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# A BILL FOR AN ACT

RELATING TO ABSENTEE VOTING.

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

1           SECTION 1. Chapter 15, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4           "§15-       Military-overseas voters; registration to vote;  
5 application for military-overseas ballot; transmission of  
6 unvoted ballots. (a) The voting procedures in this section  
7 shall apply to:

8           (1) A general, special, or primary election for federal  
9           office;

10          (2) A general, special, or primary election for statewide  
11          or state legislative office or state ballot measure;  
12          and

13          (3) A general, special, recall, primary, or runoff  
14          election for county government office or county ballot  
15          measure conducted under section 11-91.5 for which  
16          absentee voting or voting by mail is available for  
17          other voters.



1        (b) A covered voter may use the declaration accompanying a  
2 federal write-in absentee ballot to apply to register to vote  
3 simultaneously with the submission of the federal write-in  
4 absentee ballot, if the declaration is received not later than  
5 thirty days prior to the election pursuant to section 11-16. If  
6 the declaration is received after that date, it shall be treated  
7 as an application to register to vote for subsequent elections.

8        (c) An application for a military-overseas ballot for a  
9 primary election, whether or not timely, shall be effective as  
10 an application for a military-overseas ballot for the general  
11 election. An application for a military-overseas ballot shall  
12 be effective for a runoff election necessary to conclude the  
13 election for which the application was submitted.

14        (d) For any election described in subsection (a) for which  
15 this State has not received a waiver pursuant to section 579 of  
16 the Military and Overseas Voter Empowerment Act, 42 United  
17 States Code section 1973ff-1(g)(2), not later than forty-five  
18 days before the election or, if the forty-fifth day before the  
19 election is a weekend or holiday, not later than the business  
20 day preceding the forty-fifth day, the election official in each  
21 jurisdiction charged with preparing and distributing ballots and  
22 balloting materials shall transmit a ballot and balloting



1 materials to all covered voters who by that date submit a valid  
2 military-overseas ballot application.

3 (e) A covered voter may apply for registration and an  
4 absentee ballot by electronic transmission, if otherwise  
5 qualified to apply for and vote by absentee ballot. A covered  
6 voter who requests that a ballot and balloting materials be sent  
7 to the voter by electronic transmission may choose facsimile  
8 transmission or electronic mail delivery, or, if offered by the  
9 voter's jurisdiction, internet delivery. The election official  
10 in each jurisdiction charged with distributing ballots and  
11 balloting materials shall transmit a ballot and balloting  
12 materials to the voter using the means of transmission chosen by  
13 the voter.

14 (f) If a ballot application from a covered voter arrives  
15 after the jurisdiction begins transmitting ballots and balloting  
16 materials to voters, the official charged with distributing  
17 ballots and balloting materials shall transmit a ballot and  
18 balloting materials to the voter not later than two business  
19 days after the application arrives.

20 (g) A covered voter may use a federal write-in absentee  
21 ballot, in accordance with the provisions of the Uniformed and  
22 Overseas Citizens Absentee Voting Act, 42 United States Code



1 section 1973ff, to vote for all offices and ballot measures in  
2 an election described in subsection (a).

3 (h) If an international, national, state, or local  
4 emergency or other situation arises that makes substantial  
5 compliance with this section impossible or impracticable, as  
6 confirmed by:

7 (1) The existence of armed conflict involving the United  
8 States armed forces or the mobilization of the armed  
9 forces, including the state national guard and reserve  
10 component members of this State;

11 (2) The occurrence of a natural disaster or the existence  
12 of a state of emergency, civil unrest, war, or other  
13 exigency in a foreign country; or

14 (3) An official declaration by the governor that a state  
15 of emergency exists,

16 the governor directly, or by delegation to the chief election  
17 officer, may prescribe, by emergency order or rule, a special  
18 procedure or requirement necessary to facilitate absentee voting  
19 by those covered voters directly affected who are eligible to  
20 vote in this State. The chief election officer shall take  
21 reasonable steps to provide covered voters with timely notice of



1 any special procedure or requirement prescribed under this  
2 subsection.

