

JAN 21 2010

A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. The legislature finds that the current
2 plurality voting method allows a candidate to win an election
3 with less than a majority of votes when there are more than two
4 candidates for the office. In elections with many candidates,
5 the plurality method may result in winners receiving small
6 percentages of votes, as well as the election of candidates who
7 are not the most favored among the voters. For these winners,
8 this may raise concerns about a lack of public support and
9 confidence; it may also undermine the ability of those elected
10 to govern effectively.

11 Instant runoff voting is an election method that allows
12 voters, at their option, to rank candidates as their first
13 choice, second choice, and subsequent choices. If no candidate
14 receives a majority of votes, the candidate with the least
15 number of votes is eliminated and the votes for the eliminated
16 candidate are automatically transferred to those voters' second



1 choice candidate, just as if the votes were cast in a
2 traditional election runoff.

3 Instant runoff voting assures that elected officials have
4 the support of a majority of voters because it allows voters to
5 indicate their preferences among other candidates in addition to
6 their favored candidate. Instant runoff voting allows all
7 voters to vote for their favorite candidate without fear of
8 helping to elect their least favorite candidate.

9 The legislature further finds that instant runoff voting
10 has been used effectively around the world, including in Ireland
11 for presidential elections, Australia and Fiji for parliamentary
12 elections, London's 2000 election for mayor, and three recent
13 San Francisco elections. Oakland, California, Davis,
14 California, Minneapolis, Minnesota, and Pierce County,
15 Washington also recently approved instant runoff voting systems.

16 The legislature further finds that Hawaii voting systems,
17 including optical scanning, can handle instant runoff voting
18 with little or no difficulty.

19 The purpose of this Act is to allow for the instant runoff
20 method of voting for elections in which no primary election is
21 held or in elections that would normally be subject to a runoff
22 election if a candidate was not elected by majority vote in an



1 initial special election; provided that in these instant runoff
2 elections, a majority vote shall be required unless no candidate
3 achieves a majority after the fourth run-off vote, in which case
4 the candidate with the highest vote count wins.

5 SECTION 2. Section 11-1, Hawaii Revised Statutes, is
6 amended by adding two new definitions to be appropriately
7 inserted and to read as follows:

8 "Instant runoff method" a method of casting and tabulating
9 votes that simulates the ballot counts that would occur if all
10 voters participated in a series of runoff elections, whereby the
11 voters are allowed to rank candidates according to their
12 preference and, if no candidate obtains a majority of
13 first-choice votes, votes are transferred in sequential
14 tabulations according to voters' preferences, in the manner set
15 forth in sections 11-A to 11-C. Each voter shall have only one
16 vote for each office but that vote may be transferred according
17 to each voter's indicated preferences in the manner provided by
18 sections 11-A to 11-C.

19 "Majority election contest" means an election contest in
20 which:



- 1 (1) A candidate, by law, must receive a majority of votes
2 cast for the office to be elected outright in the
3 first or initial special election;
- 4 (2) If no candidate receives a majority, a runoff election
5 is held between the two candidates receiving the most
6 votes; and
- 7 (3) The candidate with the highest number of votes in the
8 runoff election is deemed elected."

9 SECTION 3. Chapter 11, Hawaii Revised Statutes, is amended
10 by adding three new sections to part X to be appropriately
11 designated and to read as follows:

12 **"§11-A Instant runoff method; procedure for counting**
13 **votes.** (a) To determine the winners in elections conducted by
14 the instant runoff method, ballots shall be counted initially by
15 the election officials according to the first choice marked on
16 each ballot. If at the end of the initial count, one candidate
17 receives a majority of the votes cast, that candidate shall be
18 declared the winner for that office.

19 (b) If at the end of the initial count, no candidate
20 receives a majority of the first-choice votes cast, the chief
21 election officer shall declare that no candidate has received a
22 majority of first-choice votes and that the candidate with the



1 fewest first-choice votes is defeated, and shall transfer the
2 defeated candidate's first-choice votes to the candidates who
3 received the next highest ranking on each ballot containing
4 votes to be transferred. If after the first round of
5 transferring votes, no candidate has received a majority of
6 votes cast for the office, this process of eliminating
7 candidates, transferring votes, including previously transferred
8 votes, to candidates still in the race, and tabulating results,
9 shall continue until one candidate receives a majority of the
10 votes cast, excluding blank and spoiled votes, or there is only
11 one candidate remaining; provided that if no candidate has
12 received a majority of the votes cast after the fourth round of
13 tabulation, then the candidate with the most first-choice votes
14 following the fourth round of tabulation shall be declared the
15 winner regardless of whether that candidate has received a
16 majority of the votes cast.

