

JAN 21 2011

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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, just as if the votes were cast  
17 in a 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 authorize the use of the  
2 instant runoff method of voting for elections in which no  
3 primary election is held and in special elections that would  
4 normally be subject to a runoff election if a candidate was not  
5 elected by majority vote in the initial special election;  
6 provided that in instant runoff elections, a majority vote shall  
7 be required unless no candidate achieves a majority after the  
8 fourth run-off tabulation, in which case the candidate with the  
9 highest vote count wins.

10           SECTION 2. Section 11-1, Hawaii Revised Statutes, is  
11 amended by adding two new definitions to be appropriately  
12 inserted and to read as follows:

13           "Instant runoff method" means a method of casting and  
14 tabulating votes that tabulates a single vote for each voter but  
15 simulates the ballot counts that would occur if all voters  
16 participated in a series of runoff elections, whereby voters are  
17 allowed to rank candidates according to the voter's preference  
18 and, if no candidate obtains a majority of first-choice votes,  
19 votes are transferred in sequential tabulations according to  
20 voters' preferences.

21           "Majority election contest" means an election contest in  
22 which a candidate is required by law to receive a majority of



1 votes cast for the office to be elected outright; provided that  
2 if no candidate receives a majority, a runoff election is held  
3 between the two candidates receiving the most votes; and the  
4 candidate with the highest number of votes in the runoff  
5 election is deemed elected."

6 SECTION 3. Chapter 11, Hawaii Revised Statutes, is amended  
7 by adding three new sections to part X to be appropriately  
8 designated and to read as follows:

9 **"§11-A Instant runoff method; procedure for counting**  
10 **votes.** (a) To determine the winners in an election conducted  
11 by the instant runoff method, election officials shall initially  
12 count the ballots according to the first choice marked on each  
13 ballot. If at the end of the initial count, one candidate  
14 receives a majority of the votes cast, that candidate shall be  
15 declared the winner for that office.

16 (b) If at the end of the initial count, no candidate  
17 receives a majority of the first-choice votes cast, the chief  
18 election officer or county clerk, as appropriate, shall declare  
19 that no candidate has received a majority of first-choice votes  
20 and that the candidate with the fewest first-choice votes is  
21 defeated, and the chief election officer or county clerk shall  
22 transfer the first-choice votes for the defeated candidate to



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

15 (c) The instant runoff method may be accelerated, at the  
16 discretion of the chief election officer or county clerk, by  
17 eliminating all candidates with fewer than one per cent of the  
18 first-choice votes cast for the office. In an accelerated  
19 process pursuant to this subsection, the first-choice vote on  
20 ballots cast for eliminated candidates shall be transferred to  
21 the candidates who are still in the race, who received the  
22 voters' next highest ranking on those ballots.



1        (d) Once a winner has been declared pursuant to subsection  
2 (b), a certificate of election declaring the results shall be  
3 issued pursuant to section 11-156.

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

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

14        (c) If a tie between candidates for last place, and thus  
15 elimination, occurs at any stage in the tabulation, the tie  
16 shall be resolved by eliminating the candidate who received the  
17 least number of combined first-choice votes and transferred  
18 votes at the previous stage of tabulation. In the case of a tie  
19 to which a previous stage does not apply, or where the previous  
20 stage was also a tie, the tie shall be resolved by drawing lots.  
21 However, if a tie occurs when there are only two candidates



1 remaining, the tie shall be resolved as set forth in section  
2 11-157.

3 §11-C Instant runoff voting method; application. (a) The  
4 instant runoff method shall be used in all contests for office  
5 in which no primary election was held. Notwithstanding any law  
6 or county charter to the contrary, at the discretion of the  
7 chief election officer in the case of an election for state  
8 office or the county clerk in the case of an election for county  
9 office, the instant runoff election method may be used in a  
10 majority election contest for a special election which would  
11 normally require a runoff election if no candidate receives a  
12 majority of the votes in the special election. If the instant  
13 runoff voting method is used in a special election, the special  
14 election shall only consist of one election contest and no  
15 subsequent separate runoff election shall be held. If the chief  
16 election officer or county clerk, as applicable, elects to use  
17 the instant runoff election method in a special election, the  
18 chief election officer or county clerk shall state in the  
19 election proclamation required pursuant to section 11-91 that  
20 the instant runoff method shall be used in the special election.

