
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 . ELECTIONS BY MAIL

5 §11-A Elections to be conducted by mail. Beginning in
6 2020, all federal, state, and county primary, special primary,
7 general, special general, and special elections shall be
8 conducted by mail in accordance with this part; provided further
9 that any person registered to vote may request an absentee
10 ballot or permanent absentee ballot in accordance with section
11 15-4, in lieu of receiving an election by mail ballot package
12 pursuant to this part.

13 §11-B Procedures for conducting elections by mail. (a)

14 Ballot packages for elections by mail shall include:

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



1 (4) Instructions.

2 (b) To the extent practicable, the county clerk shall mail
3 a ballot package by nonforwardable mail to each registered voter
4 in the county no earlier than thirty days before the date of an
5 election.

6 (c) Public notice of the date or dates that election by
7 mail ballot packages are mailed, delivered, or made available
8 shall be given by the chief election officer and all county
9 election officers in the manner prescribed in section 1-28.5
10 when all the packages have been mailed, delivered, or made
11 available to voters.

12 (d) After receipt of an election by mail ballot package,
13 the voter shall comply with the instructions included in the
14 ballot package to cast a valid ballot. The instructions shall
15 include information on election fraud and voter fraud, as
16 provided in sections 19-3(5) and 19-3.5, and notice that
17 violation of either section may subject the voter, upon
18 conviction, to imprisonment, a fine, or both. To cast a valid
19 election by mail ballot, the voter shall return the marked
20 ballot in the return identification envelope. The marked ballot
21 may be returned by mail, to a place of deposit, or to a voter



1 service center; provided that the return identification envelope
2 shall be received at the office of the clerk, place of deposit,
3 or voter service center no later than the close of the polls as
4 provided in section 11-131 on the date of the election.

5 (e) A voter may obtain a replacement ballot if the ballot
6 was destroyed, spoiled, lost, or not received by the voter. The
7 clerk shall keep a record of each ballot issued to ensure that
8 another ballot has not been returned by the voter.

9 (f) If a mailed election by mail ballot is not received by
10 the voter within five days of an election, or a voter otherwise
11 requires a replacement ballot within five days of an election,
12 the voter may request that a ballot be forwarded by electronic
13 transmission. Upon receipt of such a request and confirmation
14 that proper application was made, the clerk may transmit the
15 appropriate ballot, together with a form containing the
16 affirmations and information required by section 15-6, and a
17 form containing a waiver of the right to secrecy under section
18 11-137. The voter may return the voted replacement ballot and
19 executed forms by electronic transmission, mail, or deposit at a
20 place of deposit or voter service center; provided that the
21 ballot and forms are received by the issuing clerk before voting



1 has concluded. Upon receipt, the clerk shall verify compliance
2 with the requirements of this part; provided that if the voter
3 returns multiple voted ballots for the same election, the clerk
4 shall prepare, for counting, only the first ballot returned that
5 is not spoiled. Prior to an election, the clerk shall determine
6 the permissible form or forms of electronic transmission that
7 may be used for the initial transmission of ballots to voters
8 and the return transmission of ballots by voters. The forms of
9 electronic transmission permitted for the initial transmission
10 of ballots may differ from those permitted for the return of
11 ballots by voters. For purposes of this subsection, "electronic
12 transmission" may include facsimile transmission, electronic
13 mail delivery, or the utilization of an online ballot delivery
14 and return system.

15 (g) The chief election officer shall determine and provide
16 for places of deposit and voter service centers pursuant to this
17 part and section 11-92.1.

18 **§11-C Counting of mail-in ballots.** Counting may begin no
19 sooner than the seventh day before the election. In the
20 presence of official observers, counting center employees may
21 begin to count the ballots; provided that any tabulation of the



1 number of votes cast for a candidate or question appearing on
2 the ballot, including a counting center printout or other
3 disclosure, shall be kept confidential and shall not be
4 disclosed to the public until voting for the election has
5 concluded. All handling and counting of election by mail
6 ballots shall be conducted in accordance with procedures
7 established by the chief election officer.

8 **§11-D Voter service centers; minimum number; designation;**
9 **services provided.** (a) Beginning on January 1, 2020, in each
10 county, voter service centers shall be established at the office
11 of the respective county clerks and may be established at other
12 sites as may be designated by the county clerk pursuant to this
13 section and rules adopted by the chief election officer.
14 Section 11-21 relating to changes and transfers of registration
15 shall apply to each voter service center as though it were the
16 precinct at which a person's name properly appears on the list
17 of registered voters.

