

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 as follows:

(a) Section 11-1, Hawaii Revised Statutes, is amended by amending the definition of "special election" to read:

"Special election," any single election required by law when not preceded by an election to nominate those candidates whose names appear on the special election ballot."

(b) Section 11-12, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-12 Age; place of registering. Every person who has reached the age of eighteen years or who is seventeen years of age and will be eighteen years of age by 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 other precinct than that in which he resides except as provided in section 11-21."

(c) Section 11-26, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-26 Appeal from ruling on challenge; or failure of clerk to act. In cases where the clerk or the precinct officials ruled on a challenge or the clerk refuses to register an applicant, or refuses to change the register under section 11-22, the person ruled against may appeal from the ruling to the board of registration of his county.

If the appeal is sustained, the board shall immediately certify that finding to the clerk, who shall thereupon alter the register to correspond to the findings of the board, and when necessary, the clerk shall notify the precinct officials of the change in the register."

(d) Section 11-41, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-41 Boards of registration, appointment, tenure. There shall be four boards of registration: one for the island of Hawaii; one for the islands of Maui, Molokai, Lanai, and Kahoolawe; one for the island of Oahu; and one for the islands of Kauai and Niihau. The boards, which shall consist of three members each, shall be appointed by the governor by and with the advice and consent of the senate; and their terms of office shall be four years.

In no case shall any board consist entirely of members of one political party.

The several boards of registration shall sit in the county seats of their respective counties on election day. The boards shall also sit at such other times as the clerk determines within the various representative districts in their respective counties to hear appeals, provided there are any, from the voters registered within such districts. The boards shall continue their sittings until all appeals have been heard.

Reasonable notices of the sitting of the boards shall be given by publication in newspapers of general circulation in their respective districts or counties."

(e) Section 11-92, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-92 Precincts; polling places; central polling areas; special, special

primary, and special general election precincts. The chief election officer shall issue a proclamation establishing one or more precincts in each representative district. No earlier than thirty days prior to the issuance of the proclamation, the chief election officer shall notify the political parties and publish a notice of his intent once in a newspaper of general circulation. The chief election officer shall provide a suitable polling place for each precinct. Publicly owned or controlled buildings shall, whenever possible and convenient, be used as polling places. The chief election officer shall make arrangements for the rental or erection of suitable shelters for this purpose whenever public buildings are not available and shall cause such polling places to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for elections on any island. It shall be lawful for the chief election officer to establish a central polling area for contiguous precincts, notwithstanding district boundaries, when it is convenient and readily accessible for the voters of the precinct involved.

Before the establishment of any central polling area the chief election officer shall notify the political parties and publish a notice once in a newspaper of general circulation. The notice shall state the time and place of a hearing pursuant to chapter 91. After the hearing a regulation shall be issued establishing the central polling place.

No change shall be made in the boundaries of any precinct nor shall a central polling area be established later than 4:30 p.m. on the ninetieth day prior to an election.

Notwithstanding the last paragraph if the chief election officer or the county clerk in a county election determines that the number of candidates or issues on the ballot in a special, special primary, or special general election does not require the full number of established precincts, such precincts may be consolidated for the purposes of the special, special primary, or special general election into a small number of special, special primary, or special general election precincts. A special, special primary, or special general election precinct shall be considered the same as an established precinct for all purposes, including precinct official requirements provided in section 11-71. Not later than 4:30 p.m. on the tenth day prior to the special, special primary, or special general election the chief election officer or the county clerk shall give public notice in a newspaper of general circulation in the area in which the special, special primary, or special general election is to be held of the special, special primary, or special general election precincts and their polling places. Notices of such consolidation shall also be posted on election day at the established precinct polling place giving the location of the special, special primary, or special general election precinct polling place.”

(f) Section 11-111, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-111 Official and facsimile ballots. Ballots issued by the chief election officer in state elections and by the clerk in county elections are official ballots. In elections using the paper ballot and electronic voting systems, the chief election officer or clerk in the case of county elections shall have printed informational posters containing facsimile ballots which depict the official ballots to be used in the election. The precinct officials shall post the informational posters containing the facsimiles of the official ballots near the entrance to the polling place where they may be easily seen

by the voters prior to voting.”

