
A BILL FOR AN ACT

RELATING TO ELECTION OFFENSES.

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

1 SECTION 1. Section 11-91.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~11-91.5~~]~~ **Federal, state, and county elections by**
4 **mail.** (a) Any federal, state, or county election held other
5 than on the date of a regularly scheduled primary or general
6 election may be conducted by mail.

7 (b) The chief election officer shall determine whether a
8 federal or state election, other than a regularly scheduled
9 primary or general election, may be conducted by mail or at
10 polling places.

11 (c) The county clerk shall determine whether a county
12 election, held other than on the date of a regularly scheduled
13 primary or general election, may be conducted by mail or at
14 polling places. An election by mail in the county shall be
15 under the supervision of the county clerk.

16 (d) Any ballot cast by mail under this section shall be
17 subject to the provisions applicable to absentee ballots under
18 sections 11-139 and 15-6.



1 [~~(d)~~] (e) The chief election officer shall adopt rules
2 pursuant to chapter 91 to provide for uniformity in the conduct
3 of federal, state, and county elections by mail."

4 SECTION 2. Section 11-139, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§11-139 Voting assistance.** (a) [~~Any~~] Except as
7 otherwise provided, any voter who requires assistance to vote at
8 a polling place or by absentee ballot may be given assistance by
9 a person of the voter's choice [~~, other than the voter's employer~~
10 ~~or agent of that employer or agent of the voter's union, or~~].
11 If the voter requires assistance at a polling place, the voter
12 may choose to receive the assistance of two precinct officials
13 who are not of the same political party. [A] Additionally, a
14 voter needing assistance at a polling place may choose to be
15 handed a ballot outside the polling place but within one hundred
16 feet thereof or within the polling place parking lot by the
17 precinct officials and in their presence but in a secret manner,
18 mark and return the same to the precinct officials. The voter's
19 employer or agent of that employer, agent of the voter's labor
20 union, or a candidate for any office that is listed on the
21 ballot shall not provide assistance. Written or oral
22 instructions delivered via telephone, electronic means, or mail



1 shall not be deemed assistance prohibited by this section
2 provided the voter's employer or agent of that employer, agent
3 of the voter's labor union, or a candidate for any office listed
4 on the ballot is not physically present with the voter when the
5 instructions are delivered.

6 (b) ~~[The]~~ If assistance is provided pursuant to subsection
7 (a), the precinct officials providing assistance shall enter in
8 writing in the record book the following:

- 9 (1) The voter's name;
- 10 (2) The fact that the voter cannot read the names on the
11 ballot, if that is the reason for requiring
12 assistance, and otherwise, the specific physical
13 disability which requires the voter to receive
14 assistance; and
- 15 (3) The name or names of the person or persons furnishing
16 the assistance.

17 (c) Violation of this section by an employer or agent of
18 that employer, agent of the voter's labor union, or a candidate
19 shall constitute election fraud as provided under section 19-3."

20 SECTION 3. Section 15-6, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§15-6 Return envelope, ballot envelope; instructions.**
2 The clerk shall provide the absentee voter with the ballots,
3 ballot envelopes, and a return envelope [~~which~~] that shall
4 contain a statement to be subscribed to by the voter [~~which~~]
5 that affirms the fact that the voter is the person voting[7] and
6 that the voter's employer or agent of the employer, agent of the
7 voter's labor union, or any candidate listed on the ballot did
8 not assist the voter, as described in section 11-139, along with
9 the instruction that the voter's ballot will be valid only if
10 the affirmation statement is signed, materials summarizing the
11 provisions in sections 19-3, 19-3.5, 19-4, and 19-6, and any
12 other information prescribed by the rules promulgated by the
13 chief election officer."