18 (b) Voter service centers shall be open from the tenth day
19 preceding the day of the election through the day of the
20 election and at the same times statewide, except as may be



1 otherwise provided in section 11-92.3 or by the chief election
2 officer through administrative rules.

3 (c) In designating voter service centers pursuant to this
4 section, each county clerk shall consider the following factors
5 to address the needs of the county:

- 6 (1) Proximity to public transportation lines and
7 availability of parking;
- 8 (2) Geographic features, such as mountain passes, that
9 tend to affect access and convenience;
- 10 (3) Equitable distribution across the county so as to
11 afford maximally convenient options for voters;
- 12 (4) The existence and location of population centers;
- 13 (5) Access for persons with disabilities;
- 14 (6) Use of locations that have historically served as
15 polling places for a significant number of voters;
- 16 (7) Use of schools, recreational halls, park facilities,
17 and other publicly owned or controlled buildings that
18 are known to voters in the county, especially to the
19 extent that using such buildings results in cost
20 savings compared to other potential locations; and



1 (8) When private locations are considered or designated as
2 voter service centers in accordance with this section,
3 methods and standards to ensure the security of voting
4 conducted at such locations.

5 Each county clerk shall solicit public comments in proposing
6 voter service center locations and shall submit the proposed
7 locations to the chief election officer for approval. The chief
8 election officer shall adopt administrative rules, pursuant to
9 chapter 91, to prescribe the manner of submission, public
10 comment and notice requirements, deadline for submission, and
11 criteria for approval of proposed voter service center
12 locations.

13 (d) Each voter service center shall provide:

14 (1) The means for an eligible voter to deposit or cast a
15 ballot;

16 (2) The means for an eligible voter to update the voter's
17 address in voting records;

18 (3) The means for an eligible voter who has legally
19 changed the voter's name to have the voter's name
20 changed in the voting records;



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- 1 (4) Facilities and equipment that are compliant with the
- 2 federal Americans with Disabilities Act of 1990, title
- 3 42 United States Code section 12101 et seq., as
- 4 amended;
- 5 (5) Electronic voting machines or other voting systems
- 6 accessible to voters with disabilities;
- 7 (6) Voting booths;
- 8 (7) Ballots for distribution; and
- 9 (8) Pursuant to section 11-15.2, the means for an eligible
- 10 voter to register to vote on the day of the election."

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

13 1. By adding four new definitions to be appropriately
14 inserted and to read:

15 "Election by mail ballot package" means the packet of
16 information, including an official ballot, a pre-paid postage
17 return identification envelope, a secrecy envelope, and
18 instructions, provided to eligible voters.

19 "Place of deposit" means a site designated by the chief
20 election officer for the purpose of receiving return



1 identification envelopes in an election conducted by mail
2 pursuant to part _____.

3 "Poll" or "polling place" means an office or other suitable
4 facility designated by the respective clerks for the conduct of
5 voting. Beginning on January 1, 2020, the term "poll" or
6 "polling place" shall include a voter service center.

7 "Voter service center" means a location established
8 pursuant to section 11-D for accepting ballots and providing
9 other services described in section 11-D."

10 2. By amending the definitions of "ballot" and "voting
11 system" to read:

12 "Ballot" [7] means a ballot, including an absentee ballot,
13 that is a written or printed, or partly written and partly
14 printed paper or papers, containing the names of persons to be
15 voted for, the office to be filled, and the questions or issues
16 to be voted on. "Ballot" includes a ballot used in an election
17 by mail pursuant to part _____. A ballot may consist of one or
18 more cards or pieces of paper, or one face of a card or piece of
19 paper, or a portion of the face of a card or piece of paper,
20 depending on the number of offices, candidates to be elected
21 thereto, questions or issues to be voted on, and the voting



1 system in use. It shall also include the face of the mechanical
2 voting machine when arranged with cardboard or other material
3 within the ballot frames, containing the names of the candidates
4 and questions to be voted on.

5 "Voting system" [7] means the use of paper ballots,
6 electronic ballot cards, voting machines, elections by mail
7 pursuant to part _____, absentee voting pursuant to chapter 15, or
8 any system by which votes are cast and counted."

