

JAN 28 2009

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 Hawaii Revised Statutes is amended by
2 adding a chapter to be appropriately designated and to read as
3 follows:

4 "CHAPTER

5 ELECTION BY MAIL

6 § -1 **Definitions.** As used in this chapter, unless the
7 context clearly requires otherwise:

8 "Ballot" means a ballot as defined in section 11-1 that is
9 used in an election by mail.

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

12 "Clerk" shall have the same meaning as defined in section
13 11-1.

14 "County" shall have the same meaning as defined in section
15 11-1.

16 "Election" shall have the same meaning as defined in
17 section 11-1, and shall include presidential elections.



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

3 "Mail-in-ballot" means any ballot used by a voter to vote
4 by mail in any election.

5 "Voter" shall have the same meaning as defined in section
6 11-1.

7 **§ -2 Elections to be conducted by mail.** Beginning with
8 the primary election of 2010, all elections shall be conducted
9 by mail. Part VIII of chapter 11, relating to ballots, shall
10 apply to this chapter.

11 **§ -3 Procedures for conducting election by mail.** (a)
12 Except as provided in subsections (b) and (c), the county clerk
13 shall mail by nonforwardable mail:

14 (1) An official ballot;

15 (2) A return identification envelope; and

16 (3) A ballot envelope;

17 to each registered voter sufficiently in advance of the election
18 to allow adequate time for processing the returns by the date of
19 the election.

20 (b) If the county clerk determines that a voter does not
21 receive daily mail service from the United States Postal



1 Service, the county clerk shall mail by forwardable mail to the
2 last known address of the voter:

- 3 (1) An official ballot;
- 4 (2) A return identification envelope; and
- 5 (3) A ballot envelope;

6 sufficiently in advance of the election to allow adequate time
7 for delivery of the ballot and the processing of the returns by
8 the date of the election.

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

- 12 (1) An official ballot;
- 13 (2) A return identification envelope; and
- 14 (3) A ballot envelope;

15 sufficiently in advance of the election to allow adequate time
16 for delivery of the ballot and the processing of the returns by
17 the date of the election.

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

- 19 (1) Mark the ballot;
- 20 (2) Sign the return identification envelope supplied with
21 the ballot; and
- 22 (3) Comply with the instructions provided with the ballot.



1 The voter shall return the marked ballot to the county clerk by
2 the United States Postal Service or by depositing the ballot at
3 any place of deposit designated by the chief election officer or
4 county clerk.

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

12 (f) The mailed distribution and return of ballots in an
13 election by mail shall be at no cost to the voter. The State
14 and the counties shall share in the cost of postage associated
15 with the distribution and return of ballots pursuant to sections
16 11-182, 11-183, and 11-184, if the costs are not covered by the
17 federal government.

18 **§ -4 Replacement ballots.** (a) In an election by mail,
19 a voter may obtain a replacement ballot. To vote by a
20 replacement ballot, the voter shall complete and sign a
21 replacement ballot request form. The request for a replacement



1 ballot may be made by mail, in person, or by other means
2 designated by the chief election officer.

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

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

7 (2) Make a notation on the list of registered voters that
8 the voter has requested a replacement ballot;

9 (3) Mark the return identification envelope so that it may
10 be identified as a replacement ballot; and

11 (4) Issue a replacement ballot.

12 **§ -5 Counting of ballots.** (a) The method of preparing
13 ballots for counting may begin no sooner than the day of the
14 election. In the presence of official observers, counting center
15 employees may begin to count the ballots at any time on the day
16 of the election.

17 (b) A mailed ballot shall be counted if:

18 (1) It is received by the county clerk not later than the
19 end of the period determined by the chief election
20 officer;

21 (2) It is received in the return identification envelope;



1 (3) The envelope is signed by the voter to whom the ballot
2 is issued;

3 (4) The voter is a registered voter who has complied with
4 section 11-15; and

5 (5) The signature of the voter is verified pursuant to
6 subsection (c).

7 (c) The county clerk, or a designee appointed by the
8 county clerk, shall verify the signature on the return
9 identification envelope.

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

20 **§ -6 Rules.** The chief election officer may adopt rules
21 as authorized under section 11-4 for purposes of this chapter."



