

ACT 213

S.B. NO. 548

A Bill for an Act Relating to Elections by Mail.

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

SECTION 1. The legislature finds that Act 136, Session Laws of Hawaii 2019, required all elections statewide to be conducted by mail beginning with the 2020 primary election.

The purpose of this Act is to:

- (1) Amend the State's election laws to clarify and improve the administration of elections by mail;
- (2) Establish voters with special needs advisory committees;
- (3) Require the department of public safety and Hawaii paroling authority to inform individuals on parole or probation of their right to vote and provide them with information on how to register and vote; and
- (4) Require the office of elections and the county clerks to make a determination, as soon as practicable, of the optimal number and placement of voter service centers.

SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

“§11- **Minimum number of precincts.** Beginning with the 2022 primary election, there shall be a minimum of four precincts in each district; provided that each inhabited island with at least one hundred residents shall include at least one precinct.

§11- Statewide voters with special needs advisory committee. (a) There is established a statewide voters with special needs advisory committee within the office of elections for administrative purposes. The purpose of the advisory committee is to ensure equal and independent access to voter registration, casting of ballots, and all other office of elections services.

(b) The advisory committee shall consist of five members appointed by the governor based on recommendations from organizations within the State that are comprised of a majority of officers and members who are persons with physical disabilities including visual impairment. Each member shall identify as a voter with special needs arising from physical disabilities including visual and hearing impairments that require an accommodation to vote. The terms of advisory committee members shall be four years; provided that initial terms shall be one, two, three, or four years to ensure staggered rotation of members.

(c) The advisory committee shall meet at least annually to review election procedures, services, and technology and access to information, and shall make recommendations to the office of elections on at least an annual basis. The advisory committee may meet and subsequently make recommendations at additional times as determined by a majority of the members.

§11- County voters with special needs advisory committees. (a) Each county shall establish a county voters with special needs advisory committee. The purpose of the advisory committee shall be to ensure equal and independent access to voter registration, casting of ballots, and all other county elections division services.

(b) Each advisory committee shall consist of five members appointed by the mayor of each respective county based on recommendations from organizations within the county that are comprised of a majority of officers and members who are persons with physical disabilities including visual impairment. Each member shall identify as a voter with special needs arising from physical disabilities including visual and hearing impairments which require an accommodation to vote. The terms of advisory committee members shall be four years; provided that initial terms shall be one, two, three, or four years to ensure staggered rotation of members.

(c) Each advisory committee shall meet at least annually to review election procedures, services, and technology and access to information, and shall make recommendations to the office of elections on at least an annual basis. The advisory committees may meet and subsequently make recommendations at additional times as determined by a majority of the members.”

SECTION 3. Chapter 353C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§353C- Eligible voter notification.** The department shall notify individuals on parole or probation of their eligibility to vote and provide them with information on how to register and vote.”

SECTION 4. Section 11-1, Hawaii Revised Statutes, is amended as follows:

1. By adding four new definitions to be appropriately inserted and to read:

““Ballot summary” means a complete record of ballot selections that is verified by the voter.

““Closing hour of voting” means 7:00 p.m. Hawaii Standard Time on election day.

““Precinct” means the smallest political subdivision established by law.

“Provisional ballot” means a ballot and any accompanying materials issued to a voter that are segregated for review and subsequent determination of validity, in accordance with eligibility criteria and other requirements of law.”

2. By amending the definition of “ballot” to read:

““Ballot” means a ballot, including an absentee ballot, that is a written or printed, or partly written and partly printed paper or papers containing the names of persons to be voted for, the office to be filled, and the questions or issues to be voted on. “Ballot” includes [a]:

- (1) A ballot summary reflecting a complete record of the ballot selections made by a voter utilizing an HTML ballot or similar accessible ballot that produces a ballot summary;
- (2) A voter verifiable paper audit trail in the event there is a discrepancy between a voting machine’s electronic record of the voted ballot and the voter verifiable paper audit trail; and
- (3) A ballot used in an election by mail pursuant to part VIIA, including a ballot approved for electronic transmission. A ballot may consist of one or more cards or pieces of paper, or one face of a card or piece of paper, or a portion of the face of a card or piece of paper, depending on the number of offices, candidates to be elected thereto, questions or issues to be voted on, and the voting system in use.”

3. By amending the definition of “district” to read:

““District” means, unless otherwise specified, the district of political representation ~~[with the fewest eligible voters in a particular election.]~~ associated with a state representative.”

SECTION 5. Section 11-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person qualified to and desiring to register as a voter in any county shall make and subscribe to an application in the form of an affidavit.

The affidavit shall contain the following information:

- (1) Name;
- (2) The applicant’s Hawaii driver’s license number or Hawaii state identification card number; provided that:
 - (A) If no driver’s license or identification card has been issued to the applicant, the last four digits of the applicant’s social security number; and
 - (B) If no social security number has been issued to the applicant, an election official or county clerk shall assign the applicant a unique identification number for voter registration purposes and enroll the applicant in the State’s computerized voter registration list, if any;
- (3) Date of birth;
- (4) Residence, including mailing address;
- (5) That the residence stated in the affidavit is not simply because of the person’s presence in the State, but that the residence was acquired with the intent to make Hawaii the person’s legal residence with all the accompanying obligations therein; ~~and~~
- (6) That the person is a citizen~~[-]; and~~
- (7) A statement, if the applicant is unable to read standard print due to disability, acknowledging that fact and requesting an electronic ballot be sent to the applicant’s email address.