9 SECTION 3. Section 11-4, Hawaii Revised Statutes, is
10 amended to read as follows:

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

19 In making, amending, and repealing rules [~~and regulations~~]
20 for voters who cannot vote [~~at the polls~~] in person or receive
21 or return ballots by mail, and all other voters, the chief



1 election officer shall provide for voting by [~~such~~] these
2 persons in [~~such~~] a manner as to [~~insure~~] ensure secrecy of the
3 ballot and to preclude tampering with the ballots of these
4 voters and other election frauds. [~~Such~~] The rules [~~and~~
5 ~~regulations~~], when adopted in conformity with chapter 91 and
6 upon approval by the governor, shall have the force and effect
7 of law."

8 SECTION 4. Section 11-17, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) The clerk, not later than 4:30 p.m. on the sixtieth
11 day after every general election, shall remove the name of any
12 registered voter who did not vote in that general election, and
13 also did not vote in the primary election preceding that general
14 election, and also did not vote in the previous general
15 election, and also did not vote in the primary election
16 preceding that general election, and also did not vote in the
17 regularly scheduled special elections held in conjunction with
18 those primary and general elections, if any, with the exception
19 of:

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



1 (2) Anyone who preregistered pursuant to section 11-12(b).
2 If a person voted, at least once, in any of the above-mentioned
3 elections, the person's name shall remain on the list of
4 registered voters. For this purpose, "vote" means the
5 depositing of the ballot in the ballot box regardless of whether
6 the ballot is blank or later rejected for any reason. In the
7 case of voting machines, "vote" means the voter has activated
8 the proper mechanism and fed the vote into the machine. In the
9 case of an election by mail pursuant to part , "vote" means
10 the voter has returned the ballot to the chief election officer
11 or county clerk by the United States Postal Service or by
12 delivering the ballot to a place of deposit or voter service
13 center."

14 SECTION 5. Section 11-91.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§11-91.5 Federal, state, and county elections by mail.**

17 (a) Any federal, state, or county election [~~held other than on~~
18 ~~the date of a regularly scheduled primary or general election]~~
19 may be conducted by mail[-] in whole or in part, including
20 designating specific precincts or counties for election by mail



1 in whole or in part, in accordance with this section and part
2 _____.

3 (b) The chief election officer shall determine whether [a
4 ~~federal or state election, other than a regularly scheduled~~
5 ~~primary or general~~] an election, [may] other than an election
6 involving solely county offices, shall be conducted by mail [or
7 at polling places.] in whole or in part.

8 (c) The county clerk shall determine whether a solely
9 county election, held other than on the date of a regularly
10 scheduled primary or general election, [may] shall be conducted
11 by mail [or at polling places.] in whole or in part. An
12 election by mail in the county shall be under the supervision of
13 the county clerk[~~-~~] subject to subsection (g).

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

17 (e) Voters may vote by absentee ballot at an absentee
18 walk-in polling place. For purposes of an election conducted by
19 mail, the county clerk shall designate at least one absentee
20 walk-in polling place to be open on the day of the election. In
21 the event of an election that does not involve county offices,



1 the chief election officer shall designate at least one absentee
2 walk-in polling place to be open on the day of the election.

3 (f) Election expenses for conducting an election by mail
4 shall be shared as follows:

5 (1) For elections involving federal and county, state and
6 county, or federal, state, and county offices,
7 expenses, other than expenses related to voter
8 registration and absentee voting, shall be divided in
9 half between the State and the counties, and each
10 county shall pay a proration of expenses as a
11 proportion of the registered voters at the time of the
12 general election. Expenses related to voter
13 registration and absentee voting shall be paid by the
14 counties;

15 (2) For elections involving solely county offices, all
16 expenses shall be paid by the county and paid out of
17 such appropriations as may be made by the county
18 council for election purposes; and

19 (3) For elections conducted in any county and which do not
20 involve elections for county offices, all expenses
21 shall be paid by the State and paid out of such



1 appropriations as may be made by the legislature for
2 election purposes.

3 (g) Election responsibilities for conducting an election
4 by mail shall be as follows:

5 (1) The counties shall be responsible for voter
6 registration and absentee voting, including voter
7 service centers, even in elections where there are no
8 county offices on the ballot; and

9 (2) The State shall be responsible for preparing, mailing,
10 receiving, processing, and tabulating mail ballots,
11 even in elections where there are no federal or State
12 offices on the ballot.

