

JAN 18 2013

---

---

# A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1           SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended  
2 by adding a new part to be appropriately designated and to read  
3 as follows:

4                           **"PART       .   ELECTION BY MAIL**

5           **§11-       Elections to be conducted by mail.** (a) All  
6 elections shall be conducted by mail.

7           (b) Notwithstanding subsection (a), the chief election  
8 officer shall select not less than one location in each  
9 representative district to be open on an election day to provide  
10 walk-in voting and to receive ballots.

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

12 Ballot packages shall include:

- 13           (1) An official ballot;
- 14           (2) A pre-paid postage return identification envelope;
- 15           (3) A secrecy envelope; and
- 16           (4) Instructions.

17           (b) Except as provided in subsections (c), (d), and (e)  
18 the county clerk shall mail by nonforwardable mail a ballot



1 package to each registered voter between eighteen and fourteen  
2 days before the date of the election; provided that the  
3 deadlines established under chapter 15D shall apply to the  
4 covered voters, as that term is defined in section 15D-2.

5 (c) If the county clerk determines that a voter does not  
6 receive daily mail service from the United States Postal  
7 Service, the county clerk shall mail by nonforwardable mail a  
8 ballot package to the voter between twenty days and eighteen  
9 days before the date of the election.

10 (d) If the voter requests that a ballot package be mailed  
11 outside of the State, the county clerk shall mail by  
12 nonforwardable mail a ballot package to the voter not later than  
13 the twenty-ninth day before the election.

14 (e) Notwithstanding subsections (b), (c), and (d), ballot  
15 packages may be delivered or made available to voters who are  
16 unable to receive ballot packages by mail and who request a  
17 ballot package be delivered or made available for pick-up by the  
18 voter. A ballot package that is made available to a voter shall  
19 be made available in a manner and by a method that will ensure  
20 confidentiality as provided in section 11-14.5. The receipt of  
21 the ballot package by pick-up shall be available to the voter



1 until three days before the election to enable the voter to vote  
2 on or before the date of the election.

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

5 (1) Mark the ballot;

6 (2) Sign the return identification envelope supplied with  
7 the ballot; and

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

9 The voter may return the marked ballot to the county clerk by  
10 the United States Postal Service or by depositing the ballot at  
11 any precinct designated by the chief election officer or county  
12 clerk no later than the time stated in section 11-131 on the  
13 date of the election.

14 **§11- Instructions.** (a) The instructions shall include  
15 directions on marking the ballot, inserting the marked ballot in  
16 the secrecy envelope, inserting the secrecy envelope with the  
17 marked ballot in the return identification envelope, and signing  
18 the return identification envelope before mailing or delivering  
19 the return identification envelope containing the secrecy  
20 envelope with the marked ballot.

21 (b) The instructions shall include information on election  
22 fraud and voter fraud as provided in sections 19-3(5) and 19-



1 3.5, and state that a violation of either section may subject  
2 the voter, upon conviction, to imprisonment, fine, or both.

3 §11- Public notice of distribution. Public notice of  
4 the date or dates that ballot packages are mailed, delivered, or  
5 made available shall be given by the chief election officer and  
6 all county election offices when all ballot packages have been  
7 mailed, delivered, and made available to voters. Public notices  
8 required under this section shall be executed in accordance with  
9 sections 1-28.5 and 15D-15.

10 §11- Replacement ballots. (a) A voter may obtain a  
11 replacement ballot if the ballot is destroyed, spoiled, lost, or  
12 not received by the clerk. To vote by replacement ballot, the  
13 voter shall complete and sign a replacement ballot request form.  
14 The request for a replacement ballot may be made by mail, in  
15 person, or by other means designated by the chief election  
16 officer according by rule.

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

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

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



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

3 (4) Issue a replacement ballot.

4 §11- Counting of ballots. (a) The method of preparing  
5 ballots for counting may begin no sooner than the seventh day  
6 before the election. In the presence of official observers,  
7 counting center employees may start to count the ballots on the  
8 day of the election. All handling and counting of the mailed-in  
9 ballots shall be according to procedures provided by rule.

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

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

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

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

17 (4) The signature of the voter is verified pursuant to  
18 subsection (c).

19 (c) The county clerk, or a designee appointed by the  
20 county clerk, shall verify the signature on the return  
21 identification envelope according to procedures provided by  
22 rule.



1 (d) Upon receipt of a marked replacement ballot, the  
2 county clerk or a designated appointee shall verify that a  
3 completed and signed replacement ballot request form has been  
4 received by the county clerk or is included with the marked  
5 replacement ballot. If a request form has been completed and  
6 signed by the voter and received by the county clerk, the county  
7 clerk or a designated appointee shall process the ballot. If  
8 the replacement ballot request form is not completed or signed  
9 by the voter or not received by the county clerk, the county  
10 clerk or a designated appointee shall not process the ballot.

11 §11- Uniformed and overseas citizens Absentee Voting  
12 Act; application. To the extent that this part and chapter 15D  
13 conflict with regard to the application of any requirement  
14 established pursuant to this part to a covered voter, as that  
15 term is defined in section 15D-2, chapter 15D shall govern."

16 SECTION 2. Section 11-1, Hawaii Revised Statutes, is  
17 amended as follows:

18 1. By adding a new definition to be appropriately inserted  
19 and to read:

20 "Election by mail" means an election conducted principally  
21 by mail."

22 2. By amending the definition of "ballot" to read:



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

14            3. By amending the definition of "voting system" to read:

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 3. 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~~] 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  
11 and to preclude tampering with the ballots of these voters and  
12 other election frauds. [~~Such~~] These rules [~~and regulations~~],  
13 when adopted in conformity with chapter 91 and upon approval by  
14 the governor, shall have the force and effect of law."