1 SECTION 2. 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 by mail under
9 chapter . A ballot may consist of one or more cards or pieces
10 of paper, or one face of a card or piece of paper, or a portion
11 of the face of a card or piece of paper, depending on the number
12 of offices, candidates to be elected thereto, questions or
13 issues to be voted on, and the voting system in use. [~~It shall~~
14 ~~also include the face of the mechanical voting machine when~~
15 ~~arranged with cardboard or other material within the ballot~~
16 ~~frames, containing the names of the candidates and questions to~~
17 ~~be voted on.] "~~

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

19 "Voting system", refers to the use of paper
20 ballots [~~,electronic ballot cards, voting machines, or any system~~
21 ~~by which votes are cast and counted.] in an election by mail as
22 provided under chapter ."~~



1 SECTION 3. Section 11-17, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

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

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

16 If a person voted, at least once, in any of the above-mentioned
17 elections, the person's name shall remain on the list of
18 registered voters. For ~~[this purpose]~~ the purpose of this
19 subsection, "vote" means [the depositing of the ballot in the
20 ~~ballot box whether the ballot is blank or later rejected for any~~
21 ~~reason. In the case of voting machines "vote" means the voter~~
22 ~~has activated the proper mechanism and fed the vote into the~~



1 ~~machine.]~~ voting by a mail-in-ballot as defined in section -1
2 and duly processed under chapter ."

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

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

10 SECTION 5. Section 11-91.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~11-91.5~~]~~ **Federal, state, and county elections by**
13 **mail.** (a) Any federal, state, or county election held other
14 than on the date of a regularly scheduled primary or general
15 election ~~[may]~~ shall be conducted by mail.

16 (b) ~~[The chief election officer shall determine whether a~~
17 ~~federal or state election, other than a regularly scheduled~~
18 ~~primary or general election, may be conducted by mail or at~~
19 ~~polling places.~~

20 ~~(c) The county clerk shall determine whether a county~~
21 ~~election, held other than on the date of a regularly scheduled~~
22 ~~primary or general election, may be conducted by mail or at~~



1 ~~polling places.]~~ An election by mail in the county shall be
2 under the supervision of the county clerk.

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

6 SECTION 6. Section 11-184, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§11-184 Election expenses and responsibilities in**
9 **combined state and county elections.** Election expenses in
10 elections involving both state and county offices shall be
11 shared [~~as set forth below:]~~ by the State and the counties as
12 provided in section -3.

13 [~~1~~] ~~The State shall pay and be responsible for:~~

14 (A) ~~Precinct officials;~~

15 (B) ~~Instruction of precinct officials when initiated~~
16 ~~or approved by the chief election officer;~~

17 (C) ~~Boards of registration;~~

18 (D) ~~Polling place costs other than supplies;~~
19 ~~installation rentals, ballot boxes, voting~~
20 ~~booths, custodians, telephones, and maintenance;~~

21 (E) ~~Other equipment such as ballot transport~~
22 ~~containers;~~



- 1 ~~(F) Temporary election employees hired to do strictly~~
- 2 ~~state work, and~~
- 3 ~~(G) Extraordinary voter registration and voter~~
- 4 ~~education costs when approved by the chief~~
- 5 ~~election officer.~~
- 6 ~~(2) The county shall pay and be responsible for:~~
- 7 ~~(A) Normal voter registration, voters list~~
- 8 ~~maintenance, and all printing connected with~~
- 9 ~~voter registration, including printing of the~~
- 10 ~~voters list;~~
- 11 ~~(B) Temporary election employees hired to do strictly~~
- 12 ~~county work;~~
- 13 ~~(C) Maintenance of existing voting machines,~~
- 14 ~~including parts, freight, storage, programming,~~
- 15 ~~and personnel;~~
- 16 ~~(D) Maintenance and storage of voting devices and~~
- 17 ~~other equipment; and~~
- 18 ~~(E) Employees assigned to conduct absentee polling~~
- 19 ~~place functions.~~
- 20 ~~(3) The remaining election expenses shall be divided in~~
- 21 ~~half between the State and the counties. Each county~~
- 22 ~~will pay a proration of expenses as a proportion of~~



1 ~~the registered voters at the time of the general~~
2 ~~election. These expenses shall include but not be~~
3 ~~limited to:~~

