
A BILL FOR AN ACT

RELATING TO VOTING.

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

1 SECTION 1. It is important to increase the number of
2 people who vote in Hawaii's primary election because the primary
3 election sets the stage for the general election. In Hawaii,
4 voter turnout for primary elections has hovered around forty per
5 cent for the last decade. The low turnout is due, in part, to
6 the primary being held on a Saturday, a day that often provides
7 time for important family recreation, as well as time to
8 accomplish various household, family, and personal
9 responsibilities.

10 For the past eighteen years, Hawaii voters are increasingly
11 voting prior to primary election Saturday by mail-in or walk-in
12 absentee ballots. In 1992, nine per cent of the votes cast were
13 absentee ballots. That number has increased with every
14 subsequent primary election, and recently reached forty-four per
15 cent in the 2010 primary election.

16 The purpose of this Act is to establish an election by mail
17 program to be utilized as the principal means of casting a



1 ballot for a federal, state, and county primary or special
2 primary election.

3 SECTION 2. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 "CHAPTER

7 ELECTION BY MAIL

8 § -1 Definitions. As used in this chapter, unless the
9 context clearly requires otherwise:

10 "Ballot" shall have the same meaning as defined in section
11 11-1.

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

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

16 "County" shall have the same meaning as defined in section
17 11-1.

18 "Election" shall have the same meaning as defined in
19 section 11-1.

20 "Election by mail" means an election conducted principally
21 by mail.



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1 "Voter" shall have the same meaning as defined in section
2 11-1.

3 § -2 Elections eligible to be conducted by mail. (a)

4 All federal, state, and county primary and special primary
5 elections shall be conducted by mail.

6 (b) Notwithstanding subsection (a), the chief election
7 officer shall select not less than one precinct on each island
8 to be open on primary election day to provide walk-in voting and
9 to receive ballots.

10 § -3 Procedures for conducting election by mail. (a)

11 Ballot packages shall include:

- 12 (1) An official ballot;
- 13 (2) A pre-paid postage return identification envelope;
- 14 (3) A secrecy envelope; and
- 15 (4) Instructions

16 (b) Except as provided in subsections (c), (d), and (e)
17 the county clerk shall mail by nonforwardable mail a ballot
18 package to each registered voter between eighteen days and
19 fourteen days before the date of the election.

20 (c) If the county clerk determines that a voter does not
21 receive daily mail service from the United States Postal
22 Service, the county clerk shall mail by nonforwardable mail a



1 ballot package to the voter between twenty days and eighteen
2 days before the date of the election.

3 (d) If the voter requests that a ballot package be mailed
4 outside of the State, the county clerk shall mail by
5 nonforwardable mail a ballot package to the voter not later than
6 the twenty-ninth day before the election.

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

17 (f) Upon receipt of a ballot package by mail or pick-up,
18 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 may return the marked ballot to the county clerk by
2 the United States Postal Service or by depositing the ballot at
3 any precinct designated by the chief election officer or county
4 clerk no later than the time stated in section 11-131 on the
5 date of the election.

6 § -4 Instructions. (a) The instructions shall include
7 directions on marking the ballot, inserting the marked ballot in
8 the secrecy envelope, inserting the secrecy envelope with the
9 ballot in the return identification envelope, and signing of the
10 return identification envelope before mailing or delivering the
11 return identification envelope containing the secrecy envelope
12 with the marked ballot.

13 (b) The instructions shall include information on election
14 fraud and voter fraud as provided in sections 19-3(5) and 19-
15 3.5, and state that violation of either section may subject the
16 voter, upon conviction, to imprisonment, fine, or both.

17 § -5 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 § -6 Replacement ballots. (a) In an election by mail,
2 a voter may obtain a replacement ballot if the ballot is
3 destroyed, spoiled, lost, or not received by the clerk. To vote
4 a replacement ballot, the voter shall complete and sign a
5 replacement ballot request form. The request for a replacement
6 ballot may be made by mail, in person, or by other means
7 designated by the chief election officer according to the rules
8 adopted by the chief election officer pursuant to chapter 91.

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

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

13 (2) Note on the list of registered voters that the voter
14 has requested a replacement ballot;

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

17 (4) Issue a replacement ballot.

18 § -7 Counting of ballots. (a) In an election by mail,
19 the method of preparing ballots for counting may begin no sooner
20 than the seventh day before the election. In the presence of
21 official observers, counting center employees may start to count
22 the ballots on the day of the election. All handling and



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1 counting of the mailed-in ballots shall be according to the
2 procedures provided by the rules adopted by the chief election
3 officer pursuant to chapter 91.

