
A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. The legislature finds that voter participation
2 in Hawaii is among the lowest in the country. In fact, Hawaii
3 had the lowest voter turnout rate among the voting-eligible
4 population in the fifty states plus the District of Columbia in
5 the presidential elections of 2008 and 2012. This included
6 rates of 49.0 and 44.5 per cent, respectively, compared to the
7 United States average of 62.2 and 58.6 per cent. The primary
8 election in August 2014 further exemplified this downward trend
9 of voter participation with only 289,398 out of the 697,033
10 registered voters, or 41.5 per cent, voting in that election.
11 Even if the 80,459 people placed on the failsafe list, the
12 equivalent of eleven per cent of the total number of registered
13 voters, were to be removed, the participation rate was only 46.9
14 per cent, still below half of the total number of registered
15 voters in the State. People on the failsafe list maintain their
16 registration while officials determine if they should be purged
17 from the voter lists. While efforts are made every election to



1 increase voter participation, Hawaii still lags behind the rest
2 of the country.

3 The legislature further finds that compulsory voting could
4 effectively increase voter participation. Although not in
5 effect in the United States, over twenty countries around the
6 world have compulsory voting laws, for example, Australia.
7 Implemented in 1924, the Australian compulsory voting law
8 requires all registered voters to vote in an election.
9 Registered voters who fail to vote, and who have no valid excuse
10 for having failed to vote, are fined. While voters are required
11 to vote, it is possible to cast an informal vote whereby the
12 ballot is incorrectly completed or left blank. Since the
13 introduction of compulsory voting, Australian voter turnout has
14 not fallen below ninety per cent.

15 The purpose of this Act is to require all registered voters
16 to vote in elections and to develop a system of implementation
17 and enforcement under the purview of the chief elections
18 officer.

19 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
20 by adding two new sections to be appropriately designated and to
21 read as follows:



1 "§11-A Compulsory voting. Every voter, properly
2 registered under the requirements set by this chapter and of
3 eighteen years of age at the time of an election, shall be
4 required to vote at each election. Enforcement of this section
5 shall be pursuant to the procedures set forth in section 11-B.

6 §11-B Failure to vote. (a) The chief election officer
7 shall, after each election day, prepare a list of the names and
8 addresses of registered voters who appear to have failed to vote
9 at the election.

10 (b) Subject to subsection (c), within the period of ninety
11 days after the election day, the chief election officer must:

12 (1) Send a penalty notice by mail; or

13 (2) Arrange for a penalty notice to be delivered by other
14 means to the latest known address of each voter whose
15 name appears on the list prepared under subsection

16 (b).

17 (c) The chief election officer is not required to send or
18 deliver a penalty notice if he or she is satisfied the voter:

19 (1) Is dead;

20 (2) Was absent from the State on election day;

21



- 1 (3) Was ineligible to vote on election day; or
- 2 (4) Had a valid and sufficient reason for failing to vote.

3 (d) A penalty notice is a notice in an approved form
4 notifying the voter that:

- 5 (1) The voter appears to have failed to vote at the
- 6 election;
- 7 (2) It is an offense to fail to vote at an election without
- 8 a valid and sufficient reason for the failure; and

9 (3) If the voter does not wish to have the apparent failure
10 to vote dealt with by a court, the voter may, within
11 the prescribed time:

12 (A) Provide the chief election officer with details
13 of the voter's having voted, if the voter did in
14 fact vote as required by section 11-A;

15 (B) Provide the chief election officer with a valid
16 and sufficient reason for the failure, if the
17 voter failed to vote; or

18 (C) Pay to the chief election officer a penalty of
19 one hundred dollars.



1 (e) If a voter does not respond to a penalty notice in a
2 manner indicted in subparagraph (d) (3) (A), (B), or (C) within
3 the prescribed time, the chief election officer must:

- 4 (1) Send a second penalty notice by mail; or
5 (2) Arrange for a second penalty notice to be delivered by
6 other means to the voter, at his or her latest known
7 address.

8 (f) The second penalty notice must, subject to subsection
9 (g), have the same form as the first penalty notice but bear a
10 notation to the effect that a previous notice in the same terms
11 was sent to the voter, but that a response in the manner
12 indicated in subparagraph (d) (3) (A), (B), or (C) was not
13 received.

14 (g) The provisions of this section, other than subsection
15 (f), apply in relation to a second penalty notice:

- 16 (1) As if it were a penalty notice issued under subsection
17 (b); and
18 (2) As if, in the provisions of this section so applied,
19 references to paragraphs and subparagraphs of
20 subsection (d) included references to those paragraphs
21 and subparagraphs as applied by this section.



1 (h) If, within the prescribed time:

2 (1) A voter responds to a penalty notice in the manner
3 indicted in subparagraph (d) (3) (A) or (B) and the
4 chief election officer is satisfied with the response:

5 (A) In the case of a response of the kind referred to
6 in subparagraph (d) (3) (A) - that the voter did
7 vote as required by this act;

8 (B) In the case of a response of the kind referred to
9 in subparagraph (d) (3) (B) - that the reason for
10 the failure to vote as a valid and sufficient
11 reason; or

12 (2) A voter responds to a penalty notice by paying the
13 penalty of one hundred dollars;
14 then proceedings against the voter for a contravention of
15 subsection (o) are prohibited.