15 SECTION 4. 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  
11 depositing of the ballot in the ballot box whether the ballot is  
12 blank or later rejected for any reason. In the case of voting  
13 machines, "vote" means the voter has activated the proper  
14 mechanism and fed the vote into the machine. In the case of an  
15 election by mail pursuant to part , "vote" means the voter  
16 has returned the ballot to the chief election officer or county  
17 clerk by the United States Postal Service or by depositing the  
18 ballot at a precinct designated for ballot deposit by the chief  
19 election officer or county clerk."

20 SECTION 5. Section 11-92.1, Hawaii Revised Statutes, is  
21 amended by amending the title and subsection (a) to read as  
22 follows:



1           "**§11-92.1 Election proclamation; [~~establishment of a new~~**  
2 **~~precinct.] precincts.~~** (a) The chief election officer shall  
3 issue a proclamation whenever a new precinct is established in  
4 any representative district. The chief election officer, or the  
5 county clerk in a county election, shall provide a suitable  
6 polling place for each precinct~~[-]~~ in a general election, and  
7 for not less than one location in each representative district  
8 in a primary election. Schools, recreational halls, park  
9 facilities, and other publicly owned or controlled buildings,  
10 whenever possible and convenient, shall be used as polling  
11 places. The chief election officer, or the county clerk in a  
12 county election, shall make arrangements for the rental or  
13 erection of suitable shelter for this purpose whenever public  
14 buildings are not available and shall cause these polling places  
15 to be equipped with the necessary facilities for lighting,  
16 ventilation, and equipment needed for elections on any island.  
17 This proclamation may be issued jointly with the proclamation  
18 required in section 11-91."

19           SECTION 6. 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 7. 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 part other than  
15 those persons authorized to do so under part ;

16 (9) Any unauthorized person found in possession of any  
17 voting machine or keys thereof; and

18 (10) Every person who wilfully violates or fails to obey  
19 any of the provisions of law, punishment for which is  
20 not otherwise in this chapter specially provided for."

21 SECTION 8. Section 11-91.5, Hawaii Revised Statutes, is  
22 repealed.





1           ~~["§11-91.5] Federal, state, and county elections by mail.~~

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

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

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

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

17           SECTION 9. Section 11-92.3, Hawaii Revised Statutes, is  
18   repealed.

19           ~~["§11-92.3 Consolidated precincts; natural disasters;~~  
20   ~~postponement; absentee voting required; special elections. (a)~~  
21   ~~In the event of a flood, tsunami, earthquake, volcanic eruption,~~  
22   ~~high wind, or other natural disaster, occurring prior to an~~



1 ~~election, that makes a precinct inaccessible, the chief election~~  
2 ~~officer or county clerk in the case of county elections may~~  
3 ~~consolidate precincts within a representative district. If the~~  
4 ~~extent of damage caused by any natural disaster is such that the~~  
5 ~~ability of voters, in any precinct, district, or county, to~~  
6 ~~exercise their right to vote is substantially impaired, the~~  
7 ~~chief election officer or county clerk in the case of county~~  
8 ~~elections may require the registered voters of the affected~~  
9 ~~precinct to vote by absentee ballot pursuant to section 15-2.5~~  
10 ~~and may postpone the conducting of an election in the affected~~  
11 ~~precinct for no more than twenty-one days; provided that any~~  
12 ~~such postponement shall not affect the conduct of the election,~~  
13 ~~tabulation, or distribution of results for those precincts,~~  
14 ~~districts, or counties not designated for postponement. The~~  
15 ~~chief election officer or county clerk in the case of county~~  
16 ~~elections shall give notice of the consolidation, postponement,~~  
17 ~~or requirement to vote by absentee ballot, in the affected~~  
18 ~~county or precinct prior to the opening of the precinct polling~~  
19 ~~place by whatever possible news or broadcast media are~~  
20 ~~available. Precinct officials and workers affected by any~~  
21 ~~consolidation shall not forfeit their pay.~~



1       ~~(b) In the event the chief election officer or the county~~  
2 ~~clerk in a county election determines that the number of~~  
3 ~~candidates or issues on the ballot in a special, special~~  
4 ~~primary, or special general election does not require the full~~  
5 ~~number of established precincts, the precincts may be~~  
6 ~~consolidated for the purposes of the special, special primary,~~  
7 ~~or special general election into a small number of special,~~  
8 ~~special primary, or special general election precincts.~~

9       ~~A special, special primary, or special general election~~  
10 ~~precinct shall be considered the same as an established precinct~~  
11 ~~for all purposes, including precinct official requirements~~  
12 ~~provided in section 11-71. Not later than 4:30 p.m. on the~~  
13 ~~tenth day prior to the special, special primary, or special~~  
14 ~~general election, the chief election officer or the county clerk~~  
15 ~~shall give public notice, in the area in which the special,~~  
16 ~~special primary, or special general election is to be held, of~~  
17 ~~the special, special primary, or special general election~~  
18 ~~precincts and their polling places. Notices of the~~  
19 ~~consolidation also shall be posted on election day at the~~  
20 ~~established precinct polling places, giving the location of the~~  
21 ~~special, special primary, or special general election precinct~~  
22 ~~polling place." ]~~



# S.B. NO. 720

1 SECTION 10. 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 11. Statutory material to be repealed is bracketed  
 10 and stricken. New statutory material is underscored.

11 SECTION 12. This Act shall take effect on July 1, 2013.  
 12

INTRODUCED BY:

~~David Ige~~  
 Ige

Makana



Suzanne Chun

Michelle Sidani



# S.B. NO. 720

**Report Title:**

Elections; Voting by Mail

**Description:**

Establishes an election by mail voting system for all elections.

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