14 SECTION 4. Section 19-3, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§19-3 Election frauds.** The following persons shall be
17 deemed guilty of an election fraud:

- 18 (1) Every person who, directly or indirectly, personally
- 19 or through another, gives, procures, or lends, or
- 20 agrees or offers to give, procure, or lend, or who
- 21 endeavors to procure, any money or office or place of
- 22 employment or valuable consideration to or for any

1 elector, or to or for any person for an elector, or to
2 or for any person in order to induce any elector to
3 vote or refrain from voting, or to vote or refrain
4 from voting for any particular person or party, or who
5 does any such act on account of any person having
6 voted or refrained from voting for any particular
7 person at any election;

8 (2) Every person who advances or pays, or causes to be
9 paid, any money to, or to the use of, any other
10 person, with the intent that the money, or any part
11 thereof, shall be expended in bribery at any election,
12 or for any purpose connected with or incidental to any
13 election; or who knowingly pays or causes to be paid
14 any money to any person in the discharge or repayment
15 of any money wholly or partly expended in bribery at
16 any election, or for any purpose connected with or
17 incidental to any election;

18 (3) Every elector who, before, during or after any
19 election, directly or indirectly, personally or
20 through another, receives, agrees, or contracts for
21 any money, gift, loan, or valuable consideration,
22 office, place, or employment for oneself or any other



1 person for voting or agreeing to vote, or for
2 refraining to vote or agreeing to refrain from voting,
3 or for voting or refraining to vote for any particular
4 person or party;

5 (4) Every person who, directly or indirectly, personally
6 or through another, makes use of, or threatens to make
7 use of, any force, violence, or restraint; or inflicts
8 or threatens to inflict any injury, damage, or loss in
9 any manner, or in any way practices intimidation upon
10 or against any person in order to induce or compel the
11 person to vote or refrain from voting, or to vote or
12 refrain from voting for any particular person or
13 party, at any election, or on account of the person
14 having voted or refrained from voting, or voted or
15 refrained from voting for any particular person or
16 party; or who by abduction, distress, or any device or
17 contrivance impedes, prevents, or otherwise interferes
18 with the free exercise of the elective franchise;

19 (5) Every person who, at any election, votes or attempts
20 to vote in the name of any other person, living or
21 dead, or in some fictitious name, or who, having once
22 voted, votes or attempts to vote again, or knowingly



- 1 gives or attempts to give more than one ballot for the
2 same office at one time of voting;
- 3 (6) Every person who, before or during an election,
4 knowingly publishes a false statement of the
5 withdrawal of any candidate at the election;
- 6 (7) Every person who induces or procures any person to
7 withdraw from being a candidate at an election in
8 consideration of any payment or gift or valuable
9 consideration; or of any threat; and every candidate
10 who withdraws from being a candidate in pursuance of
11 such inducement or procurement;
- 12 (8) Every public officer by law required to do or perform
13 any act or thing with reference to any of the
14 provisions in any law concerning elections who
15 wilfully fails, neglects, or refuses to do or perform
16 the same, or who is guilty of any wilful violation of
17 any of the provisions thereof;
- 18 (9) Any person wilfully tampering or attempting to tamper
19 with, disarrange, deface, or impair in any manner
20 whatsoever, or destroy any voting machine while the
21 same is in use at any election, or who, after the
22 machine is locked in order to preserve the



1 registration or record of any election made by the
2 same, tampers or attempts to tamper with any voting
3 machine; [~~and~~]

4 (10) Every person who, directly or indirectly, personally
5 or through another, wilfully designs, alters,
6 accesses, or programs any electronic voting system to
7 cause the system to inaccurately record, tally, or
8 report votes cast on the electronic voting system[-];
9 and

10 (11) Every person who assists a voter in the completion of
11 a ballot in violation of section 11-139."

12 SECTION 5. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 6. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Election Offenses; Misdemeanor

Description:

Prohibits employers, unions, and candidates or their agents from assisting voters with completing absentee ballots. Subjects special elections by mail to the same voter assistance prohibitions as for absentee ballots. Requires absentee voters to affirm by signature that the ballot was completed without influence from others. Requires absentee ballots to include information regarding election fraud, voter fraud, and related penalties. (SB827 HD1)

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