

ACT 305

H.B. NO. 2561-86

A Bill for an Act Relating to Elections.

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

SECTION 1. Section 11-118, Hawaii Revised Statutes, is amended to read as follows:

“§11-118 Vacancies; new candidates; insertion of names on ballots. In case of death, withdrawal, or disqualification of any party candidate after filing, the vacancy so caused may be filled by the appropriate committee of the party.

The party shall be notified by the chief election officer or the clerk in the case of a county office immediately after the death, withdrawal, or disqualification. If the party fills the vacancy, and so notifies the chief election officer or clerk not later than 4:30 p.m. on the third day after the vacancy occurs, but not later than 4:30 p.m. on the fiftieth day prior to a primary or special primary election or not later than 4:30 p.m. on the fortieth day prior to a special, general, or special general election, the name of the replacement shall be printed in an available and appropriate place on the ballot, not necessarily in alphabetical order. The chief election officer or county clerk in county elections may waive any or all of the foregoing requirements in special circumstances as provided in the rules adopted by the chief election officer. If no substitution is made, the candidacy involved shall be declared vacant.”

SECTION 2. Section 11-151, Hawaii Revised Statutes, is amended to read as follows:

“**§11-151 Vote count.** Each contest or question on a ballot shall be counted independently as follows:

- (1) If the votes cast in a contest or question are equal to or less than the number to be elected or chosen for that contest or question, the votes for that contest or question shall be counted.
- (2) If the votes cast in a contest or question exceed the number to be elected or chosen for that contest or question, the votes for that contest or question shall not be counted.
- (3) If a contest or question requires a majority of the votes for passage, any blank, spoiled, or invalid ballot shall not be tallied for passage or as votes cast except that such ballots shall be counted as votes cast in ratification of a constitutional amendment.”

SECTION 3. Section 11-155, Hawaii Revised Statutes, is amended to read as follows:

“**§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. A certificate of election or a certificate of results declaring the results of the election as of election day shall be issued pursuant to section 11-156. The number of [persons] candidates to be elected receiving the highest number of votes in any election district shall be declared to be elected. Unless otherwise provided, the term of office shall begin or end as of the close of polls on election day. The position on the question receiving the appropriate majority of the votes cast shall be reflected in a certificate of results issued pursuant to section 11-156.”

SECTION 4. Section 11-156, Hawaii Revised Statutes, is amended to read as follows:

“**§11-156 [Certificate of election,] Certificate of election and certificate of results, form.** The chief election officer or county clerk shall deliver certificates of election to the persons elected as determined under section 11-155. The chief election officer or county clerk in county elections shall issue certificates of results where a question has been voted upon. [These certificates] Certificates of election shall be delivered only after the filing of expense statements by the person elected in accordance with part XII and after the expiration of¹ time for bringing an election contest. [If there is an election

contest the certificate shall be delivered only after a final determination in the contest has been made and the time for an appeal has expired.] The certificate of election shall be substantially in the following form:

CERTIFICATE OF ELECTION

I, _____, chief election officer (county clerk) of Hawaii (county), do hereby certify that _____ was on the _____ day of _____ 19____, duly elected a _____ (name of office) _____ for the _____ district for a term expiring on the _____ day of _____, A.D. 19____.
Witness my hand this _____ day of _____, A.D. 19____.

Chief Election Officer (County Clerk)

The certificate of results shall be substantially in the following form:

CERTIFICATE OF RESULTS

I, _____, chief election officer (county clerk) of Hawaii (county), do hereby certify that _____ (question) was on the _____ day of _____ 19____, duly adopted (rejected) by a majority of the votes cast.

Chief Election Officer (County Clerk)

If there is an election contest these certificates shall be delivered only after a final determination in the contest has been made and the time for an appeal has expired.”

SECTION 5. Section 15-4, Hawaii Revised Statutes, is amended to read as follows:

“§15-4 Request for absentee ballot. Any person registered to vote 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. Any mailed requests for an absentee ballot shall be mailed by the person directly to the clerk. The clerk may waive any or all of the foregoing requirements in special cases as provided in the rules adopted by the chief election officer.

The request shall include information such as the person’s social security number, date of birth, and the address under which the person is registered to vote. [and] The request shall also include the address to which [he] the person wishes [his] the requested 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.”

SECTION 6. Section 17-2, Hawaii Revised Statutes, is amended to read as follows:

“§17-2 United States representative. When a vacancy occurs in the representation of this State in the United States House of Representatives, the chief election officer shall issue a proclamation for an election to fill the vacancy [unless the unexpired term is for less than one hundred eighty days. If the unexpired term is less than one hundred eighty days, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party as the person he succeeds]. The proclamation shall be issued not later than on the sixtieth day prior to the election to fill the vacancy and shall contain the date, time, and places where the special election is to be held, the time within which nomination papers shall be filed, the time for transmitting to county clerks the notice designating the offices for which candidates are to be elected, the time for transmitting to county clerks lists of candidates to be voted for at the special election and such other matter¹ as provided for in section 11-91 and which are not inconsistent with this section. The special election shall be conducted and the results ascertained so far as practicable, in accordance with this title. [Pending the election, the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election and qualification of the person duly elected to fill the vacancy and shall be a registered member of the same political party as the representative causing the vacancy.]”

SECTION 7. Statutory material to repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 30, 1986.)

Note

1. So in original.