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# 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 who received small  
6 percentages of votes or who are not the most favored among the  
7 voters. For these winners, this may raise concerns about a lack  
8 of public support and confidence and may therefore undermine the  
9 ability of those elected to govern effectively.

10           Instant runoff voting is an election method that allows  
11 voters the option to rank candidates as the voter's first,  
12 second, and subsequent choices. Votes are then tabulated so  
13 that if no candidate receives a majority of votes, the candidate  
14 with the least number of votes is eliminated and the votes for  
15 the eliminated candidate are automatically transferred to those  
16 voters' second choice candidate, as if the votes were cast in a  
17 traditional election runoff.



1 Instant runoff voting assures that elected officials have  
2 the support of a majority of voters because it allows voters to  
3 indicate their preferences among more than one candidate.

4 Instant runoff voting allows all voters to vote for their  
5 favorite candidate without fear of helping to elect their least  
6 favorite candidate.

7 The legislature further finds that instant runoff voting  
8 has been used effectively around the world, including in Ireland  
9 for presidential elections, Australia and Fiji for parliamentary  
10 elections, and London's mayoral elections. Instant runoff  
11 voting is used by numerous state and local governments in the  
12 United States including San Francisco, Oakland, and Berkeley,  
13 California and Minneapolis, Minnesota. In 2010, North Carolina  
14 used instant runoff voting for a statewide judicial election as  
15 well as three county-level elections. Additionally, five  
16 cities, Memphis, Tennessee; Portland, Maine; Springfield,  
17 Illinois; St. Paul, Minnesota; and Telluride, Colorado, recently  
18 adopted instant runoff voting for implementation in 2011.

19 Finally, the legislature finds that Hawaii's voting  
20 systems, including optical scanners, can process instant runoff  
21 voting with little or no difficulty.



1           The purpose of this Act is to require the use of the  
2 instant runoff voting method for elections for county office in  
3 which no primary election is held and in special elections that  
4 would normally be subject to a runoff election if a candidate  
5 was not elected by majority vote in the initial special  
6 election.

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

10           "§11-A Instant runoff voting method; procedure for  
11 counting votes. (a) To determine the winners in an election  
12 conducted by the instant runoff voting method, election  
13 officials shall initially count the ballots according to the  
14 first choice marked on each ballot. If at the end of the  
15 initial count, one candidate receives a majority of the votes  
16 cast, that candidate shall be declared the winner for that  
17 office.

18           (b) If at the end of the initial count, no candidate  
19 receives a majority of the first choice votes cast, the county  
20 clerk shall declare that no candidate has received a majority of  
21 first choice votes and that the candidate with the fewest first



1 choice votes and candidates receiving fewer than one per cent of  
2 the first choice votes, if any, are deemed defeated.

3 The county clerk shall transfer the first choice votes for  
4 the defeated candidate or candidates to the candidates who  
5 received the next highest ranking on each ballot containing  
6 first choice votes for the defeated candidate or candidates and  
7 shall count the votes of each remaining candidate as revised by  
8 the transferred votes. If after the first round of transferring  
9 votes no candidate has received a majority of votes cast for the  
10 office, the process of eliminating candidates, transferring  
11 votes, including previously transferred votes, to candidates  
12 still in the race, and tabulating revised results shall continue  
13 until one candidate receives a majority of the votes cast. If  
14 after the fourth round of tabulation no candidate has received a  
15 majority of the votes cast, then the candidate with the most  
16 first choice votes following the fourth round of tabulation  
17 shall be declared the winner, regardless of whether that  
18 candidate has received a majority of the votes cast. Blank and  
19 spoiled votes shall not be tabulated.

20 (c) Once a winner has been declared pursuant to subsection  
21 (b), a certificate of election declaring the results shall be  
22 issued pursuant to section 11-156.



1       §11-B Instant runoff voting method; generally. (a) Once  
2 a ballot in an election using the instant runoff voting method  
3 has no more available choices ranked on it, the ballot shall be  
4 deemed exhausted.

5       (b) If a ballot in an election using the instant runoff  
6 voting method skips a ranked choice, the ballot shall be deemed  
7 exhausted. A ballot that gives two or more candidates the same  
8 ranking shall be deemed exhausted when that ranking is reached  
9 unless only one of the candidates so ranked is still in the race  
10 when the vote is due to be transferred to that ranked choice.