~~[An application to register to vote shall include a space to request a permanent absentee ballot.]”~~

SECTION 6. Section 11-15.2, Hawaii Revised Statutes, is amended to read as follows:

“§11-15.2 [Late registration,] Same day in-person registration. (a) Notwithstanding the closing of the general county register pursuant to section 11-24, a person who is ~~[eligible to vote but is]~~ not registered to vote may register by appearing in person at any voter service center on or before election day~~[-]~~ or register electronically pursuant to section 11-15.3.

(b) The clerk shall designate a registration clerk~~[-, who may be an election official,]~~ at each voter service center~~[-~~

(c) ~~The registration clerk]~~ who shall process applications for any person ~~[not registered to vote]~~ who submits a signed affidavit in accordance with section 11-15, which shall include a sworn affirmation:

- (1) Of the person’s qualification to vote;
- (2) Acknowledging that the person has not voted and will not attempt to vote again in that election, and has not cast and will not cast any absentee ballot pursuant to chapter 15 in that election; and
- (3) Acknowledging that providing false information may result in a class C felony, punishable by a fine not exceeding ~~[\$1,000]~~ \$10,000 or imprisonment not exceeding five years, or both.

~~[(d)] (c)~~ The registration clerk may accept, as prima facie evidence, the allegation of the person in the application regarding the person’s residence in accordance with section 11-15(b), unless the allegation is contested by a qualified voter. The registration clerk may demand that the person furnish substantiating evidence to the other allegations of the person’s application in accordance with section 11-15(b). If additional time or information is required to validate an application, the applicant shall be provided a provisional ballot.

~~[(e)]~~ Registration may be challenged in accordance with section 11-25.

(f) ~~Notwithstanding subsection (a), registration pursuant to this section may also be used by a person who is registered to vote but whose name cannot be found on the county register.~~

(g) ~~The clerk of each county shall add persons who properly register under this section to the respective general county register. Within thirty days of registration, the clerk shall mail to the person a notice including the person’s name, current street address, district, and date of registration. A notice mailed pursuant to this subsection shall serve as prima facie evidence that the person is a registered voter as of the date of registration.]”~~

SECTION 7. Section 11-17, Hawaii Revised Statutes, is amended to read as follows:

“§11-17 Removal of names from register, when; reregistration. (a) The clerk, ~~[no later than 4:30 p.m. on the sixtieth day]~~ after every general election, shall remove the ~~[name] names~~ of ~~[any] registered [voter] voters who were identified as having an outdated or undeliverable address~~ who did not vote in ~~[that general election, and also did not vote in the primary election preceding that general election, and also did not vote in the previous general election, and also did not vote in the primary election preceding that general election, and also did not vote in the regularly scheduled special elections held in conjunction with those primary and general elections, if any,]~~ all elections held during the two previous federal election cycles with the exception of~~[-~~

(1) Those who submitted written requests for absentee ballots as provided in section 15-4; or

(2) ~~Anyone] anyone~~ who preregistered pursuant to section 11-12(b).

~~[If a person voted, at least once, in any of the above-mentioned elections, the person’s name shall remain on the list of registered voters.]~~ For this purpose,

“vote” means the depositing of the ballot in the ballot box regardless of whether the ballot is blank or later rejected for any reason. In the case of voting machines, “vote” means the voter has activated the proper mechanism and fed the ballot into the machine. In the case of an election by mail pursuant to part VIIA, “vote” means the voter has returned the ballot to the chief election officer or clerk by the United States Postal Service, by personal delivery of the ballot to a place of deposit or voter service center, or by electronic transmission under certain circumstances pursuant to part VIIA.

(b) ~~[The] Before removal as noted in subsection (a), the clerk shall [also] identify [or remove the name of any] registered voter [if the clerk, after] names from a postal database containing outdated or undeliverable addresses or by mailing a notice or other correspondence, properly addressed, [with postage prepaid, receives the notice or other correspondence as return mail with] and receiving a postal notation that the notice or other correspondence was not deliverable. [On election day, any person identified or removed shall have the person's name corrected or restored in the register and shall be allowed to vote if the person completes an affidavit or other form prescribed by the chief election officer affirming that the person:~~

- ~~(1) Claims the person's legal residence at the address listed on the register;~~
- ~~(2) Changed the person's legal residence after the closing of the register for that election; or~~
- ~~(3) Moved to a new residence within the same district as the person's residence as listed on the register.]~~

(c) Upon identification of names of registered voters as prescribed in subsection (b), the clerk shall conduct any notification mailings as required by applicable federal law.

~~[(e)] (d)~~ The clerk may also remove the name of any registered voter, if the voter so desires and properly notifies the clerk pursuant to the procedures established by the chief election officer.

~~[(d)] (e)~~ Any person whose name has been removed from the register~~;~~ at any time prior to the closing of the register, as provided in section 11-24,] may have that person's name restored in the register by presenting oneself to the clerk and reregistering pursuant to section 11-15, or by making application by mail or otherwise pursuant to procedures established by the clerk. The clerk shall require satisfactory evidence to establish the identity of the applicant. The names of all those persons shall be reentered in the register.”

SECTION 8. Section 11-21, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) Any person whose name appears on the registered voters list whose residence has changed since the last election, and whom the clerk has not transferred under section 11-20, may apply on a form prescribed by the chief election officer on the day of the election for transfer of registration to the [district] precinct of the new residence. Any person so transferring voter registration shall be immediately added to the register of the new [district.] precinct.

(d) Where a person was incorrectly placed on a list of voters of a [district] precinct in which the person does not actually reside, the person may correct the registration.”

