

ACT 226

S.B. NO. 176

A Bill for an Act Relating to Recounts.

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

SECTION 1. The legislature finds that Act 1, Session Laws of Hawaii 2024 (Act 1), changed the criteria for an election outcome to cause an automatic recount by the State or county. The result has been that a very limited number of election races now qualify for an automatic recount. Under Act 1, the required vote difference is the lower number of two benchmarks:

- (1) Less than one hundred votes between the top two candidates; or
- (2) Less than one-quarter of one per cent of the total number of votes cast in that race.

The one-quarter of one per cent of the total number of votes cast benchmark has been the more determinative standard, even though the vote difference between candidates has been less than one hundred votes. In the 2024 primary and general elections, there were three races where the difference was less than one hundred votes but the per cent difference was higher than one-quarter of one per cent of the total number of votes cast.

The legislature further finds that election recounts help to ensure fair and accurate election outcomes and can boost the public's perception of the election process. According to a FairVote analysis of election recounts, the majority of states that require automatic recounts use the standard of a margin of vote difference that is double of Act 1's: one-half of one per cent of the total number of votes in that race.

Accordingly, the purpose of this Act is to allow certain ballots to be included in the initial tabulation and modestly increase the qualifying criteria for an automatic election recount.

SECTION 2. Section 11-108, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Any initial recount provided by law shall include only ballots verified for the purpose of the initial tabulation. ~~[In no event shall a recount of an initial tabulation include ballots the validity of which could not be verified by 6:00 a.m. on the day following an election day.]~~ The initial tabulation shall include any ballots designated by the clerk for inclusion. The initial tabulation shall not include any ballots that the clerk initially determines are deficient under section 11-106 and need additional time to be corrected by the voter, or any ballots the validity of which the clerk could not verify and determines under this section need up to five business days following the election to be validated to include in the final tabulation.”

SECTION 3. Section 11-158, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The chief election officer, or the clerk in the case of a county election, shall conduct a recount of all votes cast for any office or ballot question in any election if the official tabulation of all of the returns for that office or question reveals that the difference in:

- (1) The number of votes cast for a candidate apparently qualified for the general election ballot or elected to office and the number of votes cast for the closest apparently defeated opponent; or
  - (2) The number of votes cast in the affirmative for the ballot question and the number of votes cast in the negative for the ballot question, including when applicable, the tabulation of blank votes,
- is equal to or less than one hundred votes or [~~one-quarter~~] one-half of one per cent of the total number of votes cast for the contest, whichever is lesser.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 25, 2025.)

**Note**

1. So in original.