
A BILL FOR AN ACT

RELATING TO ELECTIONS BY MAIL.

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

1 SECTION 1. The purpose of this Act is to: enable the
2 office of elections to establish voting by mail for federal,
3 state, and county primary, general, and special elections; and
4 require that all elections be conducted by mail from the date of
5 the 2014 primary election.

6 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
7 by adding a new part to be appropriately designated and to read
8 as follows:

9 **"PART . ELECTION BY MAIL**

10 **§11- Elections eligible to be conducted by mail. (a)**

11 All federal, state, and county primary, special primary,
12 general, special general, and special elections shall be
13 conducted by mail in accordance with this part as follows:

14 (1) All special primary, special general, and special
15 elections shall be conducted by mail for elections
16 occurring after 2014; and



1 (2) The 2014 primary and general elections and all primary
2 and general elections thereafter shall be conducted by
3 mail.

4 (b) Notwithstanding subsection (a), the chief elections
5 officer shall provide a suitable polling place for one or more
6 precincts within each representative district as the chief
7 elections officer deems necessary for voters who are unable to
8 participate in elections by mail.

9 **§11- Procedures for conducting elections by mail. (a)**

10 Ballot packages shall:

11 (1) Include the ballot, a prepaid postage return
12 identification envelope, a secrecy envelope, and
13 instructions; and

14 (2) Be mailed to each voter at the voter's address not
15 sooner than days and no later than days
16 before the date of the election.

17 (b) Notwithstanding the dates of mailing in subsection
18 (a), for ballot packages to be mailed:

19 (1) To voters who live in places that do not receive daily
20 mail service from the United States Postal Service,
21 the mailings shall be made in a manner that enables



1 the voter to vote by mail or in person on or before
2 the date of the election; and

3 (2) To voters who request an absentee ballot, the mailing
4 shall be made in accordance with chapter 15 and the
5 rules adopted thereunder; and

6 (3) To new voters who register after the last date of the
7 mailing provided in subsection (a), the mailing shall
8 be made in a manner that enables the voter to vote on
9 or before the date of the election.

10 (c) Notwithstanding subsections (a) and (b), ballot
11 packages may be delivered or made available to voters who are
12 unable to receive ballot packages by mail and who request a
13 ballot package be delivered or made available for pick-up by the
14 voter. The delivery and availability shall be made in a manner
15 and using a method as will ensure confidentiality as provided in
16 section 11-14.5. The receipt of the ballot package shall be
17 made to the voter in a manner that enables the voter to vote on
18 or before the date of the election.

19 §11- **Public notice of mailing.** Public notice of the
20 date or dates that ballot packages are mailed, delivered, and
21 made available shall be given by the chief election officer and
22 all county election offices in the manner prescribed in section



1 1-28.5 when all ballot packages have been mailed, delivered, and
2 made available to voters.

3 **§11- Undeliverable ballot packages.** Ballot packages
4 that are mailed or delivered shall not be forwardable or
5 deliverable beyond the address of the voter as shown in the
6 register established and maintained by the clerk of the
7 respective county pursuant to part II. A ballot package that is
8 determined to be undeliverable by mail or other means to the
9 voter at the address shown in the register because of the death
10 of the voter, refusal of any person living at that address, or
11 the voter moved and is no longer residing at that address shall
12 be returned to the clerk who initiated the mailing, and as to a
13 voter that has moved, the clerk shall mail, deliver, or make
14 available the ballot package to the voter after the clerk has
15 determined or has been provided the new address of the voter.

16 **§11- Ballot instructions; ballot return.** (a) Upon
17 receipt of the ballot package, the voter shall comply with the
18 instructions included in the ballot package. The instructions
19 shall include directions on marking the ballot, inserting the
20 marked ballot in the secrecy envelope, inserting the secrecy
21 envelope with the ballot in the return identification envelope,
22 and signing of the return identification envelope before mailing



1 or delivering the return identification envelope containing the
2 secrecy envelope with the marked ballot.

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

7 (c) Voters shall return the identification envelope
8 containing the secrecy envelope with the marked ballot by mail
9 or by delivery to a place of deposit so that the return
10 identification envelope is received at the office of the clerk
11 or the place of deposit not later than the time provided in
12 section 11-131 on the date of the election.

13 **§11- Replacement ballots.** (a) A voter may obtain a
14 replacement ballot if the ballot is destroyed, spoiled, lost, or
15 not received by the clerk. Replacement ballots shall be
16 provided to a voter who completes and signs a replacement ballot
17 request form. The form of the replacement ballot request shall
18 include information that allows the clerk to verify the
19 registration of the voter and ensure that another ballot has not
20 been returned by the voter.