SECTION 9. Section 11-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The clerk shall correct the register if at any time it shall be manifest to the clerk that the name of a person registered has been accidentally mis-

spelled, or that the person has been misnamed therein, or that the person has been accidentally registered under the wrong [~~district,~~] precinct, or that the person was accidentally removed pursuant to section 11-17(a), or that the name of the person should be corrected or restored pursuant to section 11-17(b).”

SECTION 10. Section 11-23, Hawaii Revised Statutes, is amended to read as follows:

“§11-23 Changing register; striking names of disqualified voters. [(a)] Whenever the clerk receives from the department of health or any informing agency, information of the death, loss of voting rights of a person sentenced for a felony as provided in section 831-2, adjudication as an incapacitated person under the provisions of chapter 560, loss of citizenship, or any other disqualification to vote, [~~of any person registered to vote in that county, or who the clerk has reason to believe may be registered to vote therein, the clerk shall thereupon make such investigation as may be necessary to prove or disprove the information, giving the person concerned, if available, notice and an opportunity to be heard. If after the investigation the clerk finds that the person is dead, or incapacitated to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning voting, or has lost voting rights pursuant to section 831-2, or has lost citizenship, or is disqualified for any other reason to vote, the clerk shall remove the name of the person from the register.~~

(b) ~~The clerk shall make and keep an index of all information furnished to the clerk under any requirements of law concerning any of the matters in this section. Whenever any person applies to register as a voter, the clerk shall, before registering the person, consult the index for the purpose of ascertaining whether or not the person is in any manner disqualified to vote.] the clerk may accept the reported information as prima facie evidence to maintain and update the general register. Any person whose name is removed from the register of voters under this section may reregister to vote or appeal in the manner provided by sections 11-26 and 11-51, and [~~sueh~~] the proceedings shall be had upon the appeal as in other appeals under these sections.”~~

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

“§11-24 Closing register. (a) At 4:30 p.m. on the [~~thirtieth~~] tenth day [~~prior to~~] before each [~~primary, special primary, or special~~] election, but if the 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 the primary, special primary, or special election~~] and remain closed to registration until after the election, subject to change only as provided in sections 11-15.2, 11-21(c), 11-22, 11-25, 11-26, and this section.

(b) ~~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 the 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 11-21(c), 11-22, 11-25, and 11-26.]~~ time of closing the general county registrar under subsection (a), the clerk may accept an application submitted on the tenth day if it was received electronically through the online voter registration system in accordance with section 11-15.3 or received as part

of a driver's licensing transaction or from another designated voter registration agency under the National Voter Registration Act of 1993. The clerk shall also accept an application that is postmarked before or on the tenth day before the election."

SECTION 12. Section 11-25, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any registered voter may challenge the right of a person to be or to remain registered as a voter in any precinct for any cause not previously decided by the board of registration or the supreme court in respect to the same person. The challenge shall be in writing, setting forth the grounds upon which it is based, and be signed by the person making the challenge. The challenge shall be delivered to the clerk who shall immediately serve notice thereof on the person challenged. The clerk shall, as soon as possible, investigate and rule on the challenge."

SECTION 13. Section 11-26, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) In cases where the clerk, or ~~[precinct]~~ voter service center officials, rules on a challenge on election day, the person ruled against may appeal from the ruling to the board of registration of the person's county for review under part III. The appeal shall be brought before the challenger and challenged party leave the ~~[polling place-]~~ voter service center. If an appeal is brought, both the challenger and the challenged voter may be parties to the appeal."

2. By amending subsection (c) to read:

"(c) 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]~~ voter service center officials of the change in the register."

SECTION 14. Section 11-91, Hawaii Revised Statutes, is amended to read as follows:

"**§11-91 Proclamation.** ~~[Not]~~ No later than 4:30 p.m. on the tenth day ~~[prior to]~~ before the close of filing in elections involving state offices, the chief election officer shall issue an election proclamation. In elections involving only county offices the clerk shall issue the proclamation. In elections involving both state and county offices the proclamation may be issued jointly.

The proclamation shall contain a statement of the ~~[time and places where, and the]~~ purposes for which~~[-]~~ the election is to be held, and a designation of the offices and the terms thereof for which candidates are to be nominated or elected. It may also contain any other relevant matter including an offer of rewards for the detection and conviction of offenders against the election laws. The chief election officer or clerk shall cause the election proclamation to be published at least once in a newspaper of general circulation and ~~[not]~~ no later than on the tenth day ~~[prior to]~~ before the close of filing."

SECTION 15. Section 11-92.1, Hawaii Revised Statutes, is amended to read as follows:

"**§11-92.1 Election proclamation; establishment of a new precinct; voter service centers and places of deposit; changes to ~~[district]~~ precinct boundaries.** (a) The ~~[chief election officer]~~ clerk shall issue a proclamation listing all voter service centers and places of deposit, including the days each voter service center and place of deposit is open and the hours of operations and location of each voter

service center and place of deposit, as may have been determined by the clerk as of the proclamation date[-] and whenever a new precinct is established in any representative district. The clerk shall make arrangements for the rental or erection of suitable shelter for the establishment of a voter service center whenever public buildings are not available and shall cause these voter service centers to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for elections on any island. This proclamation may be issued jointly with the proclamation required in section 11-91.

(b) No change shall be made in the boundaries of any [~~district~~] precinct later than 4:30 p.m. on the tenth day before the close of filing for an election.

(c) Notwithstanding subsection (a), and pursuant to section 15-2.5, the clerk is not required to establish voter service centers for [~~districts~~] precincts affected by natural disasters, as provided in section 15-2.5.”