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

16 SECTION 6. Section 11-92.1, Hawaii Revised Statutes, is
17 amended by amending its title and subsection (a) to read as
18 follows:

19 "§11-92.1 Election proclamation; ~~establishment of a new~~
20 precinct.] places of deposit; voter service centers. (a) The
21 chief election officer shall issue a proclamation ~~[whenever a~~



1 ~~new precinct is established in any representative district.]~~
2 listing all polling places and places of deposit. Places of
3 deposit may be opened as soon as election by mail ballot packets
4 are made available to voters. The chief election officer shall
5 provide ~~[a suitable polling place for each precinct.]~~ one or
6 more polling places within a representative district as the
7 chief election officer deems necessary for voters who are unable
8 to participate in elections by mail pursuant to part .
9 Beginning on January 1, 2020, voter service centers shall be
10 made available pursuant to section 11-D in each county.
11 Schools, recreational halls, park facilities, and other publicly
12 owned or controlled buildings, whenever possible and convenient,
13 shall be used as polling places. The chief election officer
14 shall make arrangements for the rental or erection of suitable
15 shelter for this purpose whenever public buildings are not
16 available and shall cause these polling places to be equipped
17 with the necessary facilities for lighting, ventilation, and
18 equipment needed for elections on any island. This proclamation
19 may be issued jointly with the proclamation required in section
20 11-91."



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

4 "§11-92.3 [~~Consolidated precincts; natural~~] Natural
5 disasters; postponement; absentee voting [required]; vote by
6 mail; special elections. (a) In the event of a flood, tsunami,
7 earthquake, volcanic eruption, high wind, or other natural
8 disaster, occurring prior to an election, that makes a precinct,
9 place of deposit, or voter service center inaccessible, the
10 chief election officer or county clerk in the case of county
11 elections may consolidate precincts or provide an alternate
12 precinct within a representative district. If the extent of
13 damage caused by any natural disaster is such that the ability
14 of voters, in any precinct, district, or county, to exercise
15 their right to vote is substantially impaired, the chief
16 election officer or county clerk in the case of county elections
17 may [~~require the~~]:

18 (1) Require the registered voters of the affected
19 precinct, district, or county to vote by absentee
20 ballot pursuant to section 15-2.5 [~~and may postpone~~]
21 or elections by mail pursuant to part ; and



1 (2) Postpone the conducting of an election in the affected
2 precinct, district, or county for no more than twenty-
3 one days; provided that any such postponement shall
4 not affect the conduct of the election, tabulation, or
5 distribution of results for those precincts,
6 districts, or counties not designated for
7 postponement.

8 The chief election officer or county clerk in the case of county
9 elections shall give notice of the consolidation, postponement,
10 or requirement to vote by absentee ballot [~~7~~] or by mail, in the
11 affected [~~county or~~] precinct, county, or district prior to the
12 opening of [~~the~~] each precinct polling place by whatever
13 possible news or broadcast media are available. Precinct
14 officials and workers affected by any consolidation shall not
15 forfeit their pay."

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

18 "**§11-184 Election expenses and responsibilities in**
19 **combined state and county elections.** Election expenses in
20 elections involving both state and county offices, except for



1 elections conducted by mail in whole or in part, shall be shared
2 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



- 1 voter registration, including printing of the
- 2 voters list;
- 3 (B) Temporary election employees hired to do strictly
- 4 county work;
- 5 (C) Maintenance of existing voting machines,
- 6 including parts, freight, storage, programming,
- 7 and personnel;
- 8 (D) Maintenance and storage of voting devices and
- 9 other equipment; and
- 10 (E) Employees assigned to conduct absentee polling
- 11 place functions.
- 12 (3) The remaining election expenses shall be divided in
- 13 half between the State and the counties. Each county
- 14 will pay a proration of expenses as a proportion of
- 15 the registered voters at the time of the general
- 16 election. These expenses shall include but not be
- 17 limited to:
- 18 (A) Polling place supplies;
- 19 (B) All printing, including ballots, but excluding
- 20 printing connected with voter registration;



1 (C) Temporary election employees not including voting
2 machine programmers doing work for both the State
3 and county;

4 (D) Ballot preparation and packing; and

5 (E) All other costs for which the State or county are
6 not specifically responsible relating to the
7 operation of voting machines, electronic voting
8 systems, and other voting systems except paper
9 ballots to include but not be limited to real
10 property rentals, equipment rentals, personnel,
11 mileage, telephones, supplies, publicity,
12 computer programming, and freight.