(g) Section 11-112, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-112 Contents of ballot.** A ballot shall contain the names of the candidates, their party affiliation or nonpartisanship, the offices for which they are running, and the district in which the election is being held. The chief election officer, at his discretion, may have a background design imprinted onto the ballot. When the electronic voting system is used, the ballot may have pre-punched codes and printed information which identify the voting districts, precincts, and ballot sets to facilitate the electronic data processing of these ballots. The name of the candidate may be printed with the Hawaiian or English equivalent or nickname, if the candidate so requests in writing at the time his nomination papers are filed. Candidates’ names, including the Hawaiian or English equivalent or nickname, shall be set on one line. In multirace districts the ballot shall state that the voter shall not vote for more than the number of seats available or the number of candidates listed where such number is less than the seats available.

A ballot shall bear no word, motto, device, sign, or symbol other than allowed in this title.”

(h) Section 11-114, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-114 Order of offices on ballot.** The order of offices on a ballot shall be arranged substantially as follows: first, president and vice president of the United States; next, United States senators; next, United States house of representatives; next, governor and lieutenant governor; next, state senators; next, state representatives; and next, county offices.”

(i) Section 11-119, Hawaii Revised Statutes, is amended to read as follows:

“**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 style and size of type to be used in printing the ballots. The color, size, weight, shape, and thickness of the ballot shall be determined by the chief election officer.

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 fifteenth day prior to the date of any election.”

(j) Section 11-132, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“**Sec. 11-132 One thousand foot radius; admission within polling place.** (a) The precinct officials shall post in a conspicuous place, prior to the opening of the polls, a map designating an area of one thousand feet in radius around the polling place. Any person who remains or loiters within an area of one thousand feet in radius around the polling place for the purpose of campaigning shall be guilty of a misdemeanor.”

(k) Section 11-134, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-134 Ballot transport containers; ballot boxes. The seals of the ballot transport containers shall be broken and opened on election day only in the presence of at least two precinct officials not of the same political party.

The chief election officer shall provide suitable ballot boxes for each polling place needed. They shall have a hinged lid fastened securely by a nonreusable seal. In the center of the lid there shall be an aperture of the appropriate size for the voting system used. The ballot boxes shall be placed at a point convenient for the deposit of ballots and where they can be observed by the precinct officials.

At the opening of the polls for election, the chairman of the precinct officials shall publicly open the ballot boxes and expose them to all persons present to show that they are empty. The ballot boxes shall be closed and sealed; they shall remain sealed until the polls are closed; provided that, in precincts where the electronic voting system is used, the ballot boxes shall not be opened at the polling places except on the island of Niihau.”

(l) Section 11-135, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-135 Early collection of ballots. The chief election officer may authorize collection of voted ballots before the closing of the polls in order to facilitate the counting of ballots; provided that the voted ballots shall be returned to the counting center in sealed ballot boxes.”

(m) Section 11-137, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-137 Secrecy; removal or exhibition of ballot. No person shall look at or ask to see the contents of the ballot or the choice of party or nonpartisan ballot of any voter, except as provided in section 11-139, nor shall any person within the polling place attempt to influence a voter in regard to whom he shall vote for. When a voter is in the voting booth for the purpose of voting no other person shall, except as provided in section 11-139, be allowed to enter the booth or to be in a position from which he can observe how the voter votes.

No person shall take a ballot out of the polling place except as provided in sections 11-135 and 11-139. After voting the voter shall leave the voting booth and deliver his ballot to the precinct official in charge of the ballot boxes. The precinct official shall make certain that he has received the correct ballot and no other and then shall deposit the ballot into the ballot box. No person shall look at or ask to see the contents of the unvoted ballots. If any person having received a ballot leaves the polling place without first delivering the ballot to the precinct official as provided above, or wilfully exhibits his ballot or his unvoted ballots in a special primary or primary election, except as provided in section 11-139, after the ballot has been marked, such person shall forfeit his right to vote, and the chairman of the precinct officials shall cause a record to be made of the proceeding.”

(n) Section 11-138, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-138 Time allowed voters. A voter shall be allowed to remain in the voting booth for five minutes, and having voted the voter shall at once emerge and leave the voting booth. If he refuses to leave when so requested by a majority of precinct officials after the lapse of five minutes, he shall be removed by the precinct officials.”

(o) Section 11-140, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-140 Spoiled ballots. In elections using the paper ballot and electronic voting systems, if a voter spoils a ballot, he may obtain another upon returning the spoiled one. Before returning the spoiled ballot, the voter shall mark additional choices on the ballot to retain the secrecy of his vote. The returned ballot shall then be cancelled and signed by the precinct chairman, and the voter shall be issued a new ballot.”

(p) Section 11-152, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In those precincts using the electronic voting system, the ballots shall be taken in the sealed ballot boxes to the counting center according to the procedure and schedule promulgated by the chief election officer to promote the security of the ballots. In the presence of official observers, counting center employees may start to count the ballots prior to the closing of the polls provided there shall be no printout by the computer or other disclosure of the number of votes cast for a candidate or on a question prior to the closing of the polls.”