SECTION 16. Section 11-92.3, Hawaii Revised Statutes, is amended to read as follows:

“**§11-92.3 Natural disasters; postponement; consolidation of [~~districts~~]; precincts; special elections.** (a) In the event of a flood, tsunami, earthquake, volcanic eruption, high wind, or other natural disaster, occurring before an election where the extent of damage caused is such that the ability of voters, in any precinct, district, or county, to exercise their right to vote is substantially impaired, the chief election officer or clerk in the case of county elections may postpone the conducting of an election in the affected [~~area~~] precinct, district, or county for no more than twenty-one days; provided that any postponement shall not affect the conduct of the election, tabulation, or distribution of results for those precincts, districts, or counties not designated for postponement. The chief election officer or clerk in the case of county elections shall give notice of the postponement by whatever possible news or broadcast media are available.

(b) In the event the chief election officer or the 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 [~~districts~~] precincts, the [~~districts~~] 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 [~~districts~~] precincts.

A special, special primary, or special general election [~~district~~] precinct shall be considered the same as an established [~~district~~] precinct for all purposes. No later than 4:30 p.m. on the tenth day before the special, special primary, or special general election, the chief election officer or the clerk shall give public notice, 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 [~~districts~~] precincts.”

SECTION 17. Section 11-101, Hawaii Revised Statutes, is amended to read as follows:

“**[[§11-101]] Elections eligible to be conducted by mail.** Beginning with the 2020 primary election, all elections shall be conducted by mail in accordance with this title. A voter in an election conducted by mail shall not be precluded from voting by absentee ballot under chapter 15 or 15D, if the voter complies with the applicable requirements.”

SECTION 18. Section 11-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) To the extent practicable, the clerk shall mail a ballot package by non-forwardable mail to each registered voter in the county so as to enable voters to receive the ballot package [~~approximately~~] at least eighteen days before the election[-]; provided that the State and counties shall not be liable if the ballot package is received fewer than eighteen days before the election. The clerk shall continue mailing ballot packages to voters who register to vote no later than ten days before the date of the election and to voters who update their voter registration address no later than [fourteen] seven days before the date of the election[-] and who have not yet voted; provided that the clerk may continue mailing ballot packages beyond the deadlines established by this subsection if the clerk determines that there is reasonable time for a voter to receive and submit the ballot package before the election. In determining the initial mailing date of the ballot packages, the clerk shall consider the mailing place of origin and the most recent postal service delivery standards. The clerk shall not mail a ballot package to any voter in the county register who is identified as having an outdated or non-deliverable mailing address. Nothing in this part shall be construed to change the responsibilities of the clerk or chief election officer under chapter 15 with respect to voters requesting to vote by absentee ballot or chapter 15D with respect to uniform military and overseas voters.”

SECTION 19. Section 11-104, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) After a voter receives a ballot package, the voter shall comply with the instructions included in the ballot package in order to cast a valid vote. The instructions shall include directions for:

- (1) Marking the ballot;
- (2) Inserting the marked ballot in the secrecy envelope or secrecy sleeve;
- (3) Inserting the secrecy envelope or secrecy sleeve with the marked ballot in the return identification envelope; and
- (4) Signing the affirmation on the return identification envelope before mailing or delivering the return identification envelope containing the secrecy envelope or secrecy sleeve with the marked ballot. The affirmation shall consist of a statement to be subscribed to by the voter 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.”

2. By amending subsection (c) to read:

“(c) To cast a valid ballot, the voter shall return the return identification envelope containing the optional secrecy envelope or secrecy sleeve with the marked ballot[-] in any manner:

- (1) [~~By mail so~~] So that the return identification envelope is received [~~at the office of~~] by the clerk or the clerk’s designee no later than the closing [~~time provided in section 11-131 on the date of the election;~~] hour of voting; provided that anyone who is standing in line at the closing hour of voting with the intent of returning a ballot shall be permitted to do so;
- (2) [~~By personal delivery at~~] To any place of deposit no later than [~~7:00 p.m. on the date of the election;~~] the closing hour of voting; provided that [~~any voter~~] anyone who is standing in line at a place of deposit at [~~7:00 p.m. on the date of the election~~] the closing hour of

- voting with the intent of returning a ballot [~~and casting a vote~~] shall be [~~allowed to vote;~~] permitted to do so; or
- (3) [~~By personal delivery to~~] To any voter service center no later than the closing [~~time provided in section 11-131 on the date of the election;~~] hour of voting; provided that [~~any voter~~] anyone who is standing in line at a voter service center at the closing [~~time provided in section 11-131 on the date of the election~~] hour of voting with the intent of returning a ballot [~~and casting a vote~~] shall be [~~allowed to vote.~~] permitted to do so.”

