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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  
22 choice votes and candidates receiving fewer than one per cent of



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

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

20 **§11-B Instant runoff voting method; generally.** (a) Once  
21 a ballot in an election using the instant runoff voting method



1 has no more available choices ranked on it, the ballot shall be  
2 deemed exhausted.

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

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

18 **§11-C Instant runoff voting method; application.** (a) The  
19 instant runoff voting method shall be used in all contests for  
20 county office:

21 (1) In which no primary election was held; and



1       (2) In majority election contests for a special election  
2       that would normally require a runoff election if no  
3       candidate receives a majority of the votes cast in the  
4       special election.

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

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

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

21      (d) Ballots approved under this section shall be simple  
22      and easy to understand and shall allow a voter to rank each



1 candidate for an office in order of preference, up to four  
2 places. Prior to finalization and printing, sample ballots  
3 shall be made available for at least seven days on the  
4 applicable office of elections' website and at the office of  
5 elections for public review and comment.

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

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

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

20 "Instant runoff voting method" means a method of casting  
21 and tabulating votes that tabulates a single vote for each voter  
22 but simulates the ballot counts that would occur if all voters



1 participated in a series of runoff elections, whereby voters are  
2 allowed to rank candidates according to the voter's preference  
3 and, if no candidate obtains a majority of first choice votes,  
4 votes are transferred in sequential tabulations according to  
5 voters' preferences.

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

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

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

19 (b) The ballot may include questions concerning proposed  
20 state constitutional amendments, proposed county charter  
21 amendments, or proposed initiative or referendum issues.





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

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

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

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

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

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

18 "**§11-151 Vote count.** [~~Eaeh~~] Except for contests where the  
19 instant runoff voting method is used, each contest or question  
20 on a ballot shall be counted independently as follows:

21 (1) If the votes cast in a contest or question are equal  
22 to or less than the number to be elected or chosen for



1           that contest or question, the votes for that contest  
2           or question shall be counted;

3           (2) If the votes cast in a contest or question exceed the  
4           number to be elected or chosen for that contest or  
5           question, the votes for that contest or question shall  
6           not be counted; and

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

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

16          "**§11-152 Method of counting.** (a) In an election using  
17          the paper ballot voting system, immediately after the close of  
18          the polls, the chairperson of the precinct officials shall open  
19          the ballot box. The precinct officials at the precinct shall  
20          proceed to count the votes as follows:



- 1           (1) The whole number of ballots shall first be counted to  
2           see if their number corresponds with the number of  
3           ballots cast as recorded by the precinct officials;
- 4           (2) If the number of ballots corresponds with the number  
5           of persons recorded by the precinct officials as  
6           having voted, the precinct officials shall then  
7           proceed to count the vote cast for each candidate; and
- 8           (3) If there are more ballots or less ballots than the  
9           record calls for the precinct officials shall proceed  
10          as directed in section 11-153.
- 11          (b) In those precincts using the electronic voting system,  
12          the ballots shall be taken in the sealed ballot boxes to the  
13          counting center according to the procedure and schedule  
14          promulgated by the chief election officer to promote the  
15          security of the ballots. In the presence of official observers,  
16          counting center employees may start to count the ballots prior  
17          to the closing of the polls; provided that there shall be no  
18          printout by the computer or other disclosure of the number of  
19          votes cast for a candidate or on a question prior to the closing  
20          of the polls. For the purposes of this section, the closing of  
21          the polls is that time identified in section 11-131 as the  
22          closing hour of voting.



1        (c) In an election that uses the instant runoff voting  
2 method, votes shall be counted as provided in section 11-A."

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

5        "**§11-155 Certification of results of election.** On receipt  
6 of certified tabulations from the election officials concerned,  
7 the chief election officer in state elections or county clerk in  
8 county elections shall compile, certify, and release the  
9 election results after the expiration of the time for bringing  
10 an election contest. The certification shall be based on a  
11 comparison and reconciliation of the following:

- 12        (1) The results of the canvass of ballots conducted  
13            pursuant to chapter 16;
- 14        (2) The audit of pollbooks [←]and related record books[→]  
15            and resultant overage and underage report;
- 16        (3) The audit results of the manual audit team;
- 17        (4) The results of the absentee ballot reconciliation  
18            report compiled by the clerks; and
- 19        (5) All logs, tally sheets, and other documents generated  
20            during the election and in the canvass of the election  
21            results.



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

15 SECTION 8. In codifying the new sections added by section  
16 2 of this Act, the revisor of statutes shall substitute  
17 appropriate section numbers for the letters used in designating  
18 the new sections in this Act.

19 SECTION 9. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 10. This Act shall take effect on January 7, 2059;  
22 provided that this Act shall not apply to any election held



1 prior to January 1, 2059; and provided further that, no later  
2 than December 31, 2058, the chief election officer and each  
3 county clerk shall adopt rules pursuant to chapter 91, Hawaii  
4 Revised Statutes, to effectuate the purposes of this Act.



**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. (HB638 HD1)

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