(q) Section 11-155, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-155 Certification of results of election. On receipt of certified tabulations from the election officials concerned, the chief election officer or county clerk in county elections shall compile, certify, and release the election results after the expiration of the time for bringing an election contest. The number of persons to be elected receiving the highest number of votes in any election district shall be declared to be elected.”

SECTION 2. 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) A certification, where applicable, by the candidate that he has complied with the provisions of Article II, section 7, of the Constitution of the State of Hawaii.
- (9) 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 3. Chapter 13, Hawaii Revised Statutes, is amended as follows:

(a) Section 13-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Members of the board of education shall be elected at a special election held in conjunction with the general election. Except as otherwise provided by this chapter, the candidates for the board of education shall be elected in the manner prescribed by this title.

- (1) Nomination papers, preparation of. The chief election officer shall prepare the nomination papers in such a manner that a candidate desiring to file for election to the board of education shall be able to specify whether he is seeking a seat requiring residency in a particular departmental school district or a seat without such residency requirement.
- (2) Ballot. The school board ballot shall be prepared in such a manner as to afford every voter eligible to vote in a school board district race, the opportunity to vote for each and every candidate seeking election from such school board district.

The school board ballot shall contain the names of all board candidates arranged alphabetically in a nonpartisan manner; provided that the names of candidates seeking seats requiring residency in a particular departmental school district shall be grouped alphabetically according to departmental school districts.

Each voter in the general election shall be entitled to receive the school board ballot and to vote for the number of seats available in the respective school board districts."

(b) Section 13-4, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 13-4 Board members; term, vacancies. The term of office of members of the board shall be for four years beginning on the day of the special election held in conjunction with the general election of the year in which they are elected and ending on the day of the special election held in conjunction with the second general election after their election. Members of the board may be re-elected without restriction as to the number of terms.

Any vacancy that may occur through any cause other than the expiration of the term of office shall be filled in accordance with section 17-6.”

SECTION 4. Section 13D-5, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 13D-5 Term of office; vacancies. The term of office of members of the board shall be four years beginning on the day of the special election held in conjunction with the general election of the year in which they are elected and ending on the day of the special election held in conjunction with the second general election after their election; except that the term of office of board members elected in 1980 shall be as follows: the four board members elected with the highest number of votes shall serve four years; the remaining members elected shall serve two years. Members of the board may be re-elected without restriction as to the number of terms.

Any vacancy that may occur through any cause other than the expiration of the term of office shall be filled in accordance with section 17-7.”

SECTION 5. Chapter 16, Hawaii Revised Statutes, is amended as follows:

(a) Section 16-12, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 16-12 Voting machines; requirements. No voting machine shall be installed for use in any election in the State unless it shall satisfy the following requirements:

- (1) It shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more;
- (2) It shall prevent the voter from voting for the same persons more than once for the same office;
- (3) It shall permit the voter to vote for or against any question he may have the right to vote on, but no other;
- (4) In special primary and primary elections it shall be so equipped that it will lock out all rows except those of the party or nonpartisan candidates selected by the voter;
- (5) It shall be provided with a protective counter or protective device whereby any operation of the machine before or after the election will be detected;
- (6) It shall be provided with a counter which shall show at all times during an election how many persons have voted;
- (7) It shall be provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters.”

(b) Chapter 16, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 16- Preparation of absentee ballots. Counting center employees in

the presence of at least two official observers shall prepare absentee ballots for counting by automatic tabulating equipment in a manner that shall accurately reflect the votes cast by the absentee voters.”

SECTION 6. Chapter 18, Hawaii Revised Statutes, is amended as follows:

Section 18-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 18-1 Congressional districts; reapportionment. The congressional districts and the number of members to be elected from each shall be as follows:

First congressional district: the seventh through seventeenth representative districts and precincts one, and four through eight of the eighteenth representative district, one representative to the Congress of the United States.

Second congressional district: the first through the sixth and nineteenth through twenty-seventh representative districts and precincts two and three of the eighteenth representative districts, one representative to the Congress of the United States.”

SECTION 7. Section 19-6, Hawaii Revised Statutes, is amended to read as follows:

“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 facsimile 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 return envelope containing an absentee ballot voted under chapter 15 other than those authorized to do so under chapter 15.
- (9) Any unauthorized person found in possession of any voting machine or keys thereof.
- (10) 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.
- (11) 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 8. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 9. This Act shall take effect upon its approval.

(Approved June 13, 1980.)

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