SECTION 20. Section 11-105, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Upon receipt of a completed replacement ballot application form~~]~~ or request, the clerk shall:

- (1) Verify the registration of the voter and ensure that another ballot has not been returned by the voter;
 - (2) Record that the voter has requested a replacement ballot;
 - (3) Mark the return identification envelope as containing a replacement ballot; and
 - (4) Issue the replacement ballot package by mail or make the ballot package available for pick-up by the voter.
- (c) Voters who obtain a replacement ballot shall return the return identification envelope containing [~~the secrecy envelope or secrecy sleeve with~~] the marked replacement ballot~~]:~~
- (1) ~~By mail so that the return identification envelope is received at the office of the clerk no later than the closing time provided in section 11-131 on the date of the election;~~
 - (2) ~~By personal delivery to any place of deposit no later than 7:00 p.m. on the date of the election; provided that any voter who is standing in line at a place of deposit at 7:00 p.m. on the date of the election with the intent of returning a ballot and casting a vote shall be allowed to vote; or~~
 - (3) ~~By personal delivery to any voter service center no later than the closing time provided in section 11-131 on the date of the election; provided that any voter who is standing in line at a voter service center at the closing time provided in section 11-131 on the date of the election with the intent of returning a ballot and casting a vote shall be allowed to vote.] in the same manner as provided in section 11-104(c).”~~

SECTION 21. Section 11-106, Hawaii Revised Statutes, is amended to read as follows:

“~~§~~**§11-106** **Deficient return identification envelopes.** If:

- (1) A return identification envelope is returned with an unsigned affirmation;
- (2) The affirmation signature does not match a reference signature image; or
- (3) A return identification envelope contains another condition that would not allow the counting of the ballot,

the clerk shall make an attempt to notify the voter by first class mail, telephone, or electronic mail to inform the voter of the procedure to correct the deficiency. The voter shall have five business days after the date of the election to cure the deficiency. The chief election officer may adopt rules regarding requirements and procedures for correcting deficient return identification envelopes. The counting

of ballots and disclosure of subsequent election results may continue during the time period permitted to cure a deficiency under this section. The clerk's inability to contact voters under this section shall not be grounds for a contest for cause under section 11-172. This section shall apply to all return identification envelopes, including ballots utilizing the provisions of section 11-107 or chapter 15 or 15D."

SECTION 22. Section 11-107, Hawaii Revised Statutes, is amended to read as follows:

~~“[H§11-107H]~~ **Electronic transmission under certain circumstances.** (a) If a ballot package is not received by a voter by the fifth day before the date of the election or a voter otherwise requires a replacement ballot within five days of an election, the voter may request that a ballot be forwarded by electronic transmission~~]; provided that a voter with special needs may request that a ballot be forwarded by electronic transmission at any time~~. Upon receipt of such a request and confirmation that ~~[proper application was made,]~~ the voter has not already voted, the clerk may transmit the appropriate ballot, ~~[together with a form containing the affirmations,]~~ voting information, and a waiver of the right to secrecy under section 11-137. The waiver of the right to secrecy shall not be required if the voted ballot is returned in a signed ballot return identification envelope issued to the voter pursuant to section 11-102.

(b) The voter may return the completed replacement ballot and executed forms:

- (1) By electronic transmission so that the completed replacement ballot and executed forms are received ~~[at the office of]~~ by the clerk or the clerk's designee no later than the closing ~~[time provided in section 11-131 on the date of the election;]~~ hour of voting; or
- (2) ~~[By mail so that the completed replacement ballot and executed forms are received at the office of the clerk no later than the closing time provided in section 11-131 on the date of the election;~~
- (3) ~~By personal delivery to any place of deposit no later than 7:00 p.m. on the date of the election; provided that any voter who is standing in line at a place of deposit at 7:00 p.m. on the date of the election with the intent of returning a ballot and casting a vote shall be allowed to vote; or~~
- (4) ~~By personal delivery to a voter service center no later than the closing time provided in section 11-131 on the date of the election; provided that any voter who is standing in line at a voter service center at the closing time provided in section 11-131 on the date of the election with the intent of returning a ballot and casting a vote shall be allowed to vote.]~~ In the same manner as provided in section 11-104(c).

(c) A voter with special needs may request that a ballot be forwarded by electronic transmission at any time, but no earlier than the date that the voter's initial ballot package was or would have been transmitted. Upon receipt of such a request and confirmation that the voter has not already voted, the clerk may transmit the appropriate ballot, voting information, and a means of electronic authentication that does not include the voter's hand written signature or a waiver of secrecy. The voter with special needs may return the completed ballot and executed forms by any of the methods specified in subsection (b); provided that the voter's hand written signature or a waiver of secrecy shall not be required.

~~[(e)]~~ (d) Upon receipt, the clerk shall verify compliance with the requirements of this part; provided that if the voter returns multiple voted ballots for

the same election, the clerk shall prepare only the first ballot returned that is not spoiled.

(e) The clerk may maintain a listing of voters with special needs that utilize a ballot forwarded by electronic transmission to facilitate the provision of voting services in subsequent elections.”

SECTION 23. Section 11-108, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Ballot processing for tabulation may begin no sooner than the ~~[tenth] eighteenth~~ day before the election. In the presence of official observers, counting center employees may open the return identification envelopes and count the ballots; provided that any tabulation of the number of votes cast for a candidate or question appearing on the ballot, including a counting center printout or other disclosure, shall be kept confidential and shall not be disclosed to the public until after ~~[7:00 p.m. on the date of the election]~~ the closing hour of voting or after the last person in line at a voter service center desiring to vote at ~~[7:00 p.m. on the date of the election]~~ the closing hour of voting has voted, as provided in section 11-131, whichever is later. All handling and counting of ballots shall be conducted in accordance with procedures established by the chief election officer.”

2. By amending subsection (c) to read:

“(c) Any ballot the validity of which cannot be established upon receipt shall be retained by the clerk and shall not be commingled with ballots for which validity has been established until the validity of the ballot in question can be verified by the clerk. No ballot shall be included in an initial tabulation until the clerk has determined its validity. The clerk shall make reasonable efforts to determine the validity of ballots within seven days following an election day. No ballot shall be validated beyond the seventh day following an election.”