17 (c) If at any point a candidate receives a majority of the
18 votes cast, or if there is only one candidate remaining, or if
19 no candidate receives a majority of the votes cast through the
20 fourth round of tabulation and the candidate with the most
21 first-choice votes following the fourth round of tabulation is



1 declared the winner, then a certificate of election declaring
2 the results shall be issued pursuant to section 11-156.

3 §11-B Instant runoff method; generally. (a) The instant
4 runoff method may be accelerated, at the choice of the chief
5 election officer, by eliminating all candidates with fewer than
6 one per cent of the first-choice votes cast for the office.
7 Under this provision, the first-choice vote on ballots cast for
8 eliminated candidates shall be transferred to the candidates who
9 are still in the race, who received the voters' next highest
10 ranking on those ballots.

11 (b) If a ballot has no more available choices ranked on
12 it, the ballot shall be deemed exhausted.

13 (c) If a ballot skips a ranking, the ballot shall be
14 considered exhausted. A ballot that gives two or more
15 candidates the same ranking shall be deemed exhausted when that
16 ranking is reached unless only one of the candidates so ranked
17 is still in the race when the vote is due to be transferred.

18 (d) In the case of a tie between candidates for last
19 place, and thus elimination, occurring at any stage in the
20 tabulation, the tie shall be resolved so as to eliminate the
21 candidate who received the least number of first choices and
22 transferred votes combined at the previous stage of tabulation.

1 In the case of a tie to which a previous stage does not apply,
2 or if the previous stage was also a tie, the tie shall be
3 resolved by drawing lots. However, if the tie occurs when there
4 are only two candidates remaining, the tie shall be resolved as
5 set forth in section 11-157.

6 §11-C Instant runoff voting method; application. (a) The
7 instant runoff method shall be used in all contests for offices
8 in which no primary election is held; provided that,
9 notwithstanding any law or county charter to the contrary, at
10 the discretion of the chief election officer in the case of a
11 state office, or the county clerk in the case of a county
12 office, the instant runoff election method may be used in a
13 majority election contest, which would normally require a first
14 or initial special election, followed by a runoff election if
15 the candidate does not receive a majority in the first or
16 initial special election. If the instant runoff voting method
17 is used, then the election shall only consist of one election,
18 and the subject election shall not include a first or initial
19 special election. If the chief election officer or county
20 clerk, as applicable, elects to use the instant runoff election
21 method in such a case, the chief election officer or county



1 clerk, as applicable, shall include this information in the
2 election proclamation required pursuant to section 11-91.

3 (b) For purposes of this section, the chief election
4 officer shall adopt rules under chapter 91, to provide for the
5 use of mechanical, electronic, or other means devised for
6 marking, sorting, and counting the ballots and tabulating and
7 transferring the votes; provided that no rule may alter the
8 intent or principles embodied in the instant runoff method.

9 (c) Ballots approved under this section shall be simple
10 and easy to understand and shall allow a voter to rank each
11 candidate for an office in order of preference, up to four
12 places. Instructions on the ballot shall include the following
13 statement: "You may mark as many or as few alternate choices as
14 you wish. Marking a second choice cannot help defeat your first
15 choice. Marking a subsequent choice cannot help defeat your
16 higher ranked choices." Sample ballots illustrating voting
17 procedures shall be posted in or near the voting booth and be
18 included in the instruction materials for absentee ballots."

19 SECTION 4. Section 11-112, Hawaii Revised Statutes, is
20 amended to read as follows:

21 **"§11-112 Contents of ballot.** (a) The ballot shall
22 contain the names of the candidates, their party affiliation or



1 nonpartisanship in partisan election contests, the offices for
2 which they are running, and the district in which the election
3 is being held. In multimember races the ballot shall state that
4 the voter shall not vote for more than the number of seats
5 available or the number of candidates listed where such number
6 is less than the seats available.

7 (b) The ballot may include questions concerning proposed
8 state constitutional amendments, proposed county charter
9 amendments, or proposed initiative or referendum issues.

10 (c) At the chief election officer's discretion, the ballot
11 may have a background design imprinted onto it.

12 (d) When the electronic voting system is used, the ballot
13 may have pre-punched codes and printed information which
14 identify the voting districts, precincts, and ballot sets to
15 facilitate the electronic data processing of these ballots.

16 (e) The name of the candidate may be printed with the
17 Hawaiian or English equivalent or nickname, if the candidate so
18 requests in writing at the time the candidate's nomination
19 papers are filed. Candidates' names, including the Hawaiian or
20 English equivalent or nickname, shall be set on one line.

21 (f) The ballot shall bear no word, motto, device, sign, or
22 symbol other than allowed in this title.



1 (g) The ballot may include language necessary to use the
2 instant runoff method pursuant to sections 11-A to 11-C."

