
A BILL FOR AN ACT

RELATING TO VOTING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In the 2004 presidential election, a record
2 number of voters requested absentee ballots. This trend
3 demonstrates that more voters are finding voting by mail to be
4 an easier option than voting at the polls on election day.

5 Other states, such as Oregon, have used voting by mail as
6 the exclusive method for casting ballots. From their experience
7 with voting by mail, these states have found that:

- 8 (1) Voter participation increases with voting by mail
9 because it is easier for people to vote;
- 10 (2) Voting by mail is cost effective, as there are fewer
11 costs associated with the staffing of polling places;
- 12 (3) Having the ballots for a longer period of time lets
13 voters study their choices and find answers to their
14 questions before casting their votes; and
- 15 (4) Unlike computerized voting, voting by mail continues
16 to have a paper ballot that is verifiable and may be
17 audited.



1 The purpose of this Act is to establish an election by mail
2 program to be utilized as the exclusive means of casting a
3 ballot for a federal, state, and county primary, general, or
4 special election, if authorized by the office of elections.

5 SECTION 2. The Hawaii Revised Statutes is amended by
6 adding a new chapter to be appropriately designated and to read
7 as follows:

8 **"CHAPTER**

9 **ELECTION BY MAIL**

10 **§ -1 Definitions.** As used in this chapter, unless the
11 context clearly requires otherwise:

12 "Ballot" shall have the same meaning as defined in section
13 11-1 used in an election by mail.

14 "Chief election officer" means the individual defined in
15 section 11-1.

16 "Clerk" shall have the same meaning as defined in section
17 11-1.

18 "County" shall have the same meaning as defined in section
19 11-1.

20 "Election" shall have the same meaning as defined in
21 section 11-1.



1 "Election by mail" means an election conducted exclusively
2 by mail.

3 "Voter" shall have the same meaning as defined in section
4 11-1.

5 **§ -2 Election by mail; determination.** (a) An election
6 by mail may be conducted by the chief election officer if the
7 chief election officer, in consultation with the county clerks,
8 determines that conducting an election by mail is economically
9 and administratively feasible.

10 (b) The chief election officer shall provide notice
11 pursuant to section 1-28.5 no later than sixty days before the
12 election, that an election by mail shall be conducted and that
13 no poll will be open on election day. This information shall
14 also be mailed to each voter with the ballot.

15 **§ -3 Procedures for conducting election by mail.** (a)
16 Except as provided in subsections (b) and (c), the county clerk
17 shall mail by nonforwardable mail:

18 (1) An official ballot;

19 (2) A return identification envelope; and

20 (3) A secrecy envelope;

21 to each registered voter between eighteen days and fourteen days
22 before the date of the election.



1 (b) If the county clerk determines that a voter does not
2 receive daily mail service from the United States Postal
3 Service, the county clerk shall mail by nonforwardable mail:

4 (1) An official ballot;

5 (2) A return identification envelope; and

6 (3) A secrecy envelope;

7 to the voter between twenty days and eighteen days before the
8 date of the election.

9 (c) If the voter requests a ballot be mailed outside of
10 the State, the county clerk shall mail by nonforwardable mail:

11 (1) An official ballot;

12 (2) A return identification envelope; and

13 (3) A secrecy envelope;

14 to the voter not sooner than twenty-nine days and not later than
15 days before the election.

16 (d) Upon receipt of a ballot by mail, the voter may:

17 (1) Mark the ballot;

18 (2) Sign the return identification envelope supplied with
19 the ballot; and

20 (3) Comply with the instructions provided with the ballot.

21 The voter may return the marked ballot to the county clerk by
22 the United States Postal Service or by depositing the ballot at



1 any place of deposit designated by the chief election officer or
2 county clerk. All postage for ballots returned by the United
3 States Postal Service shall be provided by the voter.

4 (d) The return identification envelope supplied pursuant to
5 subsection (a), (b) or (c) shall contain a statement to be
6 subscribed to by the voter which affirms the fact that the voter
7 is the person voting, the instruction that the voter's ballot
8 will be valid only if the affirmation statement is signed, and
9 any other information prescribed by the rules promulgated by the
10 chief election officer.

11 **§ -4 Replacement ballots.** (a) In an election by mail,
12 a voter may obtain a replacement ballot. To vote a replacement
13 ballot, the voter shall complete and sign a replacement ballot
14 request form. The request for a replacement ballot may be made
15 by mail, in person, or by other means designated by the chief
16 election officer according to the procedures provided by the
17 rules adopted by the chief election officer pursuant to chapter
18 91.