16 (i) If the chief election officer is not satisfied with the
17 response to a penalty notice given under subparagraph (D) (3) (A)
18 or (B) within the prescribed time:

19 (1) In the case of a response of the kind established in
20 subparagraph (d) (3) (A) - that the voter voted as
21 required by section 11-A; or



1 (2) In the case of a response of the kind established in
2 subparagraph (d)(3)(B) - that the reason for the
3 failure to vote is a valid and sufficient reason; then
4 the chief election officer must send by mail or
5 deliver to the voter, at his or her latest known
6 address, a notice in an approved form, notifying the
7 voter that:

8 (3) The chief election officer is not satisfied; and

9 (4) If the voter does not wish to have the apparent failure
10 to vote without a valid and sufficient reason for such
11 failure dealt with by a court, he or she may, within
12 the prescribed time, pay to the chief election officer
13 a penalty of one hundred dollars.

14 (j) If, in response to a notice under subsection (i), the
15 penalty of one hundred dollars is paid to the chief election
16 officer within the prescribed time, proceedings against the
17 voter for a contravention of subsection (o) are prohibited.

18 (k) If a voter is unable, by reason of absence from his or
19 her place of living or physical incapacity, to respond to a
20 penalty notice or to a notice under subsection (i) within the
21 prescribed time, any other voter who has a personal knowledge of



1 the facts may, subject to the regulations, respond to the notice
2 within that time, and such response is to be treated as
3 compliance by the first-mentioned voter with the notice.

4 (1) The chief election officer must prepare a list of all
5 voters to whom a penalty notice has been sent or delivered and
6 note on that list in relation to each voter:

7 (1) Whether there has been a response to the notice; and

8 (2) If there has been a response:

9 (A) Whether the chief election officer is satisfied
10 that the voter did in fact vote or that there was
11 a valid and sufficient reason for the voter's
12 failure to vote; or

13 (B) Whether the penalty has been paid.

14 (m) The chief election officer must note on the list
15 prepared under subsection (l) in relation to each voter to whom
16 a notice under subsection (i) has been sent or delivered:

17 (1) The fact that a notice has been sent or delivered under
18 subsection (i);

19 (2) Whether there has been a response to the notice; and

20 p (3) If there has been a response - whether the penalty has
21 been paid.



1 (n) Without iting the circumstances that may constitute a
2 valid and sufficient reason for not voting, the fact that a
3 voter believes it to be part of his or her religious duty to
4 abstain from voting constitutes a valid and sufficient reason
5 for the failure of the voter to vote.

6 (o) If a voter who failed to vote at an election, and has:

7 (1) Not paid to the chief election officer the penalty of
8 one hundred dollars within the prescribed time;

9 (2) Provided a response to a penalty notice under
10 subparagraph (d) (3) (A) and (B) within the prescribed
11 time that did not satisfy the chief election officer;
12 or

13 (3) Failed to respond to a penalty notice or to a notice
14 under subsection (i) within the prescribed time; then
15 he or she shall be guilty of an offense and shall be
16 required to pay a penalty of two hundred dollars.

17 (p) A voter who makes a statement in response to a penalty
18 notice or to a notice under subsection (i) that is, to his or
19 her knowledge, materially false or misleading is guilty of an
20 offense and shall be required to pay a penalty of two hundred
21 dollars."



1 SECTION 3. Section 11-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§11-2 Chief election officer; duties. (a) The chief
4 election officer shall supervise all state elections. The chief
5 election officer may delegate responsibilities in state
6 elections within a county to the clerk of that county or to
7 other specified persons.

8 (b) The chief election officer shall be responsible for
9 the maximization of registration of eligible electors throughout
10 the State. In maximizing registration, the chief election
11 officer shall make an effort to equalize registration between
12 districts, with particular effort in those districts in which
13 the chief election officer determines registration is lower than
14 desirable. The chief election officer, in carrying out this
15 function, may make surveys, carry on house-to-house canvassing,
16 and assist or direct the clerk in any other area of
17 registration.

18 (c) The chief election officer shall maintain data
19 concerning registered voters, elections, apportionment, and
20 districting. The chief election officer shall use this data to



1 assist the reapportionment commission provided for under Article
2 IV of the Constitution.

3 (d) The chief election officer shall be responsible for
4 public education with respect to voter registration and
5 information.

6 (e) The chief election officer shall be responsible for
7 the enforcement of the compulsory voting requirement pursuant to
8 sections 11-A and 11-B.

9 [~~e~~] (f) The chief election officer shall adopt rules
10 governing elections in accordance with chapter 91."

11 SECTION 4. There is appropriated out of the general funds
12 of the State of Hawaii the sum of \$200,000 or so much thereof as
13 may be necessary for fiscal year 2014-2015 to carry out the
14 purposes of this Act, including the hiring of necessary staff.

15 The sum appropriated shall be expended by the department of
16 accounting and general services and be used by the office of
17 elections in support of the chief election officer.

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon approval and
2 shall apply to all elections as defined in section 11-1, after
3 December 31, 2015.

4

INTRODUCED BY:

Eric Weed

Mark J. Harkin

JAN 29 2015



Report Title:

Compulsory Voting; Enforcement; Chief Election Officer

Description:

Establishes a compulsory voting requirement for all registered voters and establishes a means of enforcement, with a fine of \$100 to be imposed on registered voters who fail to vote without a valid excuse. Amends the duties of the Chief Election Officer to include enforcement of this Act.

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