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

5 (1) It is received by the county clerk not later than the
6 end of the period determined by the chief election
7 officer;

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

9 (3) The envelope is signed by the voter to whom the ballot
10 is issued; and

11 (4) The signature of the voter is verified pursuant to
12 subsection (c).

13 (c) The county clerk, or a designee appointed by the
14 county clerk, shall verify the signature on the return
15 identification envelope according to the procedures provided by
16 the rules adopted by the chief election officer pursuant to
17 chapter 91.

18 (d) Upon receipt of a voted replacement ballot, the county
19 clerk or a designated appointee shall verify that a completed
20 and signed replacement ballot request form has been received by
21 the county clerk or is included with the voted replacement
22 ballot. If a request form has been completed and signed by the



1 voter and received by the county clerk, the county clerk or a
2 designated appointee shall process the ballot. If the
3 replacement ballot request form is not completed or signed by
4 the voter or not received by the county clerk, the county clerk
5 or a designated appointee shall not process the ballot."

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

8 1. By amending the definition of "ballot" to read:

9 "Ballot", a ballot, including an absentee ballot, is a
10 written or printed, or partly written and partly printed paper
11 or papers containing the names of persons to be voted for, the
12 office to be filled, and the questions or issues to be voted on.
13 "Ballot" includes a ballot used in an election conducted by
14 mail. A ballot may consist of one or more cards or pieces of
15 paper, or one face of a card or piece of paper, or a portion of
16 the face of a card or piece of paper, depending on the number of
17 offices, candidates to be elected thereto, questions or issues
18 to be voted on, and the voting system in use. It shall also
19 include the face of the mechanical voting machine when arranged
20 with cardboard or other material within the ballot frames,
21 containing the names of the candidates and questions to be voted
22 on."



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

2 "\"Voting system\", the use of paper ballots, electronic
3 ballot cards, voting machines, voting by mail, or any system by
4 which votes are cast and counted."

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

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

15 In making, amending, and repealing rules [~~and regulations~~]
16 for voters who cannot vote at the polls in person or receive or
17 return ballots by mail, and all other voters, the chief election
18 officer shall provide for voting by [~~such~~] these persons in
19 [~~such~~] a manner [~~as~~] to insure secrecy of the ballot and to
20 preclude tampering with the ballots of these voters and other
21 election frauds. [~~Such~~] These rules [~~and regulations~~], when



1 adopted in conformity with chapter 91 and upon approval by the
2 governor, shall have the force and effect of law."

3 SECTION 5. Section 11-17, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

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

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

18 If a person voted, at least once, in any of the above-mentioned
19 elections, the person's name shall remain on the list of
20 registered voters. For this purpose, "vote" means the
21 depositing of the ballot in the ballot box whether the ballot is
22 blank or later rejected for any reason. In the case of voting



1 machines, "vote" means the voter has activated the proper
2 mechanism and fed the vote into the machine. In the case of an
3 election by mail pursuant to chapter , "vote" means the
4 voter has returned the ballot to the chief election officer or
5 county clerk by the United States Postal Service or by
6 depositing the ballot at a precinct designated for ballot
7 deposit by the chief election officer or county clerk."

8 SECTION 6. Section 11-91.5, Hawaii Revised Statutes, is
9 amended by amending subsections (a), (b), and (c) to read as
10 follows:

11 "(a) Any federal, state, or county election held other
12 than on the date of a regularly scheduled [~~primary or~~] general
13 election may be conducted by mail[-]; provided that all federal,
14 state, and county primary and special primary elections shall be
15 conducted by mail, as provided in chapter .

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 SECTION 7. Section 11-92.1, Hawaii Revised Statutes, is
4 amended by amending the title and subsection (a) to read as
5 follows:

6 "§11-92.1 Election proclamation; [~~establishment of a new~~
7 ~~precinct.~~] precincts. (a) The chief election officer shall
8 issue a proclamation whenever a new precinct is established in
9 any representative district. The chief election officer, or the
10 county clerk in a county election, shall provide a suitable
11 polling place for each precinct[-] in a general election, and
12 for not less one precinct on each island in a primary election.
13 Schools, recreational halls, park facilities, and other publicly
14 owned or controlled buildings, whenever possible and convenient,
15 shall be used as polling places. The chief election officer, or
16 the county clerk in a county election, shall make arrangements
17 for the rental or erection of suitable shelter for this purpose
18 whenever public buildings are not available and shall cause
19 these polling places to be equipped with the necessary
20 facilities for lighting, ventilation, and equipment needed for
21 elections on any island. This proclamation may be issued
22 jointly with the proclamation required in section 11-91."