SECTION 24. Section 11-109, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) Voter service centers shall be established ~~[at the office of the clerk, and may be established at additional locations within a county as may be designated by a clerk]~~ by the clerks to service the particular needs of ~~[a]~~ each county’s voters.

(b) ~~[Voter service centers]~~ In each county, a voter service center shall be open from the tenth business day preceding the day of the election during regular business hours until the [time provided in section 11-131 on the date of the election] closing hour of voting and at the same times statewide. The clerks may operate additional voter service centers with varying days or hours of operation to service the voters of particular areas that otherwise could not support the operation of a voter service center for ten business days or the same times statewide. Anyone standing in line at a voter service center at the closing hour of voting with the intent of voting shall be permitted to do so. A person eligible to vote but who is not registered to vote standing in line at a voter service center at the closing hour of voting shall be permitted to apply under section 11-15.2 to register to vote and subsequently vote that election day. To the extent the registration clerk determines the applicant to be registered at that time, the applicant will be permitted to vote a regular ballot. If additional time is required to process the application, the applicant shall be provided a provisional ballot.”

2. By amending subsection (d) to read:

“(d) The clerks may designate and provide for places of deposit to be open ~~[five business days before the election until 7:00 p.m. on the day of the election;]~~ as early as the mailing of ballots by the clerks; provided that the locations and apparatus for receiving voted ballots can be securely maintained during the period of use for each election, and as may be permitted by the operational hours.”

SECTION 25. Section 11-117, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) On receipt of the notice of death, withdrawal, or upon determination of disqualification, the chief election officer or the clerk shall inform the chairperson of the political party of which the person deceased, withdrawing, or disqualified was a candidate. When a candidate dies, withdraws, or is disqualified after the close of filing and the ballots have been printed, the chief election officer or the clerk may order the candidate’s name stricken from the ballot or order that a notice of the death, withdrawal, or disqualification be prominently posted at the appropriate ~~[polling places]~~ voter service centers on election day.”

SECTION 26. Section 11-131, Hawaii Revised Statutes, is amended to read as follows:

“**§11-131 Voter service center hours.** The hours of voting at voter service centers shall be:

- (1) Regular business hours as prescribed in section 11-109 and by the clerk; and
- (2) On an election day, from 7:00 a.m. until ~~[7:00 p.m. of that day.]~~ the closing hour of voting.

If, at ~~[7:00 p.m. on an election day,]~~ the closing hour of voting, any voter is standing in line at a voter service center with the desire of entering and voting, but due to the voter service center being overcrowded has been unable to do so, the voter shall be allowed to vote. No voter shall be permitted to enter or join the line after the prescribed hours of voting specified in this section.”

SECTION 27. Section 11-132, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Election officials shall post in a conspicuous place, before operation of voting service centers or places of deposit, a map designating an area of two hundred feet from the perimeter of any voter service center, place of deposit, and its appurtenances. Any person who remains or loiters within this specified area for the purpose of campaigning shall be guilty of a misdemeanor. For the purposes of this section, a voter service center, place of deposit, and its appurtenances shall include:

- (1) The building in which a voter service center, place of deposit, or its appurtenances are located;
- (2) Any parking lot adjacent to the building and routinely used for parking at that building;
- (3) The routes of access between the building and any parking lot; ~~[and]~~
- (4) Any route of access between any public thoroughfare (right of way) and the voter service center, place of deposit, or its appurtenances, to ensure an open and accessible ingress and egress to and from the voter service center, place of deposit, or appurtenances for voters[-]; and
- (5) Any area at a voter service center, place of deposit, or its appurtenances designated for voters waiting to vote.”

SECTION 28. Section 11-138, Hawaii Revised Statutes, is amended to read as follows:

“§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 the voter refuses to leave when so requested by a majority of [~~precinct~~] voter service center officials after the lapse of five minutes, the voter shall be removed by the [~~precinct~~] voter service center officials.”

SECTION 29. Section 11-153, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The chief election officer or the clerk shall make a list of all [~~districts~~] precincts in which an overage or underage occurred and the amount of the overage or underage. This list shall be filed and kept as a public record in the office of the chief election officer or the clerk in county elections.

An election contest may be brought under part XI, if the overage or underage in any [~~district~~] precinct could affect the outcome of an election.”

SECTION 30. 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 a county election, shall compile, certify, and release the election results by district and precinct after the expiration of the time for bringing an election contest. The certification shall be based on a comparison and reconciliation of the following:

- (1) The results of the canvass of ballots conducted pursuant to chapter 16;
- (2) The audit of [~~pollbooks (and related record books)]~~ records and resultant overage and underage report;
- (3) The audit results of the manual audit team;
- ~~[(4) The results of the absentee ballot reconciliation report compiled by the clerks;~~
- ~~(5)]~~ (4) The results of any mandatory recount of votes conducted pursuant to section 11-158; and
- ~~[(6)]~~ (5) All logs, tally sheets, and other documents generated during the election and in the canvass of the election results.

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; provided that in the event of an overage or underage, a list of all precincts in which an overage or underage occurred shall be attached to the certificate. The number of 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~~] voter service centers 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 31. Section 11-172, Hawaii Revised Statutes, is amended to read as follows:

“§11-172 Contests for cause; generally. With respect to any election, any candidate, or qualified political party directly interested, or any thirty voters of any election district, may file a complaint in the supreme court. The complaint shall set forth any cause or causes, such as but not limited to, provable fraud, overages, or underages, that could cause a difference in the election results. The complaint shall also set forth any reasons for reversing, correcting,

or changing the decisions of the [preinnet] voter service center officials or the officials at a counting center in an election using the electronic voting system. A copy of the complaint shall be delivered to the chief election officer or the clerk in the case of county elections.”

