

JAN 20 2017

S.B. NO. 824

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 the current
2 plurality voting method allows a candidate to win an election
3 with less than a majority of votes when there are more than two
4 candidates for the office. In elections with many candidates,
5 the plurality method may result in winners who received small
6 percentages of votes and who are not widely supported by voters.
7 For these winners, this may raise concerns about a lack of
8 public support and confidence and may therefore undermine the
9 ability of those elected to govern effectively.

10 Ranked choice voting is an election method that allows
11 voters the option to rank candidates as the voter's first,
12 second, and subsequent choices. Tabulation begins with each
13 voter's first choice vote. If no candidate receives a majority
14 of votes, the candidate with the fewest votes is eliminated and
15 the tabulation is repeated by using the second choice of voters
16 whose first choice was eliminated and the first place vote of
17 all other voters. If no candidate receives a majority in the



1 second tabulation, the process is repeated by eliminating the
2 candidate with the fewest votes and performing the tabulation
3 using the next highest choice of voters who had chosen that
4 candidate.

5 Ranked choice voting assures that elected officials have
6 the support of a majority or near majority of voters because it
7 allows voters to indicate their preferences among more than one
8 candidate. Ranked choice voting allows all voters to vote for
9 their favorite candidate without fear of helping to elect their
10 least favorite candidate.

11 The legislature further finds that ranked choice voting has
12 been used effectively around the world, including in Ireland for
13 presidential elections, Australia for parliamentary elections,
14 and London for mayoral elections. Ranked choice voting has been
15 used by numerous state and local governments in the United
16 States including San Francisco, Oakland, and Berkeley,
17 California and Minneapolis and St. Paul, Minnesota. In 2010,
18 North Carolina used ranked choice voting for a statewide
19 judicial election as well as three county-level judicial
20 elections. Additionally, Memphis, Tennessee; Portland, Maine;



1 Springfield, Illinois (for overseas voting only); and Telluride,
2 Colorado; have adopted ranked choice voting.

3 Finally, the legislature finds that Hawaii's voting
4 systems, including optical scanners, can process ranked choice
5 voting with little or no difficulty.

6 The purpose of this Act is to authorize the use of the
7 ranked choice method of voting for all partisan primary
8 elections, special elections, and nonpartisan general elections
9 held in this State.

10 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
11 by adding four new sections to part X to be appropriately
12 designated and to read as follows:

13 "§11-A Ranked choice method; applicability. (a) The
14 ranked choice method shall be used in all of the following state
15 or county election contests held in the State:

- 16 (1) Partisan primary elections;
17 (2) Special elections; and
18 (3) Nonpartisan general elections.

19 (b) The chief election officer shall adopt rules pursuant
20 to chapter 91 to implement the use of mechanical, electronic, or
21 other means devised for marking, sorting, and counting the



1 ballots and tabulating and transferring the votes in an election
2 using the ranked choice method; provided that these rules shall
3 be consistent with the intent and purpose of the ranked choice
4 method.

5 §11-B Ranked choice method; ballots. (a) In addition to
6 the requirements under sections 11-111 and 11-119, the ballots
7 for an election using the ranked choice method shall allow a
8 voter to rank no more than four candidates for an office in
9 order of preference. If more than one seat is to be filled by
10 the same ballot, the voter may be limited to voting for no more
11 than twice the number of candidates as seats to be filled.
12 Instructions on the ballot shall include the following
13 statement: "You may mark up to three alternate choices in order
14 of preference. Marking a second choice cannot help defeat your
15 first choice. Marking a subsequent choice cannot help defeat
16 your higher-ranked choices."

17 (b) The chief election officer or county clerk in the case
18 of a county election shall print informational materials
19 containing a facsimile ballot that depicts the official ballot
20 to be used in the election and voting instructions and



1 procedures for the election using the ranked choice method. The
2 informational materials shall be:

3 (1) Posted near the entrance to the polling place where
4 the information can be easily seen by voters prior to
5 voting;

6 (2) Posted in or near a voting booth;

7 (3) Included in the instruction materials for absentee
8 ballots;

9 (4) Posted on the website of the office of elections or
10 county clerk, as applicable; and

11 (5) Included in any voter education materials distributed
12 by the office of elections or county clerk in the case
13 of a county election prior to the election using the
14 ranked choice method.

15 (c) Prior to the printing of ballots for an election using
16 the ranked choice method, the chief election officer or county
17 clerk in the case of a county election shall make a sample
18 ballot available on the website of the office of elections or
19 county clerk, as applicable. The sample ballot shall be
20 accessible on the applicable website for no less than fifteen
21 calendar days prior to printing for public review and comment.



1 §11-C Ranked choice method; method of counting. (a) To
2 determine the winners in an election using the ranked choice
3 method, election officials shall initially count the ballots
4 according to the first choice marked on each ballot. If at the
5 end of the initial count, one candidate receives a majority of
6 the first-choice votes cast, then that candidate shall be
7 declared the winner for the office for which the candidate seeks
8 election.