1 SECTION 8. Section 11-92.3, Hawaii Revised Statutes, is
2 amended by amending the title and subsection (a) to read as
3 follows:

4 "§11-92.3 Consolidated or alternate precincts; natural
5 disasters; postponement; [~~absentee voting required;~~] special
6 elections. (a) In the event of a flood, tsunami, earthquake,
7 volcanic eruption, high wind, or other natural disaster,
8 occurring prior to an election, that makes a precinct
9 inaccessible, the chief election officer or county clerk in the
10 case of county elections may consolidate precincts or provide an
11 alternate precinct within a representative district. If the
12 extent of damage caused by any natural disaster is such that the
13 ability of voters, in any precinct, district, or county, to
14 exercise their right to vote is substantially impaired, the
15 chief election officer or county clerk in the case of county
16 elections may [~~require the~~]:

17 (1) Require:

18 (A) The registered voters of the affected precinct,
19 district, or county to vote by absentee ballot
20 pursuant to section 15-2 [~~and may postpone~~]; or



1 (B) The registered voters of the affected precinct,
 2 district, or county to vote by mail pursuant to
 3 chapter ; and

4 (2) Postpone the conducting of an election in the affected
 5 precinct, district, or county for no more than twenty-
 6 one days; provided that any [~~such~~] postponement shall
 7 not affect the conduct of the election, tabulation, or
 8 distribution of results for those precincts,
 9 districts, or counties not designated for
 10 postponement.

11 The chief election officer or county clerk in the case of county
 12 elections shall give notice of the consolidation, postponement,
 13 or requirement to vote by absentee ballot[~~7~~] or by mail, in the
 14 affected [~~county or~~] precinct, county, or district prior to the
 15 opening of [~~the precinct~~] each polling place by whatever
 16 possible news or broadcast media are available. Precinct
 17 officials and workers affected by any consolidation shall not
 18 forfeit their pay."

19 SECTION 9. Section 11-184, Hawaii Revised Statutes, is
 20 amended to read as follows:

21 "**§11-184 Election expenses and responsibilities in**
 22 **combined state and county elections. Election expenses in**



1 elections involving both state and county offices shall be
2 shared as set forth below:

3 (1) The State shall pay and be responsible for:

4 (A) Precinct officials;

5 (B) Instruction of precinct officials when initiated
6 or approved by the chief election officer;

7 (C) Boards of registration;

8 (D) Polling place costs other than supplies:

9 installation rentals, ballot boxes, voting

10 booths, custodians, telephones, and maintenance;

11 (E) Other equipment such as ballot transport
12 containers;

13 (F) Temporary election employees hired to do strictly
14 state work; and

15 (G) Extraordinary voter registration and voter
16 education costs when approved by the chief
17 election officer.

18 (2) The county shall pay and be responsible for:

19 (A) Normal voter registration, voters list

20 maintenance, and all printing connected with

21 voter registration, including printing of the

22 voters list;



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1 (B) Temporary election employees hired to do strictly
2 county work;

3 (C) Maintenance of existing voting machines,
4 including parts, freight, storage, programming,
5 and personnel;

6 (D) Maintenance and storage of voting devices and
7 other equipment; and

8 (E) Employees assigned to conduct absentee or voting
9 by mail polling place functions.

10 (3) The remaining election expenses shall be divided in
11 half between the State and the counties. Each county
12 will pay a proration of expenses as a proportion of
13 the registered voters at the time of the general
14 election. These expenses shall include but not be
15 limited to:

16 (A) Polling place supplies;

17 (B) All printing, including ballots, but excluding
18 printing connected with voter registration;

19 (C) Temporary election employees not including voting
20 machine programmers doing work for both the State
21 and county;

22 (D) Ballot preparation and packing; and



1 (E) All other costs for which the State or county are
2 not specifically responsible relating to the
3 operation of voting machines, electronic voting
4 systems, and other voting systems except paper
5 ballots to include but not be limited to real
6 property rentals, equipment rentals, personnel,
7 mileage, telephones, supplies, publicity,
8 computer programming, and freight.

9 The responsibility for the above functions shall
10 be determined by the chief election officer where the
11 responsibility for such functions has not been
12 assigned by the legislature.

