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# 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 have  
11 increasingly voted prior to primary election Saturday by mail-in  
12 or walk-in absentee ballots. In 1992, nine per cent of the  
13 votes cast were absentee ballots. That number has increased  
14 with every subsequent primary election, and recently reached  
15 forty-four per cent in the 2010 primary election.

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



1 for a federal, state, and county primary or special primary  
2 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 Definition. For the purposes of this chapter  
9 "Election by mail" means an election conducted principally by  
10 mail.

11 § -2 Elections eligible to be conducted by mail. (a)  
12 All federal, state, and county primary and special primary  
13 elections shall be conducted by mail.

14 (b) Notwithstanding subsection (a), the chief election  
15 officer shall select not less than one location in each  
16 representative district to be open on primary election day to  
17 provide walk-in voting and to receive ballots.

18 § -3 Procedures for conducting election by mail. (a)  
19 Ballot packages shall include:

- 20 (1) An official ballot;
- 21 (2) A pre-paid postage return identification envelope;
- 22 (3) A secrecy envelope; and



1 (4) Instructions.

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

6 (c) If the county clerk determines that a voter does not  
7 receive daily mail service from the United States Postal  
8 Service, the county clerk shall mail by nonforwardable mail a  
9 ballot package to the voter between twenty days and eighteen  
10 days before the date of the election.

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

15 (e) Notwithstanding subsections (b), (c), and (d), ballot  
16 packages may be delivered or made available to voters who are  
17 unable to receive ballot packages by mail and who request a  
18 ballot package be delivered or made available for pick-up by the  
19 voter. A ballot package that is made available to a voter shall  
20 be made available in a manner and by a method that will ensure  
21 confidentiality as provided in section 11-14.5. The receipt of  
22 the ballot package by pick-up shall be available to the voter



1 until three days before the primary election to enable the voter  
2 to vote on or before the date of the primary election.

3 (f) To complete the ballot package following receipt by  
4 mail, delivery, or pick-up, the voter shall:

5 (1) Mark the ballot;

6 (2) Sign the return identification envelope supplied with  
7 the ballot; and

8 (3) Comply with the instructions provided with the ballot.

9 The voter may return the marked ballot to the county clerk by  
10 the United States Postal Service or by depositing the ballot at  
11 any precinct designated by the chief election officer or county  
12 clerk no later than the time stated in section 11-131 on the  
13 date of the election.

14 **§ -4 Instructions.** (a) The instructions shall include  
15 directions on marking the ballot, inserting the marked ballot in  
16 the secrecy envelope, inserting the secrecy envelope with the  
17 marked ballot in the return identification envelope, and signing  
18 the return identification envelope before mailing or delivering  
19 the return identification envelope containing the secrecy  
20 envelope with the marked ballot.

21 (b) The instructions shall include information on election  
22 fraud and voter fraud as provided in sections 19-3(5) and 19-



1 3.5, and state that a violation of either section may subject  
2 the voter, upon conviction, to imprisonment, fine, or both.

3       **§ -5 Public notice of distribution.** Public notice of  
4 the date or dates that ballot packages are mailed, delivered, or  
5 made available shall be given by the chief election officer and  
6 all county election offices when all ballot packages have been  
7 mailed, delivered, and made available to voters.

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

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

- 18       (1) Verify the registration of the voter and ensure that  
19           another ballot has not been returned to the voter;  
20       (2) Note on the list of registered voters that the voter  
21           has requested a replacement ballot;



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

3 (4) Issue a replacement ballot.

4 **§ -7 Counting of ballots.** (a) In an election by mail,  
5 the method of preparing ballots for counting may begin no sooner  
6 than the seventh day before the election. In the presence of  
7 official observers, counting center employees may start to count  
8 the ballots on the day of the election. All handling and  
9 counting of the mailed-in ballots shall be according to  
10 procedures provided by rules adopted by the chief election  
11 officer pursuant to chapter 91.

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

13 (1) It is received by the county clerk not later than the  
14 end of the period determined by the chief election  
15 officer;

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

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

19 (4) The signature of the voter is verified pursuant to  
20 subsection (c).

21 (c) The county clerk, or a designee appointed by the  
22 county clerk, shall verify the signature on the return



1 identification envelope according to procedures provided by  
2 rules adopted by the chief election officer pursuant to chapter  
3 91.

4 (d) Upon receipt of a marked replacement ballot, the  
5 county clerk or a designated appointee shall verify that a  
6 completed and signed replacement ballot request form has been  
7 received by the county clerk or is included with the marked  
8 replacement ballot. If a request form has been completed and  
9 signed by the voter and received by the county clerk, the county  
10 clerk or a designated appointee shall process the ballot. If  
11 the replacement ballot request form is not completed or signed  
12 by the voter or not received by the county clerk, the county  
13 clerk or a designated appointee shall not process the ballot."