11       (c) If a tie between candidates occurs at any stage in the  
12 tabulation, the tie shall be resolved against the candidate who  
13 received the least number of combined first choice votes and  
14 transferred votes at the previous stage of tabulation. In the  
15 case of a tie to which a previous stage does not apply, or where  
16 the previous stage was also a tie, the tie shall be resolved by  
17 drawing lots. However, if a tie occurs when there are only two  
18 candidates remaining, the tie shall be resolved as set forth in  
19 section 11-157.

20       §11-C Instant runoff voting method; application. (a) The  
21 instant runoff voting method shall be used in all contests for  
22 county office:



- 1        (1) In which no primary election was held; and  
2        (2) In majority election contests for a special election  
3        that would normally require a runoff election if no  
4        candidate receives a majority of the votes cast in the  
5        special election.

6        If the instant runoff voting method is used in a special  
7        election, the special election shall consist of only one  
8        election contest and no subsequent separate runoff election  
9        shall be held.

10       (b) The election proclamation required pursuant to section  
11       11-91 shall state that votes will be cast and tabulated using  
12       the instant runoff voting method and provide an explanation of  
13       the procedures for instant runoff voting.

14       (c) For purposes of this section, the chief election  
15       officer shall adopt rules under chapter 91 to provide for the  
16       use of mechanical, electronic, or other means devised for  
17       marking, sorting, and counting the ballots and tabulating and  
18       transferring the votes in an election using the instant runoff  
19       voting method; provided that no rule shall alter the intent or  
20       principles embodied in the instant runoff voting method  
21       described in this part.



1       (d) Ballots for use in an instant runoff election shall be  
2 simple and easy to understand and shall allow a voter to rank  
3 each candidate for an office in order of preference, up to four  
4 places. Prior to finalization and printing, sample ballots  
5 shall be made available for at least seven days on the  
6 applicable county's elections or comparable website and at the  
7 office of elections for public review and comment.

8       Instructions on the ballot shall include the following  
9 statement: "You may mark as many or as few alternate choices as  
10 you wish. Marking a second choice cannot help defeat your first  
11 choice. Marking a subsequent choice cannot help defeat your  
12 higher-ranked choices."

13       Sample ballots illustrating the procedures for instant  
14 runoff voting shall be posted in or near the voting booth,  
15 included in the instruction materials for absentee ballots, and  
16 posted on the office of elections' website. The office of  
17 elections shall distribute educational materials explaining  
18 instant runoff voting prior to the election."

19       SECTION 3. Section 11-1, Hawaii Revised Statutes, is  
20 amended by adding two new definitions to be appropriately  
21 inserted and to read as follows:



1       "Instant runoff voting method" means a method of casting  
2 and tabulating votes that tabulates a single vote for each voter  
3 but simulates the ballot counts that would occur if all voters  
4 participated in a series of runoff elections, whereby voters are  
5 allowed to rank candidates according to the voter's preference  
6 and, if no candidate obtains a majority of first choice votes,  
7 votes are transferred in sequential tabulations according to  
8 voters' preferences.

9       "Majority election contest" means an election contest in  
10 which a candidate is required by law to receive a majority of  
11 votes cast for the office to be elected outright."

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

14       "**§11-112 Contents of ballot.** (a) The ballot shall  
15 contain the names of the candidates, their party affiliation or  
16 nonpartisanship in partisan election contests, the offices for  
17 which they are running, and the district in which the election  
18 is being held. In multimember races, the ballot shall state  
19 that the voter shall not vote for more than the number of seats  
20 available or the number of candidates listed where [~~such~~] the  
21 number of candidates is less than the number of seats available.





1 (b) The ballot may include questions concerning proposed  
2 state constitutional amendments, proposed county charter  
3 amendments, or proposed initiative or referendum issues.

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

6 (d) When the electronic voting system is used, the ballot  
7 may have pre-punched codes and printed information [~~which~~] that  
8 identify the voting districts, precincts, and ballot sets to  
9 facilitate the electronic data processing of these ballots.

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

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

17 (g) The ballot may include language necessary to use the  
18 instant runoff voting method pursuant to sections 11-A , 11-B,  
19 and 11-C."