SECTION 32. Section 11-174.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In cases involving general, special general, special, or runoff elections the complaint shall be heard by the supreme court in which the complaint was filed as soon as it reasonably may be heard. On the return day, the court, upon its motion or otherwise, may direct summons to be issued to any person who may be interested in the result of the proceedings.

At the hearing, the court shall cause the evidence to be reduced to writing and shall give judgment, stating all findings of fact and of law. The judgment may invalidate the general, special general, special, or runoff election on the grounds that a correct result cannot be ascertained because of a mistake or fraud on the part of the [preinnet] voter service center officials; or decide that a certain candidate, or certain candidates, received a majority or plurality of votes cast and were elected. If the judgment should be that the general, special general, special, or runoff election was invalid, a certified copy thereof shall be filed with the governor, and the governor shall duly call a new election to be held not later than one hundred twenty days after the judgment is filed. If the court shall decide which candidate or candidates have been elected, a copy of that judgment shall be served on the chief election officer or county clerk, who shall sign and deliver to the candidate or candidates certificates of election, and the same shall be conclusive of the right of the candidate or candidates to the offices.”

SECTION 33. Section 15-2, Hawaii Revised Statutes, is amended to read as follows:

“§15-2 **Who may vote by absentee ballot.** Any person registered to vote may cast an absentee ballot in any election, including an election conducted by mail, in the manner provided in this chapter and rules adopted by the chief election officer.”

SECTION 34. Section 15-2.5, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

“§15-2.5 **Voting by mail in [district] precinct affected by natural disasters.**

(a) If the chief election officer and clerk of a county affected as a result of a natural disaster determine that the opening of a designated voter service center will adversely affect the health and safety of voters or [preinnet] voter service center officials, the chief election officer and county clerk, by written order, may require the registered voters of any [district] precinct to vote by mail as provided in part VIIA of chapter 11.

(b) Within thirty days after the issuance of such an order, the chief election officer and county clerk shall notify all registered voters in the affected [district] precinct of the issuance of the order.”

SECTION 35. Section 15-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If absentee ballots requested under section 15-4 are not received by a voter within five days of an election, if a voter requires a replacement ballot within five days of an election, or if a voter would otherwise not be able to return a properly issued ballot by the close of polls, then a voter may request that absentee ballots be forwarded by electronic transmission; provided that a voter

with special needs, including a disability, may request that a ballot be forwarded by electronic transmission at any time[-], but no earlier than the date that the voter's initial ballot package was or would have been transmitted. Upon receipt of such a request and confirmation that ~~[proper application was made,]~~ the voter has not already voted, the clerk may transmit appropriate ballots, ~~[together with a form requiring the affirmations and]~~ voting information required by section 15-6, and a form containing a waiver of the right to secrecy, as provided by section 11-137. The waiver of the right to secrecy shall not be required if the voted ballot is returned in a signed ballot return identification envelope issued to the voter. The voter may return the voted ballots and executed forms by electronic transmission or mail; provided that they are received by the issuing clerk no later than the ~~[close of polls]~~ closing hour on election day[-] in accordance with section 11-131. Upon receipt, the clerk shall verify compliance with the requirements of section ~~[15-9(e)]~~ 15-9 and prepare the ballots for counting pursuant to section 15-10; provided that if the voter returns multiple voted absentee ballots for the same election, the clerk shall, for purposes of counting ballots, prepare only the first absentee ballot returned that is not spoiled.”

SECTION 36. Section 15-9, Hawaii Revised Statutes, is amended to read as follows:

“§15-9 Return [and], receipt, processing, and treatment of absentee ballots. ~~[(a) The return envelope shall be:~~

- ~~(1) Mailed and must be received by the clerk issuing the absentee ballot no later than the closing hour on election day in accordance with section 11-131; or~~
- ~~(2) Delivered other than by mail to the clerk issuing the absentee ballot, or to a voter service center no later than the closing hour on election day in accordance with section 11-131.~~
- ~~(b) Upon receipt of the return envelope from any person voting under this chapter, the clerk may prepare the ballots for counting pursuant to this section and section 15-10.~~

~~(c) Before 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 adopted 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.~~

~~(d) If any requirement listed in subsection (c) 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.] An absentee ballot shall be returned, received, processed, and treated in the same manner as a return identification envelope in an election by mail as provided by part VIIA of chapter 11.”~~

SECTION 37. Section 15-11, Hawaii Revised Statutes, is amended to read as follows:

“§15-11 Voting by absentee voter at [polls] a voter service center prohibited. Any person having voted an absentee ballot pursuant to this chapter shall not be entitled to cast a ballot at ~~[the polls]~~ a voter service center on election day. An absentee voter who ~~[does cast]~~ casts a ballot at ~~[the polls]~~ a voter service center shall be guilty of an election offense under section 19-3(5).”

SECTION 38. Section 15-13.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§15-13.5**~~]]~~ **Eligibility of voter after absentee ballot cast.** The absentee ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote after casting the ballot. For the purposes of this section, “cast” means that the voter has:

- (1) Deposited the absentee ballot in the mail for ballots mailed in accordance with section 15-9(a)(1);
- (2) Delivered the absentee ballot to the appropriate county clerk or polling place in accordance with section ~~[15-9(a)(2) or (3);]~~ 15-9; or
- (3) Completed voting in person at an absentee polling place.”