3 (i) As used in this section, unless the context otherwise  
4 requires:

5 "Covered voter" means:

6 (1) A uniformed-service voter or an overseas voter who is  
7 registered to vote in this State;

8 (2) A uniformed-service voter defined in paragraph (1) of  
9 that definition whose voting residence is in this  
10 State and who otherwise satisfies this State's voter  
11 eligibility requirements;

12 (3) An overseas voter who, before leaving the United  
13 States, was last eligible to vote in this State and,  
14 except for a state residency requirement, otherwise  
15 satisfies this State's voter eligibility requirements;

16 (4) An overseas voter who, before leaving the United  
17 States, would have been last eligible to vote in this  
18 State had the voter then been of voting age and,  
19 except for a state residency requirement, otherwise  
20 satisfies this State's voter eligibility requirements;

21 or



1        (5) An overseas voter who was born outside the United  
2        States, is not described in paragraph (3) or (4), and,  
3        except for a state residency requirement, otherwise  
4        satisfies this State's voter eligibility requirements,  
5        if:

6        (A) The last place where a parent or legal guardian  
7        of the voter was, or under this chapter would  
8        have been, eligible to vote before leaving the  
9        United States is within this State; and

10       (B) The voter has not previously registered to vote  
11       in any other state.

12       "Dependent" means an individual recognized as a dependent  
13 by a uniformed service.

14       "Federal write-in absentee ballot" means the ballot  
15 described in section 103 of the Uniformed and Overseas Citizens  
16 Absentee Voting Act, 42 United States Code section 1973ff-2.

17       "Military-overseas ballot" means:

18       (1) A federal write-in absentee ballot;

19       (2) A ballot specifically prepared or distributed for use  
20       by a covered voter in accordance with this chapter; or

21       (3) A ballot cast by a covered voter in accordance with  
22       this section.



1        "Overseas voter" means a United States citizen who is  
2 outside the United States.

3        "State" means a state of the United States, the District of  
4 Columbia, Puerto Rico, the United States Virgin Islands, or any  
5 territory or insular possession subject to the jurisdiction of  
6 the United States.

7        "Uniformed-service voter" means an individual who is  
8 qualified to vote and is:

9        (1) A member of the active or reserve components of the  
10 Army, Navy, Air Force, Marine Corps, or Coast Guard of  
11 the United States who is on active duty;

12        (2) A member of the Merchant Marine, the commissioned  
13 corps of the Public Health Service, or the  
14 commissioned corps of the National Oceanic and  
15 Atmospheric Administration of the United States;

16        (3) A member on activated status of the National Guard or  
17 state militia; or

18        (4) A spouse or dependent of a member referred to in this  
19 definition.

20        "United States", used in the territorial sense, means the  
21 several states, the District of Columbia, Puerto Rico, the



1 United States Virgin Islands, and any territory or insular  
2 possession subject to the jurisdiction of the United States."

3 SECTION 2. Section 15-3.5, Hawaii Revised Statutes, is  
4 repealed.

5 ~~["§15-3.5] Federal write in absentee ballot.~~  
6 ~~Notwithstanding the provisions of this chapter and chapters 11~~  
7 ~~and 16, the federal write in absentee ballot for overseas voters~~  
8 ~~in general elections for federal office which must be prescribed~~  
9 ~~under section 1973ff of title 42, United States Code, as~~  
10 ~~amended, may be used in general elections for federal offices."]~~

11 SECTION 3. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval  
14 and shall apply to the 2012 election year.

15

INTRODUCED BY: Calvin K. Ay  
BY REQUEST

JAN 13 2012





# H.B. NO. 1821

**Report Title:**

Absent Military and Overseas Voters; Absentee Voting

**Description:**

Requires state election officials to provide for timely voting by military and other voters who are overseas in all elections for federal, state, and county offices. Authorizes transmitting ballot and ballot materials to overseas voters by electronic transmission, including electronic mail or internet.

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

