

## ACT 235

S.B. NO. 827

A Bill for an Act Relating to Election Offenses.

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

SECTION 1. Section 11-91.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[§11-91.5] Federal, state, and county elections by mail.~~ (a) Any federal, state, or county election held other than on the date of a regularly scheduled primary or general election may be conducted by mail.

(b) The chief election officer shall determine whether a federal or state election, other than a regularly scheduled primary or general election, may be conducted by mail or at polling places.

(c) The county clerk shall determine whether a county election, held other than on the date of a regularly scheduled primary or general election, may be conducted by mail or at polling places. An election by mail in the county shall be under the supervision of the county clerk.

(d) Any ballot cast by mail under this section shall be subject to the provisions applicable to absentee ballots under sections 11-139 and 15-6.

~~[(d)]~~ (e) The chief election officer shall adopt rules pursuant to chapter 91 to provide for uniformity in the conduct of federal, state, and county elections by mail.”

SECTION 2. Section 11-139, Hawaii Revised Statutes, is amended to read as follows:

“§11-139 Voting assistance. (a) [Any] Except as otherwise provided, any voter who requires assistance to vote at a polling place or by absentee ballot may be given assistance by a person of the voter’s choice~~[, other than the voter’s employer or agent of that employer or agent of the voter’s union, or].~~ If the voter requires assistance at a polling place, the voter may choose to receive the assistance of two precinct officials who are not of the same political party. [A] Additionally, a voter needing assistance at a polling place may choose to be handed

a ballot outside the polling place but within one hundred feet thereof or within the polling place parking lot by the precinct officials and in their presence but in a secret manner, mark and return the same to the precinct officials. The voter's employer or agent of that employer, agent of the voter's labor union, or a candidate for any office that is listed on the ballot shall not provide assistance. Written or oral instructions delivered via telephone, electronic means, or mail shall not be deemed assistance prohibited by this section provided the voter's employer or agent of that employer, agent of the voter's labor union, or a candidate for any office listed on the ballot is not physically present with the voter when the instructions are delivered.

(b) [The] If assistance is provided pursuant to subsection (a), the precinct officials providing assistance shall enter in writing in the record book the following:

- (1) The voter's name;
- (2) The fact that the voter cannot read the names on the ballot, if that is the reason for requiring assistance, and otherwise, the specific physical disability which requires the voter to receive assistance; and
- (3) The name or names of the person or persons furnishing the assistance.

(c) Violation of this section by an employer or agent of that employer, agent of the voter's labor union, or a candidate shall constitute election fraud as provided under section 19-3."

SECTION 3. Section 15-6, Hawaii Revised Statutes, is amended to read as follows:

**"§15-6 Return envelope, ballot envelope; instructions.** The clerk shall provide the absentee voter with the ballots, ballot envelopes, and a return envelope ~~[which] that~~ shall contain a statement to be subscribed to by the voter ~~[which] that~~ affirms the fact that the voter is the person voting~~[-]~~ and that the voter's employer or agent of the employer, agent of the voter's labor union, or any candidate listed on the ballot did not assist the voter, as described in section 11-139, along with the instruction that the voter's ballot will be valid only if the affirmation statement is signed, materials summarizing the provisions in sections 19-3, 19-3.5, 19-4, and 19-6, and any other information prescribed by the rules promulgated by the chief election officer."

SECTION 4. Section 19-3, Hawaii Revised Statutes, is amended to read as follows:

**"§19-3 Election frauds.** The following persons shall be deemed guilty of an election fraud:

- (1) Every person who, directly or indirectly, personally or through another, gives, procures, or lends, or agrees or offers to give, procure, or lend, or who endeavors to procure, any money or office or place of employment or valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who does any such act on account of any person having voted or refrained from voting for any particular person at any election;
- (2) Every person who advances or pays, or causes to be paid, any money to, or to the use of, any other person, with the intent that the money, or any part thereof, shall be expended in bribery at any election, or

- for any purpose connected with or incidental to any election; or who knowingly pays or causes to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election;
- (3) Every elector who, before, during or after any election, directly or indirectly, personally or through another, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment for oneself or any other person for voting or agreeing to vote, or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or party;
  - (4) Every person who, directly or indirectly, personally or through another, makes use of, or threatens to make use of, any force, violence, or restraint; or inflicts or threatens to inflict any injury, damage, or loss in any manner, or in any way practices intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of the person having voted or refrained from voting, or voted or refrained from voting for any particular person or party; or who by abduction, distress, or any device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the elective franchise;
  - (5) Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same office at one time of voting;
  - (6) Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at the election;
  - (7) Every person who induces or procures any person to withdraw from being a candidate at an election in consideration of any payment or gift or valuable consideration; or of any threat; and every candidate who withdraws from being a candidate in pursuance of such inducement or procurement;
  - (8) Every public officer by law required to do or perform any act or thing with reference to any of the provisions in any law concerning elections who wilfully fails, neglects, or refuses to do or perform the same, or who is guilty of any wilful violation of any of the provisions thereof;
  - (9) Any person wilfully tampering or attempting to tamper with, disarrange, deface, or impair in any manner whatsoever, or destroy any voting machine while the same is in use at any election, or who, after the machine is locked in order to preserve the registration or record of any election made by the same, tampers or attempts to tamper with any voting machine; ~~and~~
  - (10) Every person who, directly or indirectly, personally or through another, wilfully designs, alters, accesses, or programs any electronic voting system to cause the system to inaccurately record, tally, or report votes cast on the electronic voting system[-]; and
  - (11) Every person who assists a voter in the completion of a ballot in violation of section 11-139.”

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**SECTION 5.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**SECTION 6.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 7.** This Act shall take effect upon its approval.

(Approved June 27, 2013.)