13 The responsibility for the above functions shall
14 be determined by the chief election officer where the
15 responsibility for such functions has not been
16 assigned by the legislature.

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



1 SECTION 9. Section 15D-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]~~§15D-3~~[+] Elections covered. The voting procedures in
4 this chapter apply to:

5 (1) A general, special, or primary election for federal
6 office;

7 (2) A general, special, or primary election for statewide
8 or state legislative office or state ballot measure;
9 and

10 (3) A general, special, recall, primary, or runoff
11 election for local government office or local ballot
12 measure conducted under [~~section 11-91.5~~] part of
13 chapter 11 for which absentee voting or voting by mail
14 is available for other voters."

15 SECTION 10. Section 19-6, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§19-6 Misdemeanors. The following persons shall be
18 guilty of a misdemeanor:

19 (1) Any person who offers any bribe or makes any promise
20 of gain, or with knowledge of the same permits any
21 person to offer any bribe or make any promise of gain



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1 for the person's benefit to any voter to induce the
2 voter to sign a nomination paper, and any person who
3 accepts any bribe or promise of gain of any kind as
4 consideration for signing the same, whether the bribe
5 or promise of gain be offered or accepted before or
6 after the signing;

7 (2) Any person who wilfully tears down or destroys or
8 defaces any election proclamation or any poster or
9 notice or list of voters or visual aids or facsimile
10 ballot, issued or posted by authority of law;

11 (3) Any person printing or duplicating or causing to be
12 printed or duplicated any ballot, conforming as to the
13 size, weight, shape, thickness, or color to the
14 official ballot so that it could be cast or counted as
15 an official ballot in an election;

16 (4) Every person who is disorderly or creates a
17 disturbance whereby any meeting of the precinct
18 officials or the board of registration of voters
19 during an election is disturbed or interfered with; or
20 whereby any person who intends to be lawfully present
21 at any meeting or election is prevented from



1 attending; or who causes any disturbance at any
2 election; and every person assisting or aiding or
3 abetting any disturbance;

4 (5) Every person who, either in person or through another,
5 in any manner breaks up or prevents, or endeavors to
6 break up or prevent, the holding of any meeting of the
7 board of registration of voters, or in any manner
8 breaks up or prevents, or endeavors to break up or
9 prevent, the holding of any election;

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

14 (7) Any person, including candidates carrying on any
15 campaign activities within the area described in
16 section 11-132 during the period of time starting one
17 hour before the polling place opens and ending when
18 the polling place closes for the purpose of
19 influencing votes. Campaign activities shall include
20 the following:



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- 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 of chapter
15 11 other than those persons authorized to do so
16 under part of chapter 11;
- 17 (9) Any unauthorized person found in possession of any
18 voting machine or keys thereof; and
- 19 (10) Every person who wilfully violates or fails to obey
20 any of the provisions of law, punishment for which is
21 not otherwise in this chapter specially provided for."



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1 SECTION 11. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so much
3 thereof as may be necessary for fiscal year 2016-2017 for the
4 purpose of implementing and administering the election by mail
5 program.

6 The sum appropriated shall be expended by the office of
7 elections for the purposes of this Act.

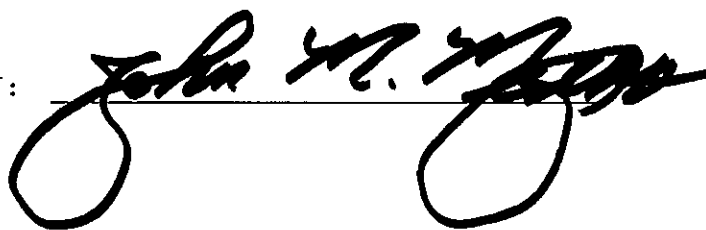
8 SECTION 12. In codifying the new sections added by section
9 1 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

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

14 SECTION 14. This Act shall take effect on July 1, 2016.

15

INTRODUCED BY:



JAN 21 2016



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Report Title:

Voting; Elections by Mail; Appropriation

Description:

Requires all elections to be conducted by mail beginning in 2020. Provides places of deposit for personal delivery of mail-in ballots and requires a limited number of voter service centers in each county to accommodate voters with special needs. Appropriates funds for the implementation and administration of the election by mail program.

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

