
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 existing law
2 authorizes the chief election officer or county clerk in the
3 case of county elections to consolidate precincts in the event
4 of a natural disaster and, if the natural disaster causes damage
5 that substantially impairs voters' ability to vote, to require
6 registered voters to vote by absentee ballot or postpone the
7 conducting of an election in the affected area for no more than
8 twenty-one days. This authorization was recently exercised in
9 the county of Hawaii during the 2014 primary election.

10 On August 8, 2014, Tropical Storm Iselle made landfall on
11 the island of Hawaii impairing access and the ability of voters
12 to vote in the primary election scheduled for the next day at
13 certain precinct polling places in Puna. As a result, the chief
14 election officer issued a proclamation to postpone the primary
15 election in those affected areas and authorized the use of
16 absentee ballots. On August 11, 2014, subsequent to the primary
17 election, the chief election officer issued a proclamation that



1 established that voting for the affected area would be conducted
2 at designated polling places on August 15, 2014, rather than by
3 absentee ballots. The decision to postpone the primary election
4 in the polling places affected by Tropical Storm Iselle resulted
5 in litigation and raised concerns regarding the chief election
6 officer's authority under law to postpone elections.

7 The purpose of this Act is to clarify the law regarding
8 elections in the event of a natural disaster by:

- 9 (1) Clarifying that the chief election officer or county
10 clerk in the case of county elections prior to the
11 commencement of the election has the authority to
12 determine whether to postpone an election affected by
13 the natural disaster or require voters of an affected
14 precinct to vote by absentee ballot; and
- 15 (2) Authorizing the governor upon commencement of the
16 election and thereafter to determine whether to
17 postpone an election affected by the natural disaster
18 or require voters of an affected precinct to vote by
19 absentee ballot unless the governor is a candidate for
20 office in that election.



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

4 "§11- Postponed elections; disclosure of voting results.

5 Whenever the conduct of an election within any precinct has been
6 postponed:

7 (1) By the chief election officer, or county clerk in
8 county elections, because of a natural disaster
9 pursuant to section 11-92.3; or

10 (2) By the governor during a state of emergency pursuant
11 to section 127A-13(a)(9),

12 the printout by the counting center computer or other disclosure
13 of the number of votes cast for each candidate or question
14 appearing on the ballot for the postponed election, from any
15 precinct whether or not designated for postponement, including
16 votes cast by absentee ballot, shall not be disclosed to the
17 public until voting for the postponed election has concluded.

18 For candidates or questions not appearing on the ballot for the
19 postponed election, the chief election officer, or county clerk
20 in county elections, may postpone the printout or other



1 disclosure of the number of votes cast until voting for the
2 postponed election has concluded."

3 SECTION 3. Section 11-92.3, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) In the event of a flood, tsunami, earthquake,
6 volcanic eruption, high wind, or other natural disaster,
7 occurring prior to an election, that makes a precinct
8 inaccessible, the chief election officer or county clerk in the
9 case of county elections may consolidate precincts within a
10 representative district. If the extent of damage caused by any
11 natural disaster is such that the ability of voters, in any
12 precinct, district, or county, to exercise their right to vote
13 is substantially impaired, prior to the commencement of the
14 election, the chief election officer or county clerk in the case
15 of county elections or, upon commencement of the election and
16 thereafter, the governor, unless the governor is a candidate for
17 office in the election affected by a natural disaster and then
18 the chief election officer or county clerk in the case of county
19 elections, in addition to duties prescribed under section
20 127A-13(a)(9), may require the registered voters of the affected
21 precinct to vote by absentee ballot within seven days of the



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

15 SECTION 4. Section 11-152, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) In those precincts using the electronic voting
18 system, the ballots shall be taken in the sealed ballot boxes to
19 the counting center according to the procedure and schedule
20 promulgated by the chief election officer to promote the
21 security of the ballots. In the presence of official observers,



1 counting center employees may start to count the ballots prior
2 to the closing of the polls; provided that there shall be no
3 printout by the computer or other disclosure of the number of
4 votes cast for a candidate or on a question prior to the closing
5 of the polls[-], subject to the provisions of section 11- for
6 the printout or other disclosure of votes in the event of a
7 postponed election. For the purposes of this section, the
8 closing of the polls is that time identified in section 11-131
9 as the closing hour of voting."

10 SECTION 5. Section 15-2.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§15-2.5[+] Absentee voting in precinct affected by
13 natural disasters. (a) If the chief election officer [~~and~~],
14 clerk of a county [~~affected as a result of a natural disaster~~
15 ~~determine~~], or governor, as applicable pursuant to section 11-
16 92.3, determines that the opening of a designated polling place
17 will adversely affect the health and safety of voters or
18 precinct officials, the chief election officer [~~and~~], county
19 clerk, or governor, as applicable, by written order, may require
20 the registered voters of any precinct to vote by absentee
21 ballot; provided that such voting concludes within seven days of



1 the election; provided further that if there are not enough
2 absentee ballots for all voters of the precinct, the chief
3 election officer or the clerk shall use other official ballots
4 to make up the difference.

5 (b) [~~Within thirty days~~] As soon as possible after the
6 issuance of such an order, the chief election officer and county
7 clerk shall notify all registered voters in the affected
8 precinct of the issuance of the order.

9 (c) [~~Within ten days~~] As soon as possible after the
10 printed official absentee ballots are available for the
11 designated precinct affected by this section, the clerk shall
12 deliver, or cause to be delivered, by hand or mail, an absentee
13 ballot, a return envelope, and any other appropriate material to
14 each registered voter in the affected precinct.

15 (d) The chief election officer shall adopt rules pursuant
16 to chapter 91 to implement this section."

17 SECTION 6. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Elections; Natural Disasters; Postponement; Absentee Ballots

Description:

Clarifies that in the event of a natural disaster, the chief election officer or county clerk in the case of county elections prior to the commencement of the election has the authority to determine whether to postpone or vote by absentee ballot in an election affected by the natural disaster. Authorizes the governor upon commencement of the election and thereafter to determine whether to postpone or vote by absentee ballot in an election affected by the natural disaster unless the governor is a candidate for office in that election. Prohibits the public disclosure of voting results for any ballot contest or question from precincts affected by an election postponement. Chief election officer may withhold election results for precincts that were not affected by the natural disaster. (SB243 HD1)

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