
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, as that term is defined in section 11-302, shall be
7 conducted by mail in accordance with this part.

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

12 §11- Procedures for conducting election by mail. (a)

13 Ballot packages shall include:

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



1 (b) Except as provided in subsections (c), (d), and (e)
2 the county clerk shall mail by nonforwardable mail a ballot
3 package to each registered voter between eighteen and fourteen
4 days before the date of the election; provided that the
5 deadlines established under chapter 15D shall apply to the
6 covered voters, as that term is defined in section 15D-2.

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

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

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



1 confidentiality as provided in section 11-14.5. The receipt of
2 the ballot package by pick-up shall be available to the voter
3 until three days before the election to enable the voter to vote
4 on or before the date of the election.

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

7 (1) Mark the ballot;

8 (2) Sign the return identification envelope supplied with
9 the ballot; and

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

11 (g) The voter may return the marked ballot to the county
12 clerk by the United States Postal Service not later than the end
13 of the period determined by the chief election officer or by
14 depositing the ballot at any location designated by the chief
15 election officer or county clerk not later than the time stated
16 in section 11-131 on the date of the election; provided that:

17 (1) The chief election officer or county clerk shall
18 designate not less than one location in each
19 representative district for the deposit of ballots
20 under this subsection; and



1 (2) Each location designated pursuant to paragraph (1)
2 shall offer the use of secure receptacles for the
3 deposit of ballots at any time of the day.

4 §11- **Instructions.** (a) The instructions shall include
5 directions on marking the ballot, inserting the marked ballot in
6 the secrecy envelope, inserting the secrecy envelope with the
7 marked ballot in the return identification envelope, and signing
8 the return identification envelope before mailing or delivering
9 the return identification envelope containing the secrecy
10 envelope with the marked ballot.

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

15 §11- **Public notice of distribution.** Public notice of
16 any date on which ballot packages are mailed, delivered, or made
17 available shall be provided by the chief election officer and
18 all county election offices when all ballot packages have been
19 mailed, delivered, and made available to voters. Public notices
20 required under this section shall be executed in accordance with
21 sections 1-28.5 and 15D-15.



1 **§11- Replacement ballots.** (a) A voter may obtain a
2 replacement ballot if the ballot is destroyed, spoiled, lost, or
3 not received by the clerk. To vote by replacement ballot, the
4 voter shall complete and sign a replacement ballot request form.
5 The request for a replacement ballot may be made by mail, in
6 person, or by other means in accordance with rules adopted by
7 the chief election officer.

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

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

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

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

16 (4) Issue a replacement ballot.

17 **§11- Counting of ballots.** (a) The method of preparing
18 ballots for counting may begin no sooner than the seventh day
19 before the election. In the presence of official observers,
20 counting center employees may start to count the ballots on the
21 day of the election. All handling and counting of the ballots



1 shall be conducted in accordance with procedures prescribed by
2 the chief election officer by rule.

3 (b) A ballot shall be counted if:

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

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

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

10 (4) The signature of the voter is verified pursuant to
11 subsection (c).

12 (c) The county clerk, or a designee appointed by the
13 county clerk, shall verify the signature on the return
14 identification envelope in accordance with procedures prescribed
15 by the chief election officer by rule.

16 (d) Upon receipt of a marked replacement ballot, the
17 county clerk or a designated appointee shall verify that a
18 completed and signed replacement ballot request form has been
19 received by the county clerk or is included with the marked
20 replacement ballot. If a request form has been completed and
21 signed by the voter and received by the county clerk, the county



1 clerk or a designated appointee shall process the ballot. If
2 the replacement ballot request form is not completed or signed
3 by the voter or not received by the county clerk, the county
4 clerk or a designated appointee shall not process the ballot.

5 §11- Uniform Military and Overseas Voters Act;
6 application. To the extent that this part and chapter 15D
7 conflict with regard to the application of any requirement
8 established pursuant to this part to a covered voter, as that
9 term is defined in section 15D-2, chapter 15D shall govern."

10 SECTION 2. Chapter 19, Hawaii Revised Statutes, is amended
11 by adding a new section to be appropriately designated and to
12 read as follows:

13 "§19- Election by mail offense. Any person who opens a
14 return envelope containing a ballot voted by mail under
15 part , other than those persons authorized to do so under
16 part , shall be guilty of a class B felony."

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

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



1 "Election by mail" means an election conducted principally
2 by mail."

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

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

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

18 "'Voting system", the use of paper ballots, electronic
19 ballot cards, voting machines, voting by mail, or any system by
20 which votes are cast and counted."



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

3 "§11-4 Rules [~~and regulations~~]. The chief election
4 officer may make, amend, and repeal [~~such~~] rules [~~and~~
5 ~~regulations~~] governing elections held under this title, election
6 procedures, and the selection, establishment, use, and operation
7 of all voting systems now in use or to be adopted in the State,
8 and all other similar matters relating thereto as in the chief
9 election officer's judgment shall be necessary to carry out this
10 title.

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



1 mechanism and fed the vote into the machine. In the case of an
2 election by mail pursuant to part , "vote" means the voter
3 has returned the ballot to the chief election officer or county
4 clerk by the United States Postal Service or by depositing the
5 ballot at a location designated for ballot deposit by the chief
6 election officer or county clerk."

