment of Article II, Section 4).

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

SECTION 1. **Purpose.** The purpose of this Act is to implement Article II, Section 4 of the Constitution of the State of Hawaii, as amended by the Hawaii Constitutional Convention of 1978, and ratified by the electorate on November 7, 1978.

SECTION 2. Section 11-14, Hawaii Revised Statutes, is amended to read as follows:

“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 and address of each voter. 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) The affidavits filed under section 11-15 and the general county register may be copied, and the clerk may release voter lists and tabulating cards or computer tapes containing data furnished in the affidavit, pursuant to ordinances promulgated by the respective county councils.

(c) Voter registration information which is collected and maintained by the clerk of each county may be transmitted to a central file for the purpose of correlating registration data to prevent or detect duplicate voter registrations and for the compilation of election reports.”

SECTION 3. Section 11-24, Hawaii Revised Statutes, is amended to read as follows:

“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 thereafter), the general county register shall be closed to registration for persons seeking to vote at such primary, special primary, or special election and remain closed to such registration until after the election, subject to change only as provided in sections 11-22, 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 a Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately thereafter), 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 11-22, 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. 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.”

SECTION 4. Section 11-25, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Challenging on election day. Any voter rightfully in the polling place may challenge the right of any person, presenting himself to the precinct officials to vote. The challenge shall be on the grounds that the voter is not the person he alleges

himself to be, or that the voter is not entitled to vote in that precinct. No other or further challenge shall be allowed. The challenge shall be considered and decided immediately by the precinct officials and the ruling announced.”

SECTION 5. Section 11-72, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-72 Precinct officials; submission of names and assignment; vacancies. All qualified political parties shall submit names for precinct officials to the chief election officer not later than 4:30 p.m. on the ninetieth day prior to the close of filing for any primary, special primary, or special election. All precinct officials shall be able to read and write the English language. If any party shall fail to submit the required names by the above deadline, the chief election officer may fill such positions with available qualified persons.

In assigning the precinct officials the following criteria shall be followed:

- (1) The precinct officials shall be registered voters of the precinct in which they serve; but if qualified persons in the precinct or representative district are not readily available to serve, they may be chosen from without the precinct or representative district.
- (2) The chief election officer may designate more precinct officials than are needed in order to create a pool of qualified precinct officials who may be assigned to fill vacancies or to perform such duties as needed in any precinct.
- (3) No parent, spouse, child, or sibling of a candidate shall be eligible to serve as a precinct official in any precinct in which votes may be cast for the candidate; nor shall any candidate for any elective office be eligible to serve as a precinct official in the same election in which he is a candidate. No candidate who failed to be nominated in the primary or special primary election shall be eligible to serve as a precinct official in the general election next following.
- (4) The chairman of the precinct officials shall be of the same party as the governor and shall be the first named precinct official on the list prepared by the chief election officer. The remainder of the precinct officials shall be apportioned as follows:
 - (A) The total votes cast, except those cast for nonpartisan candidates, for all of the following offices which were on the ballot in the next preceding general election shall be divided into the total votes cast for all the candidates of each party for such offices: president and vice-president, United States senator, United States representative, governor and lieutenant governor, state senator, state representative, and board of education.
 - (B) In the event that a party’s proportion of votes cast exceeds fifty per cent, its share shall be one-half of the precinct officials. The remaining one-half shall be divided among the remaining parties in proportion to their respective total of votes cast for the offices set forth in subparagraph (A).
 - (C) In the case of the above division resulting in parties having fractional

positions a whole position shall go to the party with the larger number of votes cast.

(D) Newly qualified parties may be assigned up to ten per cent of the total positions available at the discretion of the chief election officer.

In case of inability, failure, or refusal of any person so assigned to serve as a precinct official the chief election officer shall, so far as reasonably practicable, appoint a person to fill the vacancy from the same party as that of the person to be replaced. In case of doubt as to the party of a precinct official the chief election officer shall use first, the party membership list; and second, the person's word for his party affiliation."

