

JAN 17 2007

A BILL FOR AN ACT

RELATING TO ELECTIONS BY MAIL.

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

1 SECTION 1. The purpose of this Act is to enable the office
2 of elections to establish voting by mail for federal, state, and
3 county primary, general, and special elections, and to require
4 that all elections be conducted by mail from the date of the
5 20__ primary election.

6 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
7 by adding a new part to be appropriately designated and to read
8 as follows:

9 **"PART . VOTING BY MAIL**

10 **§11- Elections eligible to be conducted by mail. (a)**

11 All federal, state, and county primary, special primary,
12 general, special general, and special elections shall be
13 conducted by mail as follows:

14 (1) All special primary, special general, and special
15 elections shall be conducted by mail for elections
16 occurring after 20__; and



1 (2) The 20___ primary and general elections and all
2 primary and general elections thereafter shall be
3 conducted by mail.

4 (b) Notwithstanding subsection (a), voting at places of
5 deposit shall be allowed using ballots and ballot boxes that may
6 be necessary and convenient to voters to increase voter
7 participation in the election as provided in this part.

8 **§11- Procedures for conducting elections by mail. (a)**

9 Ballot packages shall include the ballot, a return
10 identification envelope, a secrecy envelope, and instructions
11 and shall be mailed to each voter at the voter's address not
12 sooner than days and no later than days before the
13 date of the election.

14 (b) Notwithstanding the dates of mailing in subsection
15 (a), ballot packages shall be mailed:

16 (1) To voters who live in places that do not receive daily
17 mail service from the United States Postal Service,
18 the mailings shall be made to enable the voter to vote
19 by mail or in person on or before the date of the
20 election; and



1 (2) To voters who request an absentee ballot, the mailing
2 shall be made in accordance with chapter 15 and the
3 rules adopted thereunder; and

4 (3) To new voters who register after the last date of the
5 mailing provided in subsection (a), the mailing shall
6 be made to enable the voter to vote on or before the
7 date of the election.

8 (c) Notwithstanding subsections (a) and (b), ballot
9 packages may be delivered or made available to voters who are
10 unable to receive ballot packages by mail and who request a
11 ballot package be delivered or made available for pick-up by the
12 voter. The delivery and availability shall be made in a manner
13 and using a method as will ensure confidentiality as provided in
14 section 11-14.5. The receipt of the ballot package shall be
15 made to the voter to enable the voter to vote on or before the
16 date of the election.

17 §11- **Public notice of mailing.** Public notice of the
18 date or dates that ballot packages are mailed, delivered, and
19 made available shall be given by the chief election officer and
20 all county election offices when all ballot packages have been
21 mailed, delivered, and made available to voters.



1 **§11- Undeliverable ballot packages.** Ballot packages
2 that are mailed or delivered shall not be forwardable or
3 deliverable beyond the address of the voter as shown in the
4 register established and maintained by the clerk of the
5 respective county pursuant to part II. A ballot package that is
6 determined to be undeliverable by mail or other means to the
7 voter at the address shown in the register because of the death
8 of the voter, refusal of any person living at that address, or
9 because the voter moved and is no longer residing at that
10 address shall be returned to the clerk who initiated the
11 mailing, and as to a voter that has moved, the clerk shall mail,
12 deliver, or make available the ballot package to the voter after
13 the clerk has determined or has been provided the new address of
14 the voter.

15 **§11- Requirements for voting by mail; returning the**
16 **envelope.** (a) Upon receipt of the ballot package, the voter
17 shall comply with the instructions included in the ballot
18 package. The instructions shall include directions on marking
19 the ballot, inserting the marked ballot in the secrecy envelope,
20 inserting the secrecy envelope with the ballot in the return
21 identification envelope, and signing of the return
22 identification envelope before mailing or delivering the return



1 identification envelope containing the secrecy envelope with the
2 marked ballot.

3 (b) The instructions shall include information on election
4 fraud and voter fraud as provided in sections 19-3(5) and
5 19-3.5, and that violation of either section may subject the
6 voter, upon conviction, to imprisonment, fine, or both.

7 (c) Voters shall return the identification envelope
8 containing the secrecy envelope with the marked ballot by mail
9 or by delivery to a place of deposit that is designated by the
10 clerk so that the return identification envelope is received at
11 the office of the clerk or the place of deposit not later than
12 the time stated in section 11-131 on the date of the election.