3 SECTION 5. Section 11-151, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§11-151 Vote count.** [~~Each~~] Except for contests where the
6 instant runoff method is applied, each contest or question on a
7 ballot shall be counted independently as follows:

8 (1) If the votes cast in a contest or question are equal
9 to or less than the number to be elected or chosen for
10 that contest or question, the votes for that contest
11 or question shall be counted;

12 (2) If the votes cast in a contest or question exceed the
13 number to be elected or chosen for that contest or
14 question, the votes for that contest or question shall
15 not be counted; and

16 (3) If a contest or question requires a majority of the
17 votes for passage, any blank, spoiled, or invalid
18 ballot shall not be tallied for passage or as votes
19 cast except that such ballots shall be counted as
20 votes cast in ratification of a constitutional
21 amendment or a question for a constitutional
22 convention."



1 SECTION 6. Section 11-152, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§11-152 Method of counting.** (a) In an election using
4 the paper ballot voting system, immediately after the close of
5 the polls, the chairperson of the precinct officials shall open
6 the ballot box. The precinct officials at the precinct shall
7 proceed to count the votes as follows:

8 (1) The whole number of ballots shall first be counted to
9 see if their number corresponds with the number of
10 ballots cast as recorded by the precinct officials;

11 (2) If the number of ballots corresponds with the number
12 of persons recorded by the precinct officials as
13 having voted, the precinct officials shall then
14 proceed to count the [~~vote~~] votes cast for each
15 candidate;

16 (3) If there are more ballots or less ballots than the
17 record calls for the precinct officials shall proceed
18 as directed in section 11-153.

19 (b) In those precincts using the electronic voting system,
20 the ballots shall be taken in the sealed ballot boxes to the
21 counting center according to the procedure and schedule
22 promulgated by the chief election officer to promote the



1 security of the ballots. In the presence of official observers,
2 counting center employees may start to count the ballots prior
3 to the closing of the polls provided there shall be no printout
4 by the computer or other disclosure of the number of votes cast
5 for a candidate or on a question prior to the closing of the
6 polls. For the purposes of this section, the closing of the
7 polls is that time identified in section 11-131 as the closing
8 hour of voting.

9 (c) In the instant runoff method of voting, vote counting
10 shall be as provided in section 11-A."

11 SECTION 7. Section 11-155, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§11-155 Certification of results of election.** On receipt
14 of certified tabulations from the election officials concerned,
15 the chief election officer or county clerk in county elections
16 shall compile, certify, and release the election results after
17 the expiration of the time for bringing an election contest.

18 The certification shall be based on a comparison and
19 reconciliation of the following:

20 (1) The results of the canvass of ballots conducted
21 pursuant to chapter 16;



- 1 (2) The audit of pollbooks (and related record books) and
- 2 resultant overage and underage report;
- 3 (3) The audit results of the manual audit team;
- 4 (4) The results of the absentee ballot reconciliation
- 5 report compiled by the clerks; and
- 6 (5) All logs, tally sheets, and other documents generated
- 7 during the election and in the canvass of the election
- 8 results.

9 A certificate of election or a certificate of results declaring
10 the results of the election as of election day shall be issued
11 pursuant to section 11-156; provided that in the event of an
12 overage or underage, a list of all precincts in which an overage
13 or underage occurred shall be attached to the certificate. The
14 number of candidates to be elected receiving the highest number
15 of votes in any election district, except candidates for offices
16 subject to the instant runoff voting method and certified
17 pursuant to section 11-A, shall be declared to be elected.

18 Unless otherwise provided, the term of office shall begin or end
19 as of the close of polls on election day. The position on the
20 question receiving the appropriate majority of the votes cast
21 shall be reflected in a certificate of results issued pursuant
22 to section 11-156."



1 SECTION 8. In codifying the new sections added by section
 2 3 of this Act, the revisor of statutes shall substitute
 3 appropriate section numbers for the letters used in designating
 4 the new sections in this Act.

5 SECTION 9. Statutory material to be repealed is bracketed
 6 and stricken. New statutory material is underscored.

7 SECTION 10. This Act shall take effect upon its approval;
 8 provided that this Act shall not apply to any election held
 9 prior to January 1, 2011; and provided further that, no later
 10 than December 31, 2010, the chief election officer and each
 11 county clerk shall adopt rules under chapter 91, Hawaii Revised
 12 Statutes, to effectuate the purposes of this Act.

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Report Title:

Instant Runoff Voting; Elections

Description:

Provides for instant runoff voting for all elections in which no primary election is held, and authorizes the chief election officer or the county clerk to use the instant runoff voting method in majority elections that would normally require an initial special election or nonpartisan primary.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