21 (b) Upon receipt of the replacement ballot request form,
22 the clerk shall:



- 1 (1) Verify the registration of the voter and that another
- 2 ballot has not been returned by the voter;
- 3 (2) Note on the registry of voters that the voter has
- 4 requested a replacement ballot;
- 5 (3) Mark the return identification envelope as a
- 6 replacement ballot, and
- 7 (4) Issue the ballot package containing the replacement
- 8 ballot by mail, by delivery, or by making the ballot
- 9 package available for pick up by the voter requesting
- 10 the replacement ballot.

11 (c) Voters requesting a replacement ballot shall return

12 the identification envelope containing the secrecy envelope with

13 the marked replacement ballot by mail or by delivery to a place

14 of deposit so that the return identification envelope is

15 received at the office of the clerk or a place of deposit not

16 later than the time provided in section 11-131 on the date of

17 the election.

18 **§11- Counting of mail-in ballots.** A mail-in ballot

19 shall be counted only if:

- 20 (1) It is returned in the return identification envelope;
- 21 (2) The return identification envelope is signed by the
- 22 voter to whom the ballot is mailed or delivered;



1 (3) The signature on the return identification envelope is
2 verified by the clerk with the signature of the voter
3 shown on the registry of voters; and

4 (4) The return identification envelope is received at the
5 office of the clerk or at the place of deposit not
6 later than the time stated in section 11-131 on the
7 date of the election.

8 Not sooner than the day before the date of the election,
9 the secrecy envelope shall be opened in the preparation of the
10 counting of the ballots on the date of the election; provided
11 that counting of the mail-in ballots shall not commence sooner
12 than o'clock on the date of the election."

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

15 1. By adding a new definition to be appropriately inserted
16 and to read:

17 "Place of deposit" means any state public library or any
18 other site designated by the chief elections officer for
19 receiving return identification envelopes in an election
20 conducted by mail pursuant to part ."

21 2. By amending the definitions of "ballot" and "voting
22 system" to read:



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

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

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

20 "**§11-4 Rules [~~and regulations~~]**. The chief election
21 officer may make, amend, and repeal [~~such~~] rules [~~and~~
22 ~~regulations~~] governing elections held under this title, election



1 procedures, and the selection, establishment, use, and operation
2 of all voting systems now in use or to be adopted in the State,
3 and all other similar matters relating thereto as in the chief
4 election officer's judgment shall be necessary to carry out this
5 title.

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

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

17 "(a) The clerk, not later than 4:30 p.m. on the sixtieth
18 day after every general election, shall remove the name of any
19 registered voter who did not vote in that general election, and
20 also did not vote in the primary election preceding that general
21 election, and also did not vote in the previous general
22 election, and also did not vote in the primary election



1 preceding that general election, and also did not vote in the
2 regularly scheduled special elections held in conjunction with
3 those primary and general elections, if any, with the exception
4 of:

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

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

8 If a person voted, at least once, in any of the above-mentioned
9 elections, the person's name shall remain on the list of
10 registered voters. For this purpose "vote" means the depositing
11 of the ballot in the ballot box whether the ballot is blank or
12 later rejected for any reason. In the case of voting machines,
13 "vote" means the voter has activated the proper mechanism and
14 fed the vote into the machine. In the case of an election by
15 mail conducted pursuant to part _____, "vote" means the voter has
16 returned the ballot to the county clerk by mail or by delivering
17 the ballot to a place of deposit."

18 SECTION 6. Section 11-92.1, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending the title to read:

21 "~~§11-92.1 Election proclamation; [establishment of a new~~
22 ~~precinct.] precincts."~~



1 2. By amending subsection (a) to read:
2 "(a) The chief election officer shall issue a proclamation
3 ~~[whenever a new precinct is established in any representative~~
4 ~~district.] listing all polling places and places of deposit.~~
5 The chief election officer shall provide ~~[a suitable polling~~
6 ~~place for each precinct.] one or more precincts within a~~
7 ~~representative district as the chief elections officer deems~~
8 ~~necessary for voters who are unable to participate in elections~~
9 ~~by conducted by mail pursuant to part _____.~~ Schools,
10 recreational halls, park facilities, and other publicly owned or
11 controlled buildings, whenever possible and convenient, shall be
12 used as polling places. The chief election officer shall make
13 arrangements for the rental or erection of suitable shelter for
14 this purpose whenever public buildings are not available and
15 shall cause these polling places to be equipped with the
16 necessary facilities for lighting, ventilation, and equipment
17 needed for elections on any island. This proclamation may be
18 issued jointly with the proclamation required in section 11-91."