13 **§11- Replacement ballots.** (a) A voter may obtain a
14 replacement ballot if the ballot is destroyed, spoiled, lost, or
15 not received by the clerk. Replacement ballots shall be
16 provided to a voter who completes and signs a replacement ballot
17 request form. The form of the replacement ballot request shall
18 include information that allows the clerk to verify the
19 registration of the voter and ensure that another ballot has not
20 been returned by the voter.

21 (b) Upon receipt of the replacement ballot request form,
22 the clerk shall verify the registration of the voter and that



1 another ballot has not been returned by the voter, note on the
2 registry of voters that the voter has requested a replacement
3 ballot, mark the return identification envelope as a replacement
4 ballot, and issue the ballot package containing the replacement
5 ballot by mail, by delivery, or by making the ballot package
6 available for pick up by the voter requesting the replacement
7 ballot.

8 (c) Voters requesting a replacement ballot shall return
9 the identification envelope containing the secrecy envelope with
10 the marked replacement ballot by mail or by delivery to a place
11 of deposit that is designated by the clerk so that the return
12 identification envelope is received at the office of clerk or
13 the place of deposit not later than the time stated in section
14 11-131 on the date of the election.

15 **§11- Counting of mail-in ballots.** A mail-in ballot
16 shall be counted only if it is returned in the return
17 identification envelope, the return identification envelope is
18 signed by the voter to whom the ballot is mailed or delivered,
19 the signature on the return identification envelope is verified
20 by the clerk with the signature of the voter shown on the
21 registry of voters, and the return identification envelope is
22 received at the office of the clerk or at the place of deposit



1 not later than the time stated in section 11-131 on the date of
2 the election.

3 Not sooner than the day before the date of the election,
4 the secrecy envelope shall be opened in the preparation of the
5 counting of the ballots on the date of the election, provided
6 that counting of the mail-in ballots shall not commence sooner
7 than o'clock on the date of the election."

8 SECTION 3. Section 11-1, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By adding a new definition to be appropriately inserted
11 and to read:

12 "Place of deposit" means a polling place located within a
13 representative district designated by the clerk for the purpose
14 of voting and receiving return identification envelopes as
15 provided in part _____."

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

17 "'Voting system", the use of paper ballots, electronic
18 ballot cards, voting machines, mail-in ballots, or any system by
19 which votes are cast and counted."

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



1 "**§11-4 Rules** [~~and regulations~~]. The chief election
2 officer may make, amend, and repeal [~~such~~] rules [~~and~~
3 ~~regulations~~] governing elections held under this title, election
4 procedures, and the selection, establishment, use, and operation
5 of all voting systems now in use or to be adopted in the State,
6 and all other similar matters relating thereto as in the chief
7 election officer's judgment shall be necessary to carry out this
8 title.

9 In making, amending, and repealing rules [~~and regulations~~]
10 for voters who cannot vote at the polls in person or receive or
11 return ballots by mail, and all other voters, the chief election
12 officer shall provide for voting by [~~such~~] these persons in
13 [~~such~~] a manner as to insure secrecy of the ballot and to
14 preclude tampering with the ballots of these voters and other
15 election frauds. [~~Such~~] These rules [~~and regulations~~], when
16 adopted in conformity with chapter 91 and upon approval by the
17 governor, shall have the force and effect of law."

18 SECTION 5. Section 11-92.1, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending the title to read:

21 "**§11-92.1 Election proclamation; [~~establishment of a new~~**
22 **~~precinct-~~ precincts.**"



1 2. By amending subsection (a) to read:

2 "(a) The chief election officer shall issue a proclamation
3 ~~[whenever a new precinct is established in any representative~~
4 ~~district.]~~ listing all polling places as places of deposit
5 within representative districts for voters of that
6 representative district to vote or deposit return identification
7 envelopes containing secrecy envelopes with marked ballots. The
8 chief election officer, or the county clerk in a county
9 election, shall provide a suitable polling place for each
10 precinct~~[+]~~ or for one or more precincts within a representative
11 district as the chief election officer or county clerk
12 determines to be necessary and convenient for voters of that
13 representative district to vote or deposit return identification
14 envelopes containing the secrecy envelope with the marked
15 ballot. Schools, recreational halls, park facilities, and other
16 publicly owned or controlled buildings, whenever possible and
17 convenient, shall be used as polling places. The chief election
18 officer shall make arrangements for the rental or erection of
19 suitable shelter for this purpose whenever public buildings are
20 not available and shall cause these polling places to be
21 equipped with the necessary facilities for lighting,
22 ventilation, and equipment needed for elections on any island.