21 (b) For purposes of this section, the chief election  
22 officer shall adopt rules under chapter 91, to provide for the



1 use of mechanical, electronic, or other means devised for  
2 marking, sorting, and counting the ballots and tabulating and  
3 transferring the votes in an election using the instant runoff  
4 method; provided that no rule shall alter the intent or  
5 principles embodied in the instant runoff method described in  
6 this part.

7       (c) Ballots approved under this section shall be simple  
8 and easy to understand and shall allow a voter to rank each  
9 candidate for an office in order of preference, up to four  
10 places. Prior to finalization and printing, sample ballots  
11 shall be made available for at least seven days on the office of  
12 elections' website and at the office of elections for public  
13 review and comment. Instructions on the ballot shall include  
14 the following statement: "You may mark as many or as few  
15 alternate choices as you wish. Marking a second choice cannot  
16 help defeat your first choice. Marking a subsequent choice  
17 cannot help defeat your higher-ranked choices." Sample ballots  
18 illustrating voting procedures shall be posted in or near the  
19 voting booth, included in the instruction materials for absentee  
20 ballots, posted on the office of elections' website, and  
21 included in educational materials distributed by the office of  
22 elections prior to the election."





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

3 "§11-112 Contents of ballot. (a) The ballot shall  
4 contain the names of the candidates, their party affiliation or  
5 nonpartisanship in partisan election contests, the offices for  
6 which they are running, and the district in which the election  
7 is being held. In multimember races the ballot shall state that  
8 the voter shall not vote for more than the number of seats  
9 available or the number of candidates listed where [~~sueh~~] the  
10 number of candidates is less than the number of seats available.

11 (b) The ballot may include questions concerning proposed  
12 state constitutional amendments, proposed county charter  
13 amendments, or proposed initiative or referendum issues.

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

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

20 (e) The name of the candidate may be printed with the  
21 Hawaiian or English equivalent or nickname, if the candidate so  
22 requests in writing at the time the candidate's nomination



1 papers are filed. Candidates' names, including the Hawaiian or  
2 English equivalent or nickname, shall be set on one line.

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

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

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

9 "§11-151 **Vote count.** [~~Each~~] Except for contests where the  
10 instant runoff method is used, each contest or question on a  
11 ballot shall be counted independently as follows:

12 (1) If the votes cast in a contest or question are equal  
13 to or less than the number to be elected or chosen for  
14 that contest or question, the votes for that contest  
15 or question shall be counted;

16 (2) If the votes cast in a contest or question exceed the  
17 number to be elected or chosen for that contest or  
18 question, the votes for that contest or question shall  
19 not be counted; and

20 (3) If a contest or question requires a majority of the  
21 votes for passage, any blank, spoiled, or invalid  
22 ballot shall not be tallied for passage or as votes



1 cast except that such ballots shall be counted as  
2 votes cast in ratification of a constitutional  
3 amendment or a question for a constitutional  
4 convention."

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

7 "§11-152 Method of counting. (a) In an election using  
8 the paper ballot voting system, immediately after the close of  
9 the polls, the chairperson of the precinct officials shall open  
10 the ballot box. The precinct officials at the precinct shall  
11 proceed to count the votes as follows:

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

15 (2) If the number of ballots corresponds with the number  
16 of persons recorded by the precinct officials as  
17 having voted, the precinct officials shall then  
18 proceed to count the vote cast for each candidate;

19 (3) If there are more ballots or less ballots than the  
20 record calls for the precinct officials shall proceed  
21 as directed in section 11-153.