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

18 SECTION 10. Section 19-6, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§19-6 Misdemeanors. The following persons shall be
21 guilty of a misdemeanor:

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- 1 (1) Any person who offers any bribe or makes any promise
2 of gain, or with knowledge of the same permits any
3 person to offer any bribe or make any promise of gain
4 for the person's benefit to any voter to induce the
5 voter to sign a nomination paper, and any person who
6 accepts any bribe or promise of gain of any kind as
7 consideration for signing the same, whether the bribe
8 or promise of gain be offered or accepted before or
9 after the signing;

- 10 (2) Any person who wilfully tears down or destroys or
11 defaces any election proclamation or any poster or
12 notice or list of voters or visual aids or facsimile
13 ballot, issued or posted by authority of law;

- 14 (3) Any person printing or duplicating or causing to be
15 printed or duplicated any ballot, conforming as to the
16 size, weight, shape, thickness, or color to the
17 official ballot so that it could be cast or counted as
18 an official ballot in an election;

- 19 (4) Every person who is disorderly or creates a
20 disturbance whereby any meeting of the precinct
21 officials or the board of registration of voters
22 during an election is disturbed or interfered with; or



1 whereby any person who intends to be lawfully present
2 at any meeting or election is prevented from
3 attending; or who causes any disturbance at any
4 election; and every person assisting or aiding or
5 abetting any disturbance;

6 (5) Every person who, either in person or through another,
7 in any manner breaks up or prevents, or endeavors to
8 break up or prevent, the holding of any meeting of the
9 board of registration of voters, or in any manner
10 breaks up or prevents, or endeavors to break up or
11 prevent, the holding of any election;

12 (6) Any person, other than those designated by section
13 11-132, who remains or loiters within the area set
14 aside for voting as set forth in section 11-132 during
15 the time appointed for voting;

16 (7) Any person, including candidates carrying on any
17 campaign activities within the area described in
18 section 11-132 during the period of time starting one
19 hour before the polling place opens and ending when
20 the polling place closes for the purpose of
21 influencing votes. Campaign activities shall include
22 the following:



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1 (A) Any distribution, circulation, carrying, holding,
2 posting, or staking of campaign cards, pamphlets,
3 posters and other literature;

4 (B) The use of public address systems and other
5 public communication media;

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

7 (D) The use of entertainment troupes or the free
8 distribution of goods and services;

9 (8) Any person who opens a return envelope containing [an
10 absentee]:

11 (A) An absentee ballot voted under chapter 15 other
12 than those authorized to do so under chapter 15;

13 or

14 (B) A ballot voted under chapter _____ other than those
15 authorized to do so under chapter _____ ;

16 (9) Any unauthorized person found in possession of any
17 voting machine or keys thereof; and

18 (10) Every person who wilfully violates or fails to obey
19 any of the provisions of law, punishment for which is
20 not otherwise in this chapter specially provided for."

21 SECTION 11. There is appropriated out of the general
22 revenues of the State of Hawaii the sum of \$ _____ , or so much



1 thereof as may be necessary for fiscal year 2011-2012, and the
2 same sum, or so much thereof as may be necessary for fiscal year
3 2012-2013, for the purpose of implementing and administering the
4 election by mail program.

5 The sums appropriated shall be expended by the office of
6 elections for the purposes of this Act.


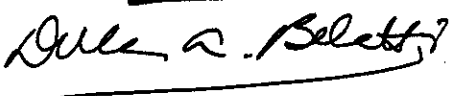



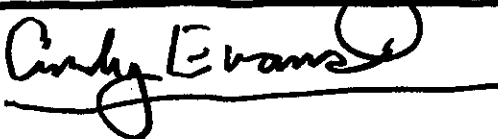
7 SECTION 12. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

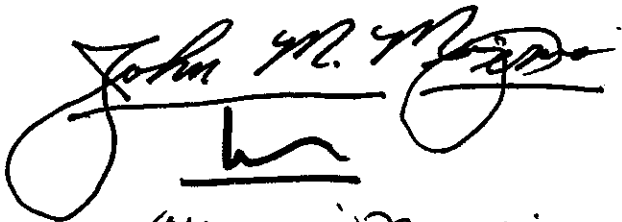


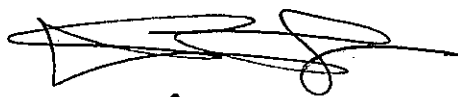




9 SECTION 13. This Act shall take effect on July 1, 2011.

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INTRODUCED BY:





Report Title:

Elections; Voting by Mail

Description:

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

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