7 SECTION 6. Section 11-92.1, Hawaii Revised Statutes, is
8 amended by amending the title and subsection (a) to read as
9 follows:

10 "§11-92.1 ~~Election proclamation; [establishment of a new~~
11 ~~precinct.]~~ precincts. (a) The chief election officer shall
12 issue a proclamation whenever a new precinct is established in
13 any representative district. The chief election officer, or the
14 county clerk in a county election, shall provide a suitable
15 polling place for each precinct[-] in a general election, and
16 for not less than one location in each representative district
17 in a primary election. Schools, recreational halls, park
18 facilities, and other publicly owned or controlled buildings,
19 whenever possible and convenient, shall be used as polling
20 places. The chief election officer, or the county clerk in a
21 county election, shall make arrangements for the rental or



1 erection of suitable shelter for this purpose whenever public
2 buildings are not available and shall cause these polling places
3 to be equipped with the necessary facilities for lighting,
4 ventilation, and equipment needed for elections on any island.
5 This proclamation may be issued jointly with the proclamation
6 required in section 11-91."

7 SECTION 7. Section 11-184, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§11-184 Election expenses and responsibilities in
10 combined state and county elections. Election expenses in
11 elections involving both state and county offices shall be
12 shared as set forth below:

13 (1) The State shall pay and be responsible for:

14 (A) Precinct officials;

15 (B) Instruction of precinct officials when initiated
16 or approved by the chief election officer;

17 (C) Boards of registration;

18 (D) Polling place costs other than supplies:

19 installation rentals, ballot boxes, voting

20 booths, custodians, telephones, and maintenance;



- 1 (E) Other equipment such as ballot transport
- 2 containers;
- 3 (F) Temporary election employees hired to do strictly
- 4 state work; and
- 5 (G) Extraordinary voter registration and voter
- 6 education costs when approved by the chief
- 7 election officer.
- 8 (2) The county shall pay and be responsible for:
- 9 (A) Normal voter registration, voters list
- 10 maintenance, and all printing connected with
- 11 voter registration, including printing of the
- 12 voters list;
- 13 (B) Temporary election employees hired to do strictly
- 14 county work;
- 15 (C) Maintenance of existing voting machines,
- 16 including parts, freight, storage, programming,
- 17 and personnel;
- 18 (D) Maintenance and storage of voting devices and
- 19 other equipment; and
- 20 (E) Employees assigned to conduct absentee or voting
- 21 by mail polling place functions.



- 1 (3) The remaining election expenses shall be divided in
2 half between the State and the counties. Each county
3 will pay a proration of expenses as a proportion of
4 the registered voters at the time of the general
5 election. These expenses shall include but not be
6 limited to:
- 7 (A) Polling place supplies;
- 8 (B) All printing, including ballots, but excluding
9 printing connected with voter registration;
- 10 (C) Temporary election employees not including voting
11 machine programmers doing work for both the State
12 and county;
- 13 (D) Ballot preparation and packing; and
- 14 (E) All other costs for which the State or county are
15 not specifically responsible relating to the
16 operation of voting machines, electronic voting
17 systems, and other voting systems except paper
18 ballots to include but not be limited to real
19 property rentals, equipment rentals, personnel,
20 mileage, telephones, supplies, publicity,
21 computer programming, and freight.



1 The responsibility for the above functions shall
2 be determined by the chief election officer where the
3 responsibility for such functions has not been
4 assigned by the legislature.

5 Any future expenses not presently incurred under any voting
6 system now in use or to be used shall be assigned to
7 [~~paragraphs~~] paragraph (1), (2), or (3) [~~above~~] by the chief
8 election officer upon agreement with the clerks or by the
9 legislature."

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

12 [~~"§11-91.5 Federal, state, and county elections by mail.~~

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

16 ~~(b) The chief election officer shall determine whether a~~
17 ~~federal or state election, other than a regularly scheduled~~
18 ~~primary or general election, may be conducted by mail or at~~
19 ~~polling places.~~

20 ~~(c) The county clerk shall determine whether a county~~
21 ~~election, held other than on the date of a regularly scheduled~~



1 ~~primary or general election, may be conducted by mail or at~~
2 ~~polling places. An election by mail in the county shall be~~
3 ~~under the supervision of the county clerk.~~

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

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

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

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



1 ~~chief election officer or county clerk in the case of county~~
2 ~~elections may require the registered voters of the affected~~
3 ~~precinct to vote by absentee ballot pursuant to section 15-2.5~~
4 ~~and may postpone the conducting of an election in the affected~~
5 ~~precinct for no more than twenty one days, provided that any~~
6 ~~such postponement shall not affect the conduct of the election,~~
7 ~~tabulation, or distribution of results for those precincts,~~
8 ~~districts, or counties not designated for postponement. The~~
9 ~~chief election officer or county clerk in the case of county~~
10 ~~elections shall give notice of the consolidation, postponement,~~
11 ~~or requirement to vote by absentee ballot, in the affected~~
12 ~~county or precinct prior to the opening of the precinct polling~~
13 ~~place by whatever possible news or broadcast media are~~
14 ~~available. Precinct officials and workers affected by any~~
15 ~~consolidation shall not forfeit their pay.~~

16 ~~(b) In the event the chief election officer or the county~~
17 ~~clerk in a county election determines that the number of~~
18 ~~candidates or issues on the ballot in a special, special~~
19 ~~primary, or special general election does not require the full~~
20 ~~number of established precincts, the precincts may be~~
21 ~~consolidated for the purposes of the special, special primary,~~



1 ~~or special general election into a small number of special,~~
2 ~~special primary, or special general election precincts.~~

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

17 SECTION 10. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$ or so
19 much thereof as may be necessary for fiscal year 2015-2016 and
20 the same sum or so much thereof as may be necessary for fiscal



1 year 2016-2017 for the purpose of implementing and administering
2 elections by mail pursuant to this Act.

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

5 SECTION 11. This Act does not affect rights and duties
6 that matured, penalties that were incurred, and proceedings that
7 were begun before its effective date.

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

10 SECTION 13. This Act shall take effect on July 1, 2015.

11

INTRODUCED BY:

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H.B. NO. 1481

Report Title:

Elections; Voting by Mail; Appropriation

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.