1           (b) In those precincts using the electronic voting system,  
2 the ballots shall be taken in the sealed ballot boxes to the  
3 counting center according to the procedure and schedule  
4 promulgated by the chief election officer to promote the  
5 security of the ballots. In the presence of official observers,  
6 counting center employees may start to count the ballots prior  
7 to the closing of the polls; provided that there shall be no  
8 printout by the computer or other disclosure of the number of  
9 votes cast for a candidate or on a question prior to the closing  
10 of the polls. For the purposes of this section, the closing of  
11 the polls is that time identified in section 11-131 as the  
12 closing hour of voting.

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

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

17           "**§11-155 Certification of results of election.** On receipt  
18 of certified tabulations from the election officials concerned,  
19 the chief election officer in state elections or county clerk in  
20 county elections shall compile, certify, and release the  
21 election results after the expiration of the time for bringing



1 an election contest. The certification shall be based on a  
2 comparison and reconciliation of the following:

- 3 (1) The results of the canvass of ballots conducted  
4 pursuant to chapter 16;
- 5 (2) The audit of pollbooks [-]and related record books[+]  
6 and resultant overage and underage report;
- 7 (3) The audit results of the manual audit team;
- 8 (4) The results of the absentee ballot reconciliation  
9 report compiled by the clerks; and
- 10 (5) All logs, tally sheets, and other documents generated  
11 during the election and in the canvass of the election  
12 results.

13 A certificate of election or a certificate of results declaring  
14 the results of the election as of election day shall be issued  
15 pursuant to section 11-156; provided that in the event of an  
16 overage or underage, a list of all precincts in which an overage  
17 or underage occurred shall be attached to the certificate. The  
18 number of candidates to be elected receiving the highest number  
19 of votes in any election district shall be declared to be  
20 elected[-]; provided that candidates for office subject to the  
21 instant runoff voting method shall be declared to be elected  
22 pursuant to section 11-A. Unless otherwise provided, the term



1 of office shall begin or end as of the close of polls on  
 2 election day. The position on the question receiving the  
 3 appropriate majority of the votes cast shall be reflected in a  
 4 certificate of results issued pursuant to section 11-156."

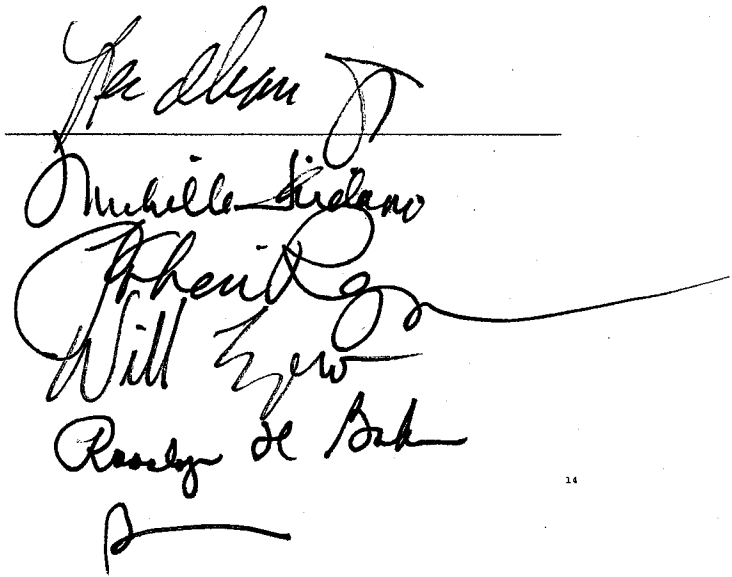
5 SECTION 8. In codifying the new sections added by section  
 6 3 of this Act, the revisor of statutes shall substitute  
 7 appropriate section numbers for the letters used in designating  
 8 the new sections in this Act.

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

11 SECTION 10. This Act shall take effect upon its approval;  
 12 provided that this Act shall not apply to any election held  
 13 prior to January 1, 2012; and provided further that, no later  
 14 than December 31, 2011, the chief election officer and each  
 15 county clerk shall adopt rules pursuant to chapter 91, Hawaii  
 16 Revised Statutes, to effectuate the purposes of this Act.

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INTRODUCED BY:


**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.

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

