
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 and forty-nine
16 per cent in the 2012 primary election.

17 It should be noted that voting by mail is permitted in
18 Oregon, with the 2000 general election conducted entirely by



1 mail. Polls indicate that eighty-six per cent of Oregonians
2 support the process of voting by mail. The Oregon experience
3 suggests that a vote-by-mail system increases voter turnout in
4 off-year elections and at the local level and saves taxpayers
5 money for the cost of elections. By some estimates, a state can
6 run a vote-by-mail election for less than half the cost of
7 setting up polling sites.

8 The purpose of this Act is to establish an election by mail
9 system to be used as the principal means of casting a ballot for
10 a federal, state, and county primary or special primary
11 election.

12 SECTION 2. The Hawaii Revised Statutes is amended by
13 adding a new chapter to be appropriately designated and to read
14 as follows:

15 "CHAPTER

16 ELECTION BY MAIL

17 § -1 Definition. For the purposes of this chapter
18 "election by mail" means an election conducted principally by
19 mail.

20 § -2 Elections eligible to be conducted by mail. (a)
21 All federal, state, and county primary and special primary
22 elections shall be conducted by mail.



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

5 § -3 Procedures for conducting election by mail. (a)

6 Ballot packages shall include:

- 7 (1) An official ballot;
- 8 (2) A pre-paid postage return identification envelope;
- 9 (3) A secrecy envelope; and
- 10 (4) Instructions.

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

15 (c) If the county clerk determines that a voter does not
16 receive daily mail service from the United States Postal
17 Service, the county clerk shall mail by nonforwardable mail a
18 ballot package to the voter between twenty days and eighteen
19 days before the date of the election.

20 (d) If a voter requests that a ballot package be mailed
21 outside of the State, the county clerk shall mail by



1 nonforwardable mail a ballot package to the voter not later than
2 the twenty-ninth day before the election.

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

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

15 (1) Mark the ballot;

16 (2) Sign the return identification envelope supplied with
17 the ballot; and

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

19 The voter may return the marked ballot to the county clerk by
20 the United States Postal Service or by depositing the ballot at
21 any precinct designated by the chief election officer or county



1 clerk no later than the time stated in section 11-131 on the
2 date of the election.

3 § -4 **Instructions.** (a) The instructions shall include
4 directions on marking the ballot, inserting the marked ballot in
5 the secrecy envelope, inserting the secrecy envelope with the
6 marked ballot in the return identification envelope, and signing
7 the return identification envelope before mailing or delivering
8 the return identification envelope containing the secrecy
9 envelope with the marked ballot.

10 (b) The instructions shall include information on election
11 fraud and voter fraud as provided in sections 19-3(5) and 19-
12 3.5, and state that a violation of either section may subject
13 the voter, upon conviction, to imprisonment, fine, or both.

14 § -5 **Public notice of distribution.** Public notice of
15 the date or dates that ballot packages are mailed, delivered, or
16 made available shall be given by the chief election officer and
17 all county election offices when all ballot packages have been
18 mailed, delivered, and made available to voters.

19 § -6 **Replacement ballots.** (a) In an election by mail,
20 a voter may obtain a replacement ballot if the ballot is
21 destroyed, spoiled, lost, or not received by the clerk. To vote
22 by replacement ballot, the voter shall complete and sign a



1 replacement ballot request form. The request for a replacement
2 ballot may be made by mail, in person, or by other means
3 designated by the chief election officer according to the rules
4 adopted by the chief election officer pursuant to chapter 91.

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

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

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

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

13 (4) Issue a replacement ballot.

14 § -7 **Counting of ballots.** (a) In an election by mail,
15 the method of preparing ballots for counting may begin no sooner
16 than the seventh day before the election. In the presence of
17 official observers, counting center employees may start to count
18 the ballots on the day of the election. All handling and
19 counting of the mailed-in ballots shall be according to
20 procedures provided by rules adopted by the chief election
21 officer pursuant to chapter 91.

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



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

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

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

7 (4) The signature of the voter is verified pursuant to
8 subsection (c).

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

14 (d) Upon receipt of a marked replacement ballot, the
15 county clerk or a designated appointee shall verify that a
16 completed and signed replacement ballot request form has been
17 received by the county clerk or is included with the marked
18 replacement ballot. If a request form has been completed and
19 signed by the voter and received by the county clerk, the county
20 clerk or a designated appointee shall process the ballot. If
21 the replacement ballot request form is not completed or signed



1 by the voter or not received by the county clerk, the county
2 clerk or a designated appointee shall not process the ballot."