- 4 ~~(A) Polling place supplies;~~
- 5 ~~(B) All printing, including ballots, but excluding~~
6 ~~printing connected with voter registration;~~
- 7 ~~(C) Temporary election employees not including voting~~
8 ~~machine programmers doing work for both the State~~
9 ~~and county;~~
- 10 ~~(D) Ballot preparation and packing; and~~
- 11 ~~(E) All other costs for which the State or county are~~
12 ~~not specifically responsible relating to the~~
13 ~~operation of voting machines, electronic voting~~
14 ~~systems, and other voting systems except paper~~
15 ~~ballots to include but not be limited to real~~
16 ~~property rentals, equipment rentals, personnel,~~
17 ~~mileage, telephones, supplies, publicity,~~
18 ~~computer programming, and freight.~~

19 ~~The responsibility for the above functions shall~~
20 ~~be determined by the chief election officer where the~~
21 ~~responsibility for such functions has not been~~
22 ~~assigned by the legislature.~~



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

5 SECTION 7. Section 19-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§19-6 Misdemeanors.** The following persons shall be
8 guilty of a misdemeanor:

9 (1) Any person who offers any bribe or makes any promise
10 of gain, or with knowledge of the same permits any
11 person to offer any bribe or make any promise of gain
12 for the person's benefit to any voter to induce the
13 voter to sign a nomination paper, and any person who
14 accepts any bribe or promise of gain of any kind as
15 consideration for signing the same, whether the bribe
16 or promise of gain be offered or accepted before or
17 after the signing;

18 (2) Any person who wilfully tears down or destroys or
19 defaces any election proclamation or any poster or
20 notice or list of voters or visual aids or facsimile
21 ballot, issued or posted by authority of law;



1 (3) Any person printing or duplicating or causing to be
2 printed, mailed, or duplicated any ballot, conforming
3 as to the size, weight, shape, thickness, or color to
4 the official ballot so that it could be cast or
5 counted as an official ballot in an election;

6 ~~[(4) Every person who is disorderly or creates a~~
7 ~~disturbance whereby any meeting of the precinct~~
8 ~~officials or the board of registration of voters~~
9 ~~during an election is disturbed or interfered with; or~~
10 ~~whereby any person who intends to be lawfully present~~
11 ~~at any meeting or election is prevented from~~
12 ~~attending; or who causes any disturbance at any~~
13 ~~election; and every person assisting or aiding or~~
14 ~~abetting any disturbance;~~

15 ~~(5)]~~ (4) Every person who, either in person or through
16 another, in any manner breaks up or prevents, or
17 endeavors to break up or prevent, the holding of any
18 meeting of the board of registration of voters, or in
19 any manner breaks up or prevents, or endeavors to
20 break up or prevent, the holding of any election;

21 ~~[(6) Any person, other than those designated by section~~
22 ~~11-132, who remains or loiters within the area set~~



1 ~~aside for voting as set forth in section 11-132 during~~
2 ~~the time appointed for voting;~~

3 ~~(7) Any person, including candidates carrying on any~~
4 ~~campaign activities within the area described in~~
5 ~~section 11-132 during the period of time starting one~~
6 ~~hour before the polling place opens and ending when~~
7 ~~the polling place closes for the purpose of~~
8 ~~influencing votes. Campaign activities shall include~~
9 ~~the following:~~

10 ~~(A) Any distribution, circulation, carrying, holding,~~
11 ~~posting, or staking of campaign cards, pamphlets,~~
12 ~~posters and other literature;~~

13 ~~(B) The use of public address systems and other~~
14 ~~public communication media;~~

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

16 ~~(D) The use of entertainment troupes or the free~~
17 ~~distribution of goods and services;~~

18 ~~(8)]~~ (5) Any person who is not the addressee of a mail-in-
19 ballot under chapter , and who opens a return
20 envelope, marks the ballot, signs the return
21 identification envelope, or returns the marked ballot



1 ~~[containing an absentee ballot voted under chapter 15~~
2 ~~other than those authorized to do so under chapter 15;~~
3 ~~(9) Any unauthorized person found in possession of any~~
4 ~~voting machine or keys thereof]; and~~
5 ~~(10)]~~ (6) Every person who wilfully violates or fails to
6 obey any of the provisions of law, punishment for
7 which is not otherwise in this chapter specially
8 provided for."