SECTION 6. Section 12-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-3 Nomination paper: format; limitations. The name of no candidate shall be printed upon any official ballot to be used at any primary, special primary, or special election unless a nomination paper was filed in his behalf and in the name by which he is commonly known. The nomination paper shall be in a form prescribed by the chief election officer containing substantially the following information:

- (1) A statement by the registered voters of the district from which the candidate is running signing the form that they are eligible to vote for the candidate at the next election;
- (2) A statement by the registered voters signing the form that they nominate the candidate for the office on the nomination paper;
- (3) The residence address and county in which the candidate resides;
- (4) The name of the candidate and the office for which he is running, which name and office is to be placed on the nomination paper by the chief election officer or the clerk prior to releasing the form to the candidate;
- (5) Space for the names of the registered voters signing the form and their district or districts and precinct or precincts;
- (6) A certification by the candidate that he will qualify under the law for the office he is seeking;
- (7) A certification by a party candidate that he is a member of the party, that he believes in the principles and policies of that party, that if elected he will carry out the provisions and pledges of the political platform of the party and will abide by the party's rules and regulations;
- (8) The name the candidate wishes inserted on the ballot and the post office address of the candidate.

No signatures shall be counted, unless they are upon the nomination paper having the format set forth above, written or printed thereon, and if there are separate sheets to be attached to the nomination paper, the sheets shall have the name of the person and the office for which he is running placed thereon by the chief election officer or the clerk. The nomination paper and separate sheets shall be provided by the chief election officer or the clerk.

Nomination papers shall not be filed in behalf of any person for more than one party or for more than one office; nor shall any person file nomination papers both as a party candidate and as a nonpartisan candidate.

The office for which the candidate is running and his name may not be changed from that indicated on the nomination paper and separate sheets. If the candidate wishes to run for an office different from that for which the nomination paper states, he may request the appropriate nomination paper from the chief election officer or clerk and have it signed by the required number of voters.”

SECTION 7. Section 12-21, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 12-21 Official party ballots.** There shall be only one primary or special primary ballot for each party qualifying under the provisions of sections 11-61 or 11-62.

The primary or special primary ballot shall be clearly designated as such, and shall also be designated according to party. The names of candidates shall be arranged as provided for in section 11-115; provided that in elections using the electronic voting system, the names of all candidates seeking the same office shall be printed on the same side of the ballot card.

The chief election officer or the county clerk, in the case of county elections, shall approve printed samples or proofs of the respective party ballots as to uniformity of size, weight, shape and thickness prior to final printing of the official ballots.”

SECTION 8. Section 12-22, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 12-22 Official nonpartisan ballots.** There shall be only one primary or special primary ballot containing the names of all nonpartisan candidates to be voted for and the offices for which they are candidates. The ballot shall be clearly designated as the nonpartisan primary or special primary ballot and shall conform in all other respects to the requirements relative to official party ballots.”

SECTION 9. Section 12-31, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 12-31 Selection of party ballot; voting.** No person eligible to vote in any primary or special primary election shall be required to state a party preference or nonpartisanship as a condition of voting. Each voter shall be issued the primary or special primary ballot for each party and the nonpartisan primary or special primary ballot. A voter shall be entitled to vote only for candidates of one party or only for nonpartisan candidates. If the primary or special primary ballot is marked contrary to this paragraph, the ballot shall not be counted.

In any primary or special primary election in the year 1979 and thereafter, a voter shall be entitled to select and to vote the ballot of any one party or nonpartisan, regardless of which ballot he voted in any preceding primary or special primary election.”

SECTION 10. Section 12-41, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 12-41 Result of election.** The person or persons receiving the greatest number of votes at the primary or special primary as a candidate of a party for an office shall be the candidate of the party at the following general or special general election but not more candidates for a party than there are offices to be elected;

provided that any candidate for any county office who is the sole candidate for that office at the primary or special primary election, or who is only opposed by a candidate or candidates running on his own ticket and is not opposed by any candidate running on any other ticket, nonpartisan or otherwise, and is nominated at the primary or special primary shall, after the primary or special primary be deemed and declared to be duly and legally elected to the office for which he is a candidate at the primary or special primary regardless of the number of votes received by him. Any nonpartisan candidate receiving at least ten per cent of the total votes cast for the office for which he is a candidate at the primary or special primary, or a vote equal to the lowest vote received by the partisan candidate who was nominated in the primary or special primary, shall also be a candidate at the following election; provided, that when more nonpartisan candidates qualify for nomination than there are offices to be voted for at the general or special general election, there shall be certified as candidates for the following election those receiving the highest number of votes, but not more candidates than are to be elected.”

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 12. Section 16-42, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 16-42 Electronic voting requirements. When used at primary or special primary elections, the automatic tabulating equipment of the electronic voting system shall count only votes for the candidates of one party, or nonpartisans. In all elections the equipment shall reject all votes for an office when the number of votes therefor exceeds the number which the voter is entitled to cast.”

SECTION 13. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 14. This Act shall take effect upon its approval.

(Approved June 1, 1979.)

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