9 (b) If at the end of the initial count, no candidate
10 receives a majority of the first-choice votes cast, the chief
11 election officer or county clerk, as applicable, shall declare
12 that no candidate has received a majority of first-choice votes
13 and that the candidate with the fewest first-choice votes is
14 defeated. The chief election officer or county clerk, as
15 applicable, shall recalculate the votes using the continuing
16 candidate with the next highest ranking on each of the ballots
17 for each voter who had selected a defeated candidate. If after
18 the first round of recalculating votes, no candidate has
19 received a majority of votes cast for the office, the process of
20 eliminating candidates; recalculating the eliminated candidates'
21 votes, including any previously recalculated votes, to



1 candidates who remain in the race; and tabulating results shall
2 continue until one candidate receives a majority of the votes
3 cast or the majority of the votes cast for the two remaining
4 candidates. Blank and spoiled votes shall not be tabulated.

5 (c) The ranked choice method may be accelerated, at the
6 discretion of the chief election officer or county clerk, by
7 eliminating all candidates with fewer than one per cent of the
8 first-choice votes cast. In an accelerated process pursuant to
9 this subsection, the first-choice votes on ballots cast for
10 eliminated candidates shall be recalculated to the candidates
11 who remain in the race and received the voters' next highest
12 ranking on those ballots.

13 (d) Once a winner has been declared by using the ranked
14 choice method, a certificate of election declaring the results
15 shall be issued pursuant to section 11-156.

16 **§11-D Ranked choice method; vote count.** (a) Each voter's
17 ballot shall count for no more than one candidate per seat in
18 each round of tabulation. Once a ballot in an election using
19 the ranked choice method has no more available choices ranked on
20 it, the ballot shall be deemed exhausted.



1 (b) If a ballot in an election using the ranked choice
2 method skips a ranking by leaving a ranking blank and then
3 ranking a candidate at a subsequent ranking, the ballot shall be
4 deemed exhausted. A ballot that gives two or more candidates
5 the same ranking shall be deemed exhausted when that ranking is
6 reached unless only one of the candidates so ranked is still in
7 the race when the vote is due to be transferred pursuant to
8 section 11-C(b).

9 (c) If a tie between candidates for last place, and thus
10 elimination, occurs during any round of tabulation, the tie
11 shall be resolved by eliminating the candidate who received the
12 lowest number of combined first-choice votes and recalculated
13 votes at the previous round of tabulation. In the case of a tie
14 to which a previous round of tabulation does not apply, or where
15 the previous round of tabulation was also a tie, the tie shall
16 be resolved by drawing lots. However, if a tie occurs when
17 there are only two candidates remaining, the tie shall be
18 resolved as set forth in section 11-157."

19 SECTION 3. Section 11-1, Hawaii Revised Statutes, is
20 amended by adding four new definitions to be appropriately
21 inserted and to read as follows:



1 "Exhausted" means an occurrence during an election using
2 the ranked choice method when a voter does not rank on the
3 ballot any candidate that remains in the subsequent rounds, a
4 ballot contains an overvote at the highest continuing ranking,
5 or a ballot contains a skipped ranking before its highest
6 continuing ranking.

7 "Ranked choice method" means a method of casting and
8 tabulating votes that tabulates a single vote for each voter but
9 simulates the ballot counts that would occur if all voters
10 participated in a series of runoff elections, whereby voters are
11 allowed to rank candidates according to the voter's preference
12 and, if no candidate obtains a majority of first-choice votes,
13 votes are transferred in sequential tabulations according to
14 voters' preferences.

15 "Ranking" means the number assigned on a ballot by a voter
16 to a candidate in an election using the ranked choice method to
17 express the voter's preference for that candidate with the
18 ranking of number one as the highest rank.

19 "Round" means an instance of the sequence of voting
20 tabulation steps in an election using the ranked choice method."



1 SECTION 4. Section 11-112, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§11-112 Contents of ballot. (a) The ballot shall
4 contain the names of the candidates, their party affiliation or
5 nonpartisanship in partisan election contests, the offices for
6 which they are running, and the district in which the election
7 is being held. [~~In multimember races the ballot shall state
8 that the voter shall not vote for more than the number of seats
9 available or the number of candidates listed where such number
10 is less than the seats available.~~]

11 (b) The ballot may include questions concerning proposed
12 state constitutional amendments, proposed county charter
13 amendments, or proposed initiative or referendum issues.

14 (c) At the chief election officer's discretion, the ballot
15 may have a background design imprinted onto it.

16 (d) When the electronic voting system is used, the ballot
17 may have pre-punched codes and printed information which
18 identify the voting districts, precincts, and ballot sets to
19 facilitate the electronic data processing of these ballots.