9 SECTION 8. Section 11-92.2, Hawaii Revised Statutes, is
10 repealed.

11 ~~["**§11-92.2 Multiple polling place sites.** (a) The chief~~
12 ~~election officer may establish multiple polling place sites for~~
13 ~~contiguous precincts, notwithstanding district boundaries, when~~
14 ~~it is convenient and readily accessible for the voters of the~~
15 ~~precincts involved.~~

16 ~~(b) No multiple polling place site shall be established~~
17 ~~later than 4:30 p.m. on the tenth day prior to the close of~~
18 ~~filing for an election."]~~

19 SECTION 9. Section 11-92.3, Hawaii Revised Statutes, is
20 repealed.

21 ~~["**§11-92.3 Consolidated precincts, natural disasters,**~~
22 ~~postponement, absentee voting required, special elections. (a)~~



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



1 available. ~~Precinct officials and workers affected by any~~
2 ~~consolidation shall not forfeit their pay.~~

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

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



1 ~~special, special primary, or special general election precinct~~
2 ~~polling place."]~~

3 SECTION 10. Section 11-93, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§11-93 Voting units. Immediately after the close of~~
6 ~~registration of voters preceding any election, the chief~~
7 ~~election officer shall establish one or more voting units in~~
8 ~~each precinct polling place. All voting units shall be in the~~
9 ~~same precinct polling place. In a precinct having more than one~~
10 ~~voting unit the chief election officer or the officer's~~
11 ~~authorized representative shall designate each unit by a uniform~~
12 ~~identification system. The clerk in preparing the list of~~
13 ~~registered voters shall divide the list, on an alphabetical~~
14 ~~basis, as equal as possible between or among the voting units."]~~

15 SECTION 11. Section 11-120, Hawaii Revised Statutes, is
16 repealed.

17 [~~"§11-120 Distribution of ballots, record. The chief~~
18 ~~election officer or the county clerk in county elections shall~~
19 ~~forward the official ballots, specimen ballots, and other~~
20 ~~materials to the precinct officials of the various precincts.~~
21 ~~They shall be delivered and kept in a secure fashion in~~
22 ~~accordance with rules and regulations promulgated by the chief~~



1 ~~election officer. In no case shall they arrive later than the~~
2 ~~opening of the polls on election day.~~

3 ~~A record of the number of ballots sent to each precinct~~
4 ~~shall be kept by the chief election officer or the clerk."]~~

5 SECTION 12. Part VI of chapter 11, Hawaii Revised
6 Statutes, is repealed.

7 SECTION 13. Part IX of chapter 11, Hawaii Revised
8 Statutes, is repealed.

9 SECTION 14. Chapter 15, Hawaii Revised Statutes, is
10 repealed.

11 SECTION 15. Chapter 16, Hawaii Revised Statutes, is
12 repealed.

13 SECTION 16. The legislative reference bureau shall prepare
14 legislation for the regular session of 2010 to make conforming
15 amendments to this Act by amending all statutory references to
16 "voting machines", "absentee voting", "absentee ballot", or
17 similar terms, to "election by mail" or "mail-in-ballot", as
18 appropriate, as well as to make appropriate clarifying
19 amendments thereto consistent with this Act, and to repeal any
20 statutory cross-references to chapter 15 or chapter 16, Hawaii
21 Revised Statutes, occurring in other places than in chapter 15
22 or 16, Hawaii Revised Statutes.



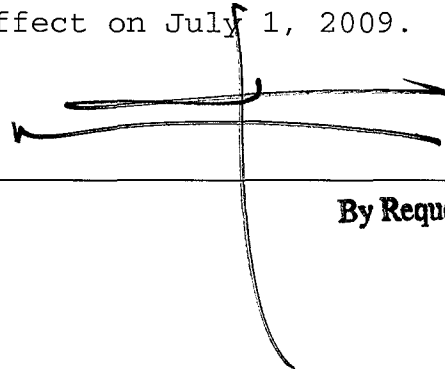
1 SECTION 17. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2009-2010, and
4 the same sum, or so much thereof as may be necessary for fiscal
5 year 2010-2011, for the purpose of implementing and
6 administering the election by mail program.

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

9 SECTION 18. This Act shall take effect on July 1, 2009.

10

INTRODUCED BY: _____

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By Request



Report Title:

Elections; Voting by Mail; Appropriation

Description:

Requires all federal, state, and county elections to be conducted by mail voting system. Makes appropriation.