19 (b) Upon receipt of a request for a replacement ballot,
20 the county clerk or a designee appointed by the clerk shall:

21 (1) Verify the registration of the voter and ensure that
22 another ballot has not been returned to the voter;



- 1 (2) Make a notation on the list of registered voters that
- 2 the voter has requested a replacement ballot;
- 3 (3) Mark the return identification envelope so that it may
- 4 be identified as a replacement ballot; and
- 5 (4) Issue a replacement ballot.

6 **§ -5 Counting of ballots.** (a) In an election by mail,
7 the method of preparing ballots for counting may begin no sooner
8 than the seventh day before the election. In the presence of
9 official observers, counting center employees may start to count
10 the ballots on the day of the election. All handling and
11 counting of the mailed-in ballots shall be according to the
12 procedures provided by the rules adopted by the chief election
13 officer pursuant to chapter 91.

- 14 (b) A mailed ballot shall be counted if:
- 15 (1) It is received by the county clerk not later than the
 - 16 end of the period determined by the chief election
 - 17 officer;
 - 18 (2) It is received in the return identification envelope;
 - 19 (3) The envelope is signed by the voter to whom the ballot
 - 20 is issued; and
 - 21 (4) The signature of the voter is verified pursuant to
 - 22 subsection (c).



1 (c) The county clerk, or a designee appointed by the
2 county clerk, shall verify the signature on the return
3 identification envelope according to the procedures provided by
4 the rules adopted by the chief election officer pursuant to
5 chapter 91.

6 (d) Upon receipt of a voted replacement ballot, the county
7 clerk or a designated appointee shall verify that a completed
8 and signed replacement ballot request form has been received by
9 the county clerk or is included with the voted replacement
10 ballot. If a request form has been completed and signed by the
11 voter and received by the county clerk, the county clerk or a
12 designated appointee shall process the ballot. If the
13 replacement ballot request form is not completed or signed by
14 the voter or not received by the county clerk, the county clerk
15 or a designated appointee shall not process the ballot."

16 SECTION 3. Chapter 15, Hawaii Revised Statutes, is amended
17 by adding a new section to be appropriately designated and to
18 read as follows:

19 "§15- Election by mail. When the election by mail
20 system established pursuant to chapter is to be used in any
21 election, absentee voting under this chapter shall not be
22 permitted."



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

3 1. By amending the definition of "ballot" to read:

4 "Ballot", a ballot, including an absentee ballot, is a
5 written or printed, or partly written and partly printed paper
6 or papers containing the names of persons to be voted for, the
7 office to be filled, and the questions or issues to be voted on.
8 "Ballot" includes a ballot used in an election conducted by
9 mail. A ballot may consist of one or more cards or pieces of
10 paper, or one face of a card or piece of paper, or a portion of
11 the face of a card or piece of paper, depending on the number of
12 offices, candidates to be elected thereto, questions or issues
13 to be voted on, and the voting system in use. It shall also
14 include the face of the mechanical voting machine when arranged
15 with cardboard or other material within the ballot frames,
16 containing the names of the candidates and questions to be voted
17 on."

18 2. By amending the definition of "voting system" to read:

19 "Voting system", the use of paper ballots, electronic
20 ballot cards, voting machines, voting by mail, or any system by
21 which votes are cast and counted."



1 SECTION 5. Section 11-16, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) [~~Any~~] For any election not conducted by mail pursuant
4 to chapter , any qualified person unable for any cause to
5 present oneself in person before the clerk for registration may
6 register to vote by mail, not later than thirty days prior to a
7 primary or general election, through the affidavit on
8 application for voter registration or other form prescribed by
9 the chief election officer. The form shall include a self-
10 subscribing oath for the applicant to swear to the truth of the
11 allegations in the application. An applicant unable to write
12 for reason of illiteracy, blindness, or other physical
13 disability shall have the applicant's mark witnessed by a person
14 who shall sign the affidavit in the space provided. Application
15 forms shall be made available to any qualified person through
16 community groups, political parties, and other groups prescribed
17 by the chief election officer. Application forms shall be made
18 available to any qualified person at the time of that person's
19 driver's license application or renewal through the examiner of
20 drivers."

21 SECTION 6. Section 11-17, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) The clerk, not later than 4:30 p.m. on the sixtieth
2 day after every general election, shall remove the name of any
3 registered voter who did not vote in that general election, and
4 also did not vote in the primary election preceding that general
5 election, and also did not vote in the previous general
6 election, and also did not vote in the primary election
7 preceding that general election, and also did not vote in the
8 regularly scheduled special elections held in conjunction with
9 those primary and general elections, if any, with the exception
10 of:

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

13 (2) Anyone who preregistered pursuant to section 11-12(b).