20 (e) The name of the candidate may be printed with the
21 Hawaiian or English equivalent or nickname, if the candidate so



1 requests in writing at the time the candidate's nomination
2 papers are filed. Candidates' names, including the Hawaiian or
3 English equivalent or nickname, shall be set on one line.

4 (f) The ballot shall bear no word, motto, device, sign, or
5 symbol other than as allowed in this title.

6 (g) The ballot may include language necessary to use the
7 ranked choice method pursuant to sections 11-A to 11-D."

8 SECTION 5. Section 11-151, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§11-151 **Vote count.** [~~Eaeh~~] Except for contests in which
11 the ranked choice method subject to sections 11-A to 11-D are
12 used, each contest or question on a ballot shall be counted
13 independently as follows:

14 (1) If the votes cast in a contest or question are equal
15 to or less than the number to be elected or chosen for
16 that contest or question, the votes for that contest
17 or question shall be counted;

18 (2) If the votes cast in a contest or question exceed the
19 number to be elected or chosen for that contest or
20 question, the votes for that contest or question shall
21 not be counted; and



1 (3) If a contest or question requires a majority of the
2 votes for passage, any blank, spoiled, or invalid
3 ballot shall not be tallied for passage or as votes
4 cast except that such ballots shall be counted as
5 votes cast in ratification of a constitutional
6 amendment or a question for a constitutional
7 convention."

8 SECTION 6. Section 11-152, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§11-152 Method of counting.** (a) In an election using
11 the paper ballot voting system, immediately after the close of
12 the polls, the chairperson of the precinct officials shall open
13 the ballot box. The precinct officials at the precinct shall
14 proceed to count the votes as follows:

15 (1) The whole number of ballots shall first be counted to
16 see if their number corresponds with the number of
17 ballots cast as recorded by the precinct officials;

18 (2) If the number of ballots corresponds with the number
19 of persons recorded by the precinct officials as
20 having voted, the precinct officials shall then
21 proceed to count the vote cast for each candidate;



1 (3) If there are more ballots or less ballots than the
2 record calls for the precinct officials shall proceed
3 as directed in section 11-153.

4 (b) In those precincts using the electronic voting system,
5 the ballots shall be taken in the sealed ballot boxes to the
6 counting center according to the procedure and schedule
7 promulgated by the chief election officer to promote the
8 security of the ballots. In the presence of official observers,
9 counting center employees may start to count the ballots prior
10 to the closing of the polls provided there shall be no printout
11 by the computer or other disclosure of the number of votes cast
12 for a candidate or on a question prior to the closing of the
13 polls. For the purposes of this section, the closing of the
14 polls is that time identified in section 11-131 as the closing
15 hour of voting.

16 (c) In an election using the ranked choice method of
17 voting pursuant to sections 11-A to 11-D, votes shall be counted
18 as provided in section 11-C."

19 SECTION 7. Section 11-155, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§11-155 **Certification of results of election.** On receipt
2 of certified tabulations from the election officials concerned,
3 the chief election officer in state elections or county clerk in
4 county elections shall compile, certify, and release the
5 election results after the expiration of the time for bringing
6 an election contest. The certification shall be based on a
7 comparison and reconciliation of the following:

- 8 (1) The results of the canvass of ballots conducted
9 pursuant to chapter 16;
- 10 (2) The audit of pollbooks [+]and related record books [÷]
11 and resultant overage and underage report;
- 12 (3) The audit results of the manual audit team;
- 13 (4) The results of the absentee ballot reconciliation
14 report compiled by the clerks; and
- 15 (5) All logs, tally sheets, and other documents generated
16 during the election and in the canvass of the election
17 results.

18 A certificate of election or a certificate of results declaring
19 the results of the election as of election day shall be issued
20 pursuant to section 11-156; provided that in the event of an
21 overage or underage, a list of all precincts in which an overage



1 or underage occurred shall be attached to the certificate. The
2 number of candidates to be elected receiving the highest number
3 of votes in any election district shall be declared to be
4 elected[-]; provided that candidates in contests subject to the
5 ranked choice method pursuant to sections 11-A to 11-D shall be
6 declared to be elected pursuant to section 11-C. Unless
7 otherwise provided, the term of office shall begin or end as of
8 the close of polls on election day. The position on the
9 question receiving the appropriate majority of the votes cast
10 shall be reflected in a certificate of results issued pursuant
11 to section 11-156."

12 SECTION 8. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 9. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 10. This Act shall take effect upon its approval;
19 provided that:

20 (1) This Act shall not apply to any election held prior to
21 January 1, 2018; and



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1 (2) No later than December 31, 2017, the chief election
2 officer and each county clerk shall adopt rules
3 pursuant to chapter 91, Hawaii Revised Statutes, to
4 effectuate the purposes of this Act.
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INTRODUCED BY:

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by
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S.B. NO. 824

Report Title:

Elections; Ranked Choice Method

Description:

Provides ranked choice method of voting for all partisan primary elections, special elections, and nonpartisan general elections held in this State on or after 1/1/2018.

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