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

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

17 "Ballot", a ballot, including an absentee ballot, is a  
18 written or printed, or partly written and partly printed paper  
19 or papers containing the names of persons to be voted for, the  
20 office to be filled, and the questions or issues to be voted on.  
21 "Ballot" includes a ballot used in an election conducted by  
22 mail. A ballot may consist of one or more cards or pieces of



1 paper, or one face of a card or piece of paper, or a portion of  
2 the face of a card or piece of paper, depending on the number of  
3 offices, candidates to be elected thereto, questions or issues  
4 to be voted on, and the voting system in use. It shall also  
5 include the face of the mechanical voting machine when arranged  
6 with cardboard or other material within the ballot frames,  
7 containing the names of the candidates and questions to be voted  
8 on."

9 2. By amending the definition of "voting system" to read:  
10 "Voting system", the use of paper ballots, electronic  
11 ballot cards, voting machines, voting by mail, or any system by  
12 which votes are cast and counted."

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

15 "**§11-4 Rules [~~and regulations~~]**. The chief election  
16 officer may make, amend, and repeal [~~such~~] rules [~~and~~  
17 ~~regulations~~] governing elections held under this title, election  
18 procedures, and the selection, establishment, use, and operation  
19 of all voting systems now in use or to be adopted in the State,  
20 and all other similar matters relating thereto as in the chief  
21 election officer's judgment shall be necessary to carry out this  
22 title.





1           In making, amending, and repealing rules [~~and regulations~~]  
2 for voters who cannot vote at the polls in person or receive or  
3 return ballots by mail, and all other voters, the chief election  
4 officer shall provide for voting by [~~such~~] these persons in  
5 [~~such~~] a manner [~~as~~] to [~~insure~~] ensure secrecy of the ballot  
6 and to preclude tampering with the ballots of these voters and  
7 other election frauds. [~~Such~~] These rules [~~and regulations~~],  
8 when adopted in conformity with chapter 91 and upon approval by  
9 the governor, shall have the force and effect of law."

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

12           "(a) The clerk, not later than 4:30 p.m. on the sixtieth  
13 day after every general election, shall remove the name of any  
14 registered voter who did not vote in that general election, and  
15 also did not vote in the primary election preceding that general  
16 election, and also did not vote in the previous general  
17 election, and also did not vote in the primary election  
18 preceding that general election, and also did not vote in the  
19 regularly scheduled special elections held in conjunction with  
20 those primary and general elections, if any, with the exception  
21 of:



1           (1) Those who submitted written requests for absentee  
2           ballots as provided in section 15-4; or  
3           (2) Anyone who preregistered pursuant to section 11-12(b).  
4 If a person voted, at least once, in any of the above-mentioned  
5 elections, the person's name shall remain on the list of  
6 registered voters. For this purpose, "vote" means the  
7 depositing of the ballot in the ballot box whether the ballot is  
8 blank or later rejected for any reason. In the case of voting  
9 machines, "vote" means the voter has activated the proper  
10 mechanism and fed the vote into the machine. In the case of an  
11 election by mail pursuant to chapter \_\_\_\_\_, "vote" means the  
12 voter has returned the ballot to the chief election officer or  
13 county clerk by the United States Postal Service or by  
14 depositing the ballot at a precinct designated for ballot  
15 deposit by the chief election officer or county clerk."

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

19           "(a) Any federal, state, or county election held other  
20 than on the date of a regularly scheduled [~~primary or~~] general  
21 election may be conducted by mail[-]; provided that all federal,



1 state, and county primary and special primary elections shall be  
2 conducted by mail, as provided in chapter .

3 (b) The chief election officer shall determine whether a  
4 federal or state election, other than a regularly scheduled  
5 primary [~~or general~~] election[,-] or a special primary election,  
6 may be conducted by mail or at polling places.

7 (c) The county clerk shall determine whether a county  
8 election, held other than on the date of a regularly scheduled  
9 primary [~~or general~~] election[,-] or a special primary election,  
10 may be conducted by mail or at polling places. An election by  
11 mail in the county shall be under the supervision of the county  
12 clerk."