14 If a person voted, at least once, in any of the above-mentioned
15 elections, the person's name shall remain on the list of
16 registered voters. For this purpose, "vote" means the
17 depositing of the ballot in the ballot box whether the ballot is
18 blank or later rejected for any reason. In the case of voting
19 machines, "vote" means the voter has activated the proper
20 mechanism and fed the vote into the machine. In the case of an
21 election by mail pursuant to chapter , "vote" means the
22 voter has returned the ballot timely to the chief election



1 officer or county clerk by the United States Postal Service or
2 by depositing the ballot at a place designated for ballot
3 deposit by the chief election officer or county clerk."

4 SECTION 7. Section 11-21, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The county clerk may designate a registration clerk,
7 who may be an election official, at any of the polling places or
8 at the place of deposit as designated by the chief election
9 officer or county clerk pursuant to section -3, in the county
10 on the day of the election."

11 SECTION 8. Section 11-91.5, Hawaii Revised Statutes, is
12 amended by amending subsections (a), (b), and (c) to read as
13 follows:

14 "(a) Any federal, state, or county election [~~held other~~
15 ~~than on the date of a regularly scheduled primary or general~~
16 ~~election]~~ may be conducted by mail[-] as provided in
17 chapter .

18 (b) The chief election officer, in consultation with the
19 county clerks, shall determine whether a federal or state
20 election[~~, other than a regularly scheduled primary or general~~
21 ~~election,~~] may be conducted by mail or at polling places.



1 (c) The chief election officer, in consultation with the
2 county clerk, shall determine whether a county election[~~, held~~
3 ~~either than on the date of a regularly scheduled primary or~~
4 ~~general election,~~] may be conducted by mail or at polling
5 places. An election by mail in the county shall be under the
6 supervision of the county clerk."

7 SECTION 9. Section 11-92.3, Hawaii Revised Statutes, is
8 amended by amending its title and subsection (a) to read as
9 follows:

10 "**§11-92.3 Consolidated precincts; natural disasters;**
11 **postponement; [~~absentee voting required,~~] special elections.**

12 (a) In the event of a flood, tsunami, earthquake, volcanic
13 eruption, high wind, or other natural disaster, occurring prior
14 to an election, that makes a precinct inaccessible, the chief
15 election officer or county clerk in the case of county elections
16 may consolidate precincts within a representative district. If
17 the extent of damage caused by any natural disaster is such that
18 the ability of voters, in any precinct, district, or county, to
19 exercise their right to vote is substantially impaired, the
20 chief election officer or county clerk in the case of county
21 elections may [~~require~~]:



1 (1) (A) Require the registered voters of the affected
2 precinct, district, or county to vote by absentee
3 ballot pursuant to section 15-2.5 [~~and may~~
4 postpone]; or

5 (B) Require the registered voters of the affected
6 precinct, district, or county to vote by mail
7 pursuant to chapter ; or

8 (2) Postpone the conducting of an election in the affected
9 precinct, district, or county for no more than twenty-
10 one days; provided that any [~~such~~] postponement shall
11 not affect the conduct of the election, tabulation, or
12 distribution of results for those precincts,
13 districts, or counties not designated for
14 postponement.

15 The chief election officer or county clerk in the case of county
16 elections shall give notice of the consolidation, postponement,
17 or requirement to vote by absentee ballot[~~7~~] or by mail, in the
18 affected [~~county or~~] precinct, county, or district prior to the
19 opening of [~~the precinct~~] each polling place by whatever
20 possible news or broadcast media are available. Precinct
21 officials and workers affected by any consolidation shall not
22 forfeit their pay."



1 SECTION 10. Section 11-184, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§11-184 Election expenses and responsibilities in**
4 **combined state and county elections.** Election expenses in
5 elections involving both state and county offices shall be
6 shared as set forth below:

7 (1) The State shall pay [~~and be responsible~~] for:

8 (A) Precinct officials;

9 (B) Instruction of precinct officials when initiated
10 or approved by the chief election officer;

11 (C) Boards of registration;

12 (D) Polling place costs other than supplies:

13 installation rentals, ballot boxes, voting

14 booths, custodians, telephones, and maintenance;

15 (E) Other equipment such as ballot transport

16 containers;

17 (F) Temporary election employees hired to do strictly
18 state work; and

19 (G) Extraordinary voter registration and voter
20 education costs when approved by the chief
21 election officer.

