

ACT 248

H.B. NO. 2162-80

A Bill for an Act Relating to Absentee Voting.

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

SECTION 1. Chapter 15, Hawaii Revised Statutes, is amended as follows:

(a) Section 15-2, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-2 Who may vote by absentee ballot. Any voter may cast an absentee ballot subject to this chapter and rules promulgated by the chief election officer if he is a voter in a remote area or he is unable to appear at his polling place during the hours of voting because of one of the following reasons:

- (1) Absence from the island, county, or district in which he is registered on election day;
- (2) Confinement in any hospital;

- (3) Confinement in any public institution for the care [of]† indigents or aged persons;
- (4) Confinement in any leprosy institution or settlement located on the same island in which he is registered to vote or in the county of Kalawao;
- (5) Confinement in any penal institution for a misdemeanor or as a pretrial detainee;
- (6) Confinement to his home because of illness, infirmity or physical disability; or
- (7) Conflicting religious belief, ruling, doctrine, or standard.

Any other voter unable to appear at his polling place on election day for causes determined by the chief election officer by rule to be good and sufficient shall be entitled to vote as provided by this chapter and the rules promulgated thereunder.”

(b) Section 15-4, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 15-4 Request for absentee ballot.** Any person entitled to vote under this chapter may request an absentee ballot in person or in writing from the clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election. The clerk may waive any or all of the foregoing requirements in special cases as provided in the rules promulgated by the chief election officer.

The request shall include information such as the address under which the person is registered, the establishment of his right to an absentee ballot, and the address to which he wishes his ballot forwarded. The request, when made for any primary or special primary election, may include an additional request for an absentee ballot to be voted at any election immediately following the primary or special primary provided the person so indicates in his request.

Subsequent to the closing of registration for each election, the clerk may mail a request form for an absentee ballot to each voter in a remote area who has not already made such a request. The request form shall be accompanied by:

- (1) A stamped, self-addressed envelope; and
- (2) Instructions regarding the manner of completing and returning the request form.”

(c) Section 15-5, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 15-5 Delivery of ballots.** Immediately upon receipt of a request within the time limit specified in section 15-4, the clerk shall examine the records to ascertain whether or not the voter is lawfully entitled to vote as requested. As soon as the printed official ballots are available, the clerk shall mail in a forwarding envelope or deliver in person if the voter appears at the office of the clerk, an official ballot and other materials prescribed in section 15-6 except that an incapacitated voter may send a representative to obtain his ballots pursuant to the rules promulgated by the chief election officer. All requests received upon the last day specified in section 15-4 for receipt shall be mailed to the voter requesting the same as soon as reasonably practicable, but in no event later than twenty-four hours after receipt thereof.”

(d) Section 15-6, Hawaii Revised Statutes, is amended to read as follows:

† Bracketed word “of” substituted for “or” to correct manifest clerical error.

“Sec. 15-6 Return envelope, ballot envelope; instructions. The clerk shall provide the absentee voter with the ballots, ballot envelopes, and a return envelope which shall contain a statement to be subscribed to by the voter which affirms the fact that he is the person voting, the instruction that his ballot will be valid only if the affirmation statement is signed, and any other information prescribed by the rules promulgated by the chief election officer.”

(e) Section 15-8, Hawaii Revised Statutes, is amended to read as follows:

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

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

(f) Section 15-9, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-9 Return and receipt of absentee ballots.

(a) The return 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; or
- (3) Delivered other than by mail to the regular polling place at which the voter is registered and deposited by a precinct official in the ballot box before the closing of the polls on any election day.

Upon receipt of the return envelope from any person voting under this chapter, the clerk or the officials of the absentee polling place shall time stamp the return envelope and deposit it in the correct absentee ballot box, provided that return envelopes delivered to the regular polling place and deposited in the ballot box by a precinct official before the closing of the polls need not be time stamped. On election day the absentee ballot box shall be opened by the officials of the absentee ballot team.

(b) Prior to opening the return and ballot envelopes and counting the ballots, the return envelopes shall be checked for the following:

- (1) Signature on the affirmation statement;
- (2) Whether the signature corresponds with the absentee request or register as prescribed in the rules promulgated by the chief election officer; 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 return or ballot envelope appears to be tampered with, the clerk or the absentee ballot team 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 return or ballot envelopes for the above requirements prior to depositing them in the correct absentee ballot box.”

(g) Section 15-10, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-10 Counting of absentee ballots. If the requirements in section 15-9 are met, the return and ballot envelopes 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 ballots 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.”

(h) Section 15-12, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-12 Receipt and disposition of late absentee ballots. For any election all return envelopes containing absentee ballots received by the clerk after the deadline for receipt stated in section 15-9 shall be kept unopened and disposed of pursuant to section 11-154.”

(i) Section 15-13, Hawaii Revised Statutes, is amended to read as follows:

“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 return 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 2. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 10, 1980.)

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