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

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

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

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



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

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

6 "~~§11-4 Rules [and regulations]~~. The chief election
7 officer may make, amend, and repeal [~~such~~] rules [~~and~~
8 ~~regulations~~] governing elections held under this title, election
9 procedures, and the selection, establishment, use, and operation
10 of all voting systems now in use or to be adopted in the State,
11 and all other similar matters relating thereto as in the chief
12 election officer's judgment shall be necessary to carry out this
13 title.

14 In making, amending, and repealing rules [~~and regulations~~]
15 for voters who cannot vote at the polls in person or receive or
16 return ballots by mail, and all other voters, the chief election
17 officer shall provide for voting by [~~such~~] these persons in
18 [~~such~~] a manner [~~as~~] to [~~insure~~] ensure secrecy of the ballot
19 and to preclude tampering with the ballots of these voters and
20 other election frauds. [~~Such~~] These rules [~~and regulations~~],
21 when adopted in conformity with chapter 91 and upon approval by
22 the governor, shall have the force and effect of law."



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

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

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

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

16 If a person voted, at least once, in any of the above-mentioned
17 elections, the person's name shall remain on the list of
18 registered voters. For this purpose, "vote" means the
19 depositing of the ballot in the ballot box whether the ballot is
20 blank or later rejected for any reason. In the case of voting
21 machines, "vote" means the voter has activated the proper
22 mechanism and fed the vote into the machine. In the case of an



1 election by mail pursuant to chapter , "vote" means the
2 voter has returned the ballot to the chief election officer or
3 county clerk by the United States Postal Service or by
4 depositing the ballot at a precinct designated for ballot
5 deposit by the chief election officer or county clerk."

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

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

14 (b) The chief election officer shall determine whether a
15 federal or state election, other than a regularly scheduled
16 primary [~~or-general~~] election[7] or a special primary election,
17 may be conducted by mail or at polling places.

18 (c) The county clerk shall determine whether a county
19 election, held other than on the date of a regularly scheduled
20 primary [~~or-general~~] election[7] or a special primary election,
21 may be conducted by mail or at polling places. An election by



1 mail in the county shall be under the supervision of the county
2 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 than one location in each representative district
13 in a primary election. Schools, recreational halls, park
14 facilities, and other publicly owned or controlled buildings,
15 whenever possible and convenient, shall be used as polling
16 places. The chief election officer, or the county clerk in a
17 county election, shall make arrangements for the rental or
18 erection of suitable shelter for this purpose whenever public
19 buildings are not available and shall cause these polling places
20 to be equipped with the necessary facilities for lighting,
21 ventilation, and equipment needed for elections on any island.~~



1 This proclamation may be issued jointly with the proclamation
2 required in section 11-91."

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

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

19 (1) Require:

20 (A) The registered voters of the affected precinct,
21 district, or county to vote by absentee ballot
22 pursuant to section 15-2.5 [~~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 [~~sueh~~] 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;



- 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:



- 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:



- 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 persons authorized to do so under
- 13 chapter 15; or
- 14 (B) A ballot voted by mail under chapter other
- 15 than those persons authorized to do so under
- 16 chapter ;
- 17 (9) Any unauthorized person found in possession of any
- 18 voting machine or keys thereof; and
- 19 (10) Every person who wilfully violates or fails to obey
- 20 any of the provisions of law, punishment for which is
- 21 not otherwise in this chapter specially provided for."

H.B. NO. 1007

1 SECTION 11. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$ or so
 3 much thereof as may be necessary for fiscal year 2013-2014 and
 4 the same sum or so much thereof as may be necessary for fiscal
 5 year 2014-2015 for the purpose of implementing and administering
 6 the election by mail program.

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

9 SECTION 12. Statutory material to be repealed is bracketed
 10 and stricken. New statutory material is underscored.

11 SECTION 13. This Act shall take effect on July 1, 2013.

12

INTRODUCED BY:

John M. Pardo
Deen A. Beatti

Ma
Mel Carroll

JAN 22 2013



H.B. NO. 1007

Report Title:

Elections; Voting by Mail; Appropriations

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.