22 (2) The county shall pay [~~and be responsible~~] for:



- 1 (A) Normal voter registration, voters list
2 maintenance, and all printing connected with
3 voter registration, including printing of the
4 voters list;
- 5 (B) Temporary election employees hired to do strictly
6 county work;
- 7 (C) Maintenance of existing voting machines,
8 including parts, freight, storage, programming,
9 and personnel;
- 10 (D) Maintenance and storage of voting devices and
11 other equipment; and
- 12 (E) Employees assigned to conduct absentee or voting
13 by mail polling place functions.
- 14 (3) The remaining election expenses shall be divided in
15 half between the State and the counties. Each county
16 will pay a proration of expenses as a proportion of
17 the registered voters at the time of the general
18 election. These expenses shall include but not be
19 limited to:
- 20 (A) Polling place supplies;
- 21 (B) All printing, including ballots, but excluding
22 printing connected with voter registration;



1 (C) Temporary election employees not including voting
2 machine programmers doing work for both the State
3 and county;

4 (D) Ballot preparation and packing; and

5 (E) All other costs for which the State or county are
6 not specifically responsible relating to the
7 operation of voting machines, electronic voting
8 systems, and other voting systems except paper
9 ballots to include [~~but not be limited to~~] real
10 property rentals, equipment rentals, personnel,
11 mileage, telephones, supplies, publicity,
12 computer programming, and freight.

13 The responsibility for the above functions shall
14 be determined by the chief election officer where the
15 responsibility for such functions has not been
16 assigned by the legislature.

17 Any future expenses not presently incurred under any voting
18 system now in use or to be used shall be assigned to
19 [~~paragraphs~~] paragraph (1), (2), or (3) [~~above~~] by the chief
20 election officer upon agreement with the clerks or by the
21 legislature."



1 SECTION 11. Section 19-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§19-6 Misdemeanors.** The following persons shall be
4 guilty of a misdemeanor:

- 5 (1) Any person who offers any bribe or makes any promise
6 of gain, or with knowledge of the same permits any
7 person to offer any bribe or make any promise of gain
8 for the person's benefit to any voter to induce the
9 voter to sign a nomination paper, and any person who
10 accepts any bribe or promise of gain of any kind as
11 consideration for signing the same, whether the bribe
12 or promise of gain be offered or accepted before or
13 after the signing;
- 14 (2) Any person who wilfully tears down or destroys or
15 defaces any election proclamation or any poster or
16 notice or list of voters or visual aids or facsimile
17 ballot, issued or posted by authority of law;
- 18 (3) Any person printing or duplicating or causing to be
19 printed or duplicated any ballot, conforming as to the
20 size, weight, shape, thickness, or color to the
21 official ballot so that it could be cast or counted as
22 an official ballot in an election;



- 1 (4) Every person who is disorderly or creates a
2 disturbance whereby any meeting of the precinct
3 officials or the board of registration of voters
4 during an election is disturbed or interfered with; or
5 whereby any person who intends to be lawfully present
6 at any meeting or election is prevented from
7 attending; or who causes any disturbance at any
8 election; and every person assisting or aiding or
9 abetting any disturbance;
- 10 (5) Every person who, either in person or through another,
11 in any manner breaks up or prevents, or endeavors to
12 break up or prevent, the holding of any meeting of the
13 board of registration of voters, or in any manner
14 breaks up or prevents, or endeavors to break up or
15 prevent, the holding of any election;
- 16 (6) Any person, other than those designated by section
17 11-132, who remains or loiters within the area set
18 aside for voting as set forth in section 11-132 during
19 the time appointed for voting;
- 20 (7) Any person, including candidates carrying on any
21 campaign activities within the area described in
22 section 11-132 during the period of time starting one



1 hour before the polling place opens and ending when
2 the polling place closes for the purpose of
3 influencing votes. Campaign activities shall include
4 the following:

5 (A) Any distribution, circulation, carrying, holding,
6 posting, or staking of campaign cards, pamphlets,
7 posters and other literature;

8 (B) The use of public address systems and other
9 public communication media;

10 (C) The use of motor caravans or parades; and

11 (D) The use of entertainment troupes or the free
12 distribution of goods and services;

13 (8) Any person who opens a return envelope containing [an
14 absentee]:

15 (A) An absentee ballot voted under chapter 15 other
16 than those authorized to do so under chapter 15;
17 or

18 (B) A ballot voted under chapter other than those
19 authorized to do so under chapter ;

20 (9) Any unauthorized person found in possession of any
21 voting machine or keys thereof;



1 (10) Every person who wilfully violates or fails to obey
2 any of the provisions of law, punishment for which is
3 not otherwise in this chapter specially provided for."

4 SECTION 12. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$, or so much
6 thereof as may be necessary for fiscal year 2007-2008, and the
7 same sum, or so much thereof as may be necessary for fiscal year
8 2008-2009, for the purpose of implementing and administering the
9 election by mail program.

10 The sums appropriated shall be expended by the department
11 of accounting and general services for the purposes of this Act.

12 SECTION 13. This Act shall take effect on July 1, 2007.

13

14



Report Title:

Elections; Voting by Mail

Description:

Authorizes an election by mail voting system for federal, state, and county elections. Requires elections to be conducted by mail when chief election officer, in consultation with county clerks, determines an election by mail is economically and administratively feasible. Makes appropriations.