19 SECTION 7. Section 11-92.3, Hawaii Revised Statutes, is
20 amended by amending the title and subsection (a) to read as
21 follows:



1 "§11-92.3 Consolidated precincts; natural disasters;
2 postponement; [~~absentee voting required;~~] special elections.
3 (a) In the event of a flood, tsunami, earthquake, volcanic
4 eruption, high wind, or other natural disaster, occurring prior
5 to an election, that makes a precinct inaccessible, the chief
6 election officer or county clerk in the case of county elections
7 may consolidate precincts within a representative district. If
8 the extent of damage caused by any natural disaster is such that
9 the ability of voters, in any precinct, district, or county, to
10 exercise their right to vote is substantially impaired, the
11 chief election officer or county clerk in the case of county
12 elections may [~~require the registered voters of the affected~~
13 ~~precinct to vote by absentee ballot pursuant to section 15-2.5~~
14 ~~and may~~] postpone the conducting of an election in the affected
15 precinct for no more than twenty-one days; provided that any
16 such postponement shall not affect the conduct of the election,
17 tabulation, or distribution of results for those precincts,
18 districts, or counties not designated for postponement. The
19 chief election officer or county clerk in the case of county
20 elections shall give notice of the consolidation[~~7~~] or
21 postponement [~~7~~, ~~or requirement to vote by absentee ballot,~~] in
22 the affected county or precinct prior to the opening of the

1 precinct polling place by whatever possible news or broadcast
2 media are available. Precinct officials and workers affected by
3 any consolidation shall not forfeit their pay."

4 SECTION 8. Section 19-6, Hawaii Revised Statutes, is
5 amended to read as follows:

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

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

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

21 (3) Any person printing or duplicating or causing to be
22 printed or duplicated any ballot, conforming as to the



1 size, weight, shape, thickness, or color to the
2 official ballot so that it could be cast or counted as
3 an official ballot in an election;

4 (4) Every person who is disorderly or creates a
5 disturbance whereby any meeting of the precinct
6 officials or the board of registration of voters
7 during an election is disturbed or interfered with; or
8 whereby any person who intends to be lawfully present
9 at any meeting or election is prevented from
10 attending; or who causes any disturbance at any
11 election; and every person assisting or aiding or
12 abetting any disturbance;

13 (5) Every person who, either in person or through another,
14 in any manner breaks up or prevents, or endeavors to
15 break up or prevent, the holding of any meeting of the
16 board of registration of voters, or in any manner
17 breaks up or prevents, or endeavors to break up or
18 prevent, the holding of any election;

19 (6) Any person, other than those designated by section 11-
20 132, who remains or loiters within the area set aside
21 for voting as set forth in section 11-132 during the
22 time appointed for voting;



1 (7) Any person, including candidates carrying on any
2 campaign activities within the area described in
3 section 11-132 during the period of time starting one
4 hour before the polling place opens and ending when
5 the polling place closes for the purpose of
6 influencing votes. Campaign activities shall include
7 the following:

8 (A) Any distribution, circulation, carrying, holding,
9 posting, or staking of campaign cards, pamphlets,
10 posters and other literature;

11 (B) The use of public address systems and other
12 public communication media;

13 (C) The use of motor caravans or parades; and

14 (D) The use of entertainment troupes or the free
15 distribution of goods and services;

16 (8) Any person who opens a return envelope containing [an
17 absentee]:

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

21 (B) A ballot voted under part other than those
22 authorized to do so under that part;

- 1 (9) Any unauthorized person found in possession of any
- 2 voting machine or keys thereof;
- 3 (10) Every person who wilfully violates or fails to obey
- 4 any of the provisions of law, punishment for which is
- 5 not otherwise in this chapter specially provided for."

6 SECTION 9. Section 11-91.5, Hawaii Revised Statutes, is
7 repealed.

8 ~~["§11-91.5] Federal, state, and county elections by mail.~~

9 ~~(a) Any federal, state, or county election held other than on~~
10 ~~the date of a regularly scheduled primary or general election~~
11 ~~may be conducted by mail.~~

12 ~~(b) The chief election officer shall determine whether a~~
13 ~~federal or state election, other than a regularly scheduled~~
14 ~~primary or general election, may be conducted by mail or at~~
15 ~~polling places.~~

16 ~~(c) The county clerk shall determine whether a county~~
17 ~~election, held other than on the date of a regularly scheduled~~
18 ~~primary or general election, may be conducted by mail or at~~
19 ~~polling places. An election by mail in the county shall be~~
20 ~~under the supervision of the county clerk.~~



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

4 SECTION 10. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$ or so
6 much thereof as may be necessary for fiscal year 2013-2014 and
7 the same sum or so much thereof as may be necessary is
8 appropriated for fiscal year 2014-2015 for the purpose of
9 implementing and administering the election by mail voting
10 system.

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

13 SECTION 11. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 12. This Act shall take effect on July 1, 2013;
16 provided that sections 3 through 9 shall take effect on July 1,
17 2014.

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S.B. NO. 579

Report Title:

Elections; Voting by Mail; Appropriation

Description:

Establishes an election by mail voting system for state, federal, and county primary, special primary, general, and special elections. Requires that all elections be conducted by mail from the date of the 2014 primary election. Makes an appropriation.

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