1 This proclamation may be issued jointly with the proclamation
2 required in section 11-91."

3 SECTION 6. Section 11-136, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§11-136 Poll book, identification, voting.** [~~Every~~
6 ~~person]~~ A voter upon applying to vote at a place of deposit
7 shall sign the person's name in the poll book prepared for that
8 purpose. This requirement may be waived by the chairperson of
9 the precinct officials if for reasons of illiteracy or blindness
10 or other physical disability the voter is unable to write.
11 Every person shall provide identification if so requested by a
12 precinct official. A poll book shall not contain the social
13 security number of any person.

14 After signing the poll book and receiving the voter's
15 ballot, the voter shall proceed to the voting booth to vote
16 according to the voting system in use in the [~~voter's precinct.~~]
17 place of deposit of that representative district. The precinct
18 official may, and upon request shall, explain to the voter the
19 mode of voting."

20 SECTION 7. Section 11-91.5, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§11-91.5] Federal, state, and county elections by mail.~~

2 ~~(a) Any federal, state, or county election held other than on~~
3 ~~the date of a regularly scheduled primary or general election~~
4 ~~may be conducted by mail.~~

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

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

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

17 SECTION 8. Section 11-92.3, Hawaii Revised Statutes, is
18 repealed.

19 ~~["§11-92.3 Consolidated precincts; natural disasters;~~
20 ~~postponement; absentee voting required; special elections. (a)~~
21 ~~In the event of a flood, tsunami, earthquake, volcanic eruption,~~
22 ~~high wind, or other natural disaster, occurring prior to an~~



1 ~~election, that makes a precinct inaccessible, the chief election~~
2 ~~officer or county clerk in the case of county elections may~~
3 ~~consolidate precincts within a representative district. If the~~
4 ~~extent of damage caused by any natural disaster is such that the~~
5 ~~ability of voters, in any precinct, district, or county, to~~
6 ~~exercise their right to vote is substantially impaired, the~~
7 ~~chief election officer or county clerk in the case of county~~
8 ~~elections may require the registered voters of the affected~~
9 ~~precinct to vote by absentee ballot pursuant to section 15-2.5~~
10 ~~and may postpone the conducting of an election in the affected~~
11 ~~precinct for no more than twenty one days; provided that any~~
12 ~~such postponement shall not affect the conduct of the election,~~
13 ~~tabulation, or distribution of results for those precincts,~~
14 ~~districts, or counties not designated for postponement. The~~
15 ~~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, in the affected~~
18 ~~county or precinct prior to the opening of the precinct polling~~
19 ~~place by whatever possible news or broadcast media are~~
20 ~~available. Precinct officials and workers affected by any~~
21 ~~consolidation shall not forfeit their pay.~~



1 ~~(b) In the event the chief election officer or the county~~
2 ~~clerk in a county election determines that the number of~~
3 ~~candidates or issues on the ballot in a special, special~~
4 ~~primary, or special general election does not require the full~~
5 ~~number of established precincts, the precincts may be~~
6 ~~consolidated for the purposes of the special, special primary,~~
7 ~~or special general election into a small number of special,~~
8 ~~special primary, or special general election precincts.~~

9 ~~A special, special primary, or special general election~~
10 ~~precinct shall be considered the same as an established precinct~~
11 ~~for all purposes, including precinct official requirements~~
12 ~~provided in section 11-71. Not later than 4:30 p.m. on the~~
13 ~~tenth day prior to the special, special primary, or special~~
14 ~~general election, the chief election officer or the county clerk~~
15 ~~shall give public notice, in the area in which the special,~~
16 ~~special primary, or special general election is to be held, of~~
17 ~~the special, special primary, or special general election~~
18 ~~precincts and their polling places. Notices of the~~
19 ~~consolidation also shall be posted on election day at the~~
20 ~~established precinct polling places, giving the location of the~~
21 ~~special, special primary, or special general election precinct~~
22 ~~polling place."]~~



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

8 SECTION 10. The sum appropriated shall be expended by the
9 department of accounting and general services for the purposes
10 of this Act.

11 SECTION 11. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

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

14

INTRODUCED BY: Clarence K. Iveshikawa



Report Title:

Elections; Voting by Mail

Description:

Establishes an election by mail voting system for state, federal, and county primary, special primary, general, and special elections; creates procedure and process for this method of voting. Makes appropriation.