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



1           "**§11-151 Vote count.** [~~Each~~] Except for contests where the  
2 instant runoff voting method is used, each contest or question  
3 on a ballot shall be counted independently as follows:

4           (1) If the votes cast in a contest or on a question are  
5 equal to or less than the number to be elected or  
6 chosen for that contest or question, the votes for  
7 that contest or question shall be counted;

8           (2) If the votes cast in a contest or question exceed the  
9 number to be elected or chosen for that contest or  
10 question, the votes for that contest or question shall  
11 not be counted; and

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

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

21           "**§11-152 Method of counting.** (a) In an election using  
22 the paper ballot voting system, immediately after the close of



1 the polls, the chairperson of the precinct officials shall open  
2 the ballot box. The precinct officials at the precinct shall  
3 proceed to count the votes as follows:

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

7 (2) If the number of ballots corresponds with the number  
8 of persons recorded by the precinct officials as  
9 having voted, the precinct officials shall then  
10 proceed to count the [vete] votes cast for each  
11 candidate; and

12 (3) If there are more ballots or [~~less~~] fewer ballots than  
13 the record calls for, the precinct officials shall  
14 proceed as directed in section 11-153.

15 (b) In those precincts using the electronic voting system,  
16 the ballots shall be taken in the sealed ballot boxes to the  
17 counting center according to the procedure and schedule  
18 promulgated by the chief election officer to promote the  
19 security of the ballots. In the presence of official observers,  
20 counting center employees may start to count the ballots prior  
21 to the closing of the polls; provided that there shall be no  
22 printout by the computer or other disclosure of the number of



1 votes cast for a candidate or on a question prior to the closing  
2 of the polls. For the purposes of this section, the closing of  
3 the polls is that time identified in section 11-131 as the  
4 closing hour of voting.

5 (c) In an election that uses the instant runoff voting  
6 method, votes shall be counted as provided in sections 11-A and  
7 11-B."

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

10 "**§11-155 Certification of results of election.** On receipt  
11 of certified tabulations from the election officials concerned,  
12 the chief election officer in state elections or county clerk in  
13 county elections shall compile, certify, and release the  
14 election results after the expiration of the time for bringing  
15 an election contest. The certification shall be based on a  
16 comparison and reconciliation of the following:

- 17 (1) The results of the canvass of ballots conducted  
18 pursuant to chapter 16;
- 19 (2) The audit of pollbooks [(-)]and related record books[(-)]  
20 and resultant overage and underage report;
- 21 (3) The audit results of the manual audit team;



- 1 (4) The results of the absentee ballot reconciliation  
2 report compiled by the clerks; and  
3 (5) All logs, tally sheets, and other documents generated  
4 during the election and in the canvass of the election  
5 results.

6 A certificate of election or a certificate of results declaring  
7 the results of the election as of election day shall be issued  
8 pursuant to section 11-156; provided that in the event of an  
9 overage or underage, a list of all precincts in which an overage  
10 or underage occurred shall be attached to the certificate. The  
11 number of candidates to be elected receiving the [~~highest~~]  
12 greatest number of votes in any election district shall be  
13 declared to be elected[-]; provided that candidates for office  
14 subject to the instant runoff voting method shall be declared to  
15 be elected pursuant to section 11-A. Unless otherwise provided,  
16 the term of office shall begin or end as of the close of polls  
17 on election day. The position on the question receiving the  
18 appropriate majority of the votes cast shall be reflected in a  
19 certificate of results issued pursuant to section 11-156."

20 SECTION 8. In codifying the new sections added by section  
21 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 SECTION 9. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect on January 7, 2059;  
6 provided that this Act shall not apply to any election held  
7 prior to January 1, 2059; and provided further that, no later  
8 than December 31, 2058, the chief election officer and each  
9 county clerk shall adopt rules pursuant to chapter 91, Hawaii  
10 Revised Statutes, to effectuate the purposes of this Act.

11



**Report Title:**

Instant Runoff Voting; Elections

**Description:**

Provides for instant runoff voting for all elections in which no primary election is held; authorizes the chief election officer or the county clerk to use the instant runoff voting method in special elections that would normally require a separate runoff election if no candidate received a majority of votes.  
Effective January 7, 2059. (SD1)

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