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

16 "**§11-92.1 Election proclamation; [~~establishment of a new~~**  
17 **precinct.] precincts.** (a) The chief election officer shall  
18 issue a proclamation whenever a new precinct is established in  
19 any representative district. The chief election officer, or the  
20 county clerk in a county election, shall provide a suitable  
21 polling place for each precinct[,-] in a general election, and  
22 for not less than one location in each representative district



1 in a primary election. Schools, recreational halls, park  
2 facilities, and other publicly owned or controlled buildings,  
3 whenever possible and convenient, shall be used as polling  
4 places. The chief election officer, or the county clerk in a  
5 county election, shall make arrangements for the rental or  
6 erection of suitable shelter for this purpose whenever public  
7 buildings are not available and shall cause these polling places  
8 to be equipped with the necessary facilities for lighting,  
9 ventilation, and equipment needed for elections on any island.  
10 This proclamation may be issued jointly with the proclamation  
11 required in section 11-91."

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

15 "**§11-92.3 Consolidated or alternate precincts; natural**  
16 **disasters; postponement; [~~absentee voting required~~]; special**  
17 **elections.** (a) In the event of a flood, tsunami, earthquake,  
18 volcanic eruption, high wind, or other natural disaster,  
19 occurring prior to an election, that makes a precinct  
20 inaccessible, the chief election officer or county clerk in the  
21 case of county elections may consolidate precincts or provide an  
22 alternate precinct within a representative district. If the



1 extent of damage caused by any natural disaster is such that the  
2 ability of voters, in any precinct, district, or county, to  
3 exercise their right to vote is substantially impaired, the  
4 chief election officer or county clerk in the case of county  
5 elections may [~~require the~~]:

6 (1) Require:

7 (A) The registered voters of the affected precinct,  
8 district, or county to vote by absentee ballot  
9 pursuant to section 15-2.5 [~~and may postpone~~]; or

10 (B) The registered voters of the affected precinct,  
11 district, or county to vote by mail pursuant to  
12 chapter \_\_\_\_\_; and

13 (2) Postpone the conducting of an election in the affected  
14 precinct, district, or county for no more than twenty-  
15 one days; provided that any [~~such~~] postponement shall  
16 not affect the conduct of the election, tabulation, or  
17 distribution of results for those precincts,  
18 districts, or counties not designated for  
19 postponement.

20 The chief election officer or county clerk in the case of county  
21 elections shall give notice of the consolidation, postponement,  
22 or requirement to vote by absentee ballot[7] or by mail, in the



1 affected [~~county or~~] precinct, county, or district prior to the  
 2 opening of [~~the precinct~~] each polling place by whatever  
 3 possible news or broadcast media are available. Precinct  
 4 officials and workers affected by any consolidation shall not  
 5 forfeit their pay."

6 SECTION 9. 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:

- 12 (1) The State shall pay and be responsible for:
- 13 (A) Precinct officials;
  - 14 (B) Instruction of precinct officials when initiated  
 15 or approved by the chief election officer;
  - 16 (C) Boards of registration;
  - 17 (D) Polling place costs other than supplies:  
 18 installation rentals, ballot boxes, voting  
 19 booths, custodians, telephones, and maintenance;
  - 20 (E) Other equipment such as ballot transport  
 21 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 or voting  
19 by mail polling 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  
3 [~~paragraphs~~] paragraph (1), (2), or (3) [~~above~~] by the chief  
4 election officer upon agreement with the clerks or by the  
5 legislature."

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

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

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

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



- 1           (3) Any person printing or duplicating or causing to be  
2           printed or duplicated any ballot, conforming as to the  
3           size, weight, shape, thickness, or color to the  
4           official ballot so that it could be cast or counted as  
5           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) Every person who, either in person or through another,  
16          in any manner breaks up or prevents, or endeavors to  
17          break up or prevent, the holding of any meeting of the  
18          board of registration of voters, or in any manner  
19          breaks up or prevents, or endeavors to break up or  
20          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) Any person who opens a return envelope containing [~~an~~  
19           absentee]:

20           (A) An absentee ballot voted under chapter 15 other  
21           than those persons authorized to do so under  
22           chapter 15; or



1           (B) A ballot voted by mail under chapter        other  
2           than those persons authorized to do so under  
3           chapter        ;

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

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

9           SECTION 11. There is appropriated out of the general  
10          revenues of the State of Hawaii the sum of \$            or so much  
11          thereof as may be necessary for fiscal year 2011-2012 and the  
12          same sum or so much thereof as may be necessary for fiscal year  
13          2012-2013 for the purpose of implementing and administering the  
14          election by mail program.

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

17          SECTION 12. Statutory material to be repealed is bracketed  
18          and stricken. New statutory material is underscored.

19          SECTION 13. This Act shall take effect on January 7, 2050.



**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. Effective January 7, 2050. (HB100 HD1)

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