SECTION 39. Section 15D-10, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§15D-10**~~]]~~ **Receipt of voted ballot.** A valid military-overseas ballot shall be counted if it is received by the close of the ~~[polls]~~ voter service center on the day of the election and meets the requirements ~~[prescribed under]~~ for absentee ballots pursuant to section 15-9.”

SECTION 40. Section 16-23, Hawaii Revised Statutes, is amended to read as follows:

“**§16-23 Paper ballot; voting.** Upon receiving the ballot the voter shall proceed into one of the voting booths provided for the purpose, and shall mark the voter’s ballot in the manner prescribed by section 16-22.

The voter shall then leave the booth and deliver the ballot to the ~~[precinct]~~ voter service center official in charge of the ballot boxes. The ~~[precinct]~~ voter service center official shall be sufficiently satisfied that there is but one ballot enclosed, whereupon the ballot shall be immediately dropped into the proper box by the ~~[precinct]~~ voter service center official.”

SECTION 41. Section 16-26, Hawaii Revised Statutes, is amended to read as follows:

“**§16-26 Questionable ballots.** A ballot shall be questionable if:

- (1) ~~[A]~~ The ballot contains any mark or symbol whereby it can be identified, or any mark or symbol contrary to the provisions of law; or
- (2) Two or more ballots are found in the ballot box so folded together as to make it clearly evident that more than one ballot was put in by one person, the ballots shall be set aside as provided below.

Each ballot ~~[which]~~ that is held to be questionable shall be endorsed on the back by ~~[the chairperson of precinct officials with the chairperson’s]~~ a voter service center official with the official’s name or initials, and the word “questionable”. All questionable ballots shall be set aside uncounted and disposed of as provided for ballots in section 11-154.”

SECTION 42. Section 16-27, Hawaii Revised Statutes, is amended to read as follows:

“**§16-27 Number of blank and questionable ballots; record of.** In addition to the count of the valid ballots, the ~~[precinct]~~ voter service center officials shall, as to each separate official ballot, also determine and record the number of totally blank ballots and the number of questionable ballots.”

SECTION 43. Section 16-28, Hawaii Revised Statutes, is amended to read as follows:

“§16-28 Declaration of results. When the [preeinet] voter service center officials have ascertained the number of votes given for each candidate they shall make public declaration of the whole number of votes cast, the names of the persons voted for, and the number of votes for each person.”

SECTION 44. Section 19-6, Hawaii Revised Statutes, is amended to read as follows:

“§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 the person’s benefit to any voter to induce the voter 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, destroys, or defaces any election proclamation, poster, notice, [~~list of voters, visual aids, or~~] facsimile ballot, or election signage 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 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 during the period of time starting one hour before voting opens and ending when voting closes 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;
- (8) Any person who opens a return envelope containing:
 - (A) An absentee ballot voted under chapter 15 other than those persons authorized to do so under chapter 15; or

- (B) A ballot voted by mail under part VIIA of chapter 11 other than those persons authorized to do so under part VIIA of chapter 11;
- (9) Any unauthorized person found in possession of any voting machine or keys thereof; ~~and~~
- (10) Any person other than the postal service or the clerk as authorized in section 11-109, who sponsors, establishes, or displays a collection receptacle for the purpose of receiving voted mail ballots or ballot return envelopes in an election; and
- ~~[(40)]~~ (11) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise specified in this chapter.”

SECTION 45. Section 353-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other responsibility or duty prescribed by law for the Hawaii paroling authority, the paroling authority shall:

- (1) Serve as the central paroling authority for the State;
- (2) In selecting individuals for parole, consider for parole all committed persons, except in cases where the penalty of life imprisonment not subject to parole has been imposed, regardless of the nature of the offense committed;
- (3) Determine the time at which parole shall be granted to any eligible individual as that time at which maximum benefits of the correctional institutions to the individual have been reached and the element of risk to the community is minimal;
- (4) Establish rules of operation to determine conditions of parole applicable to any individual granted parole;
- (5) Provide continuing custody, control, and supervision of paroled individuals;
- (6) Revoke or suspend parole and provide for the authorization of return to a correctional institution for any individual who violates parole or any condition of parole when, in the opinion of the Hawaii paroling authority, the violation presents a risk to community safety or a significant deviation from any condition of parole;
- (7) Discharge an individual from parole when supervision is no longer needed;
- (8) Interpret the parole program to the public in order to develop a broad base of public understanding and support; ~~and~~
- (9) Recommend to the legislature sound parole legislation and recommend to the governor sound parole administration[-]; and
- (10) Notify individuals on parole of their eligibility to vote and provide them with information on how to register and vote.”

SECTION 46. Section 11-181, Hawaii Revised Statutes, is repealed.

SECTION 47. As soon as practicable, the office of elections and the county clerks shall make a determination of the optimal number and placement of voter service centers and places of deposit. In making the determination, the office of elections and the county clerks shall consider the following factors:

- (1) Proximity to public transit;
- (2) Access to free parking;
- (3) Traffic patterns;
- (4) Proximity to communities with low rates of vehicle ownership;

- (5) Time and distance that voters must travel to reach a voter service center or place of deposit;
- (6) Proximity to population centers;
- (7) Proximity to geographically isolated populations;
- (8) Proximity to official language minority communities;
- (9) Proximity to low-income communities;
- (10) Proximity to voters having disabilities;
- (11) The need for alternate voting methods for voters with disabilities;
- (12) Proximity to communities with historically low vote by mail usage; and
- (13) Proximity to communities of eligible voters who are not registered.

SECTION 48. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 49. This Act shall take effect upon its approval.

(Approved July 6, 2021.)

Note

1. Edited pursuant to HRS §23G-16.5.