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# 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 section to part X to be appropriately designated  
3 and to read as follows:

4           "§11-    Mandatory recount of votes. (a) The chief  
5 election officer, or the clerk in the case of a county election,  
6 shall conduct a recount of all votes cast for any office or  
7 ballot question in any election if the official tabulation of  
8 all of the returns for that office or question reveals that the  
9 difference in:

10           (1) The number of votes cast for a candidate apparently  
11 qualified for the general election ballot or elected  
12 to office and the number of votes cast for the closest  
13 apparently defeated opponent; or

14           (2) The number of votes cast in the affirmative for the  
15 ballot question and the number of votes cast in the  
16 negative for the ballot question, including when  
17 applicable, the tabulation of blank votes,



1 is equal to or less than one hundred votes or one-half of one  
2 per cent of the total number of votes cast for the contest,  
3 whichever is greater.

4 (b) No candidate shall be charged for the cost of a  
5 mandatory recount under this section.

6 (c) All mandatory recounts of votes under this section  
7 shall be completed and the results publicly announced no later  
8 than seventy-two hours after the closing of polls on election  
9 day.

10 (d) The chief election officer may adopt rules pursuant to  
11 chapter 91 for the mandatory recount of votes under this  
12 section, including:

13 (1) Authorizing candidates affected by the recount, or  
14 their designated representatives, to attend and  
15 witness the recount; and

16 (2) Notifying the parties described in paragraph (1) of  
17 the time and place of the recount no later than one  
18 day prior to the date of the recount.

19 (e) This section shall apply to votes counted pursuant to  
20 section 11-151.



1        (f) A recount conducted pursuant to this section shall not  
2 be considered a contest for cause subject to section 11-172."

3        SECTION 2. Section 11-155, Hawaii Revised Statutes, is  
4 amended to read as follows:

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

- 12        (1) The results of the canvass of ballots conducted
- 13                pursuant to chapter 16;
- 14        (2) The audit of pollbooks (and related record books) and
- 15                resultant overage and underage report;
- 16        (3) The audit results of the manual audit team;
- 17        (4) The results of the absentee ballot reconciliation
- 18                report compiled by the clerks; [~~and~~]
- 19        (5) The results of any mandatory recount of votes
- 20                conducted pursuant to section 11- ; and



1       [~~(5)~~] (6) All logs, tally sheets, and other documents  
2                   generated during the election and in the canvass of  
3                   the election results.

4 A certificate of election or a certificate of results declaring  
5 the results of the election as of election day shall be issued  
6 pursuant to section 11-156; provided that in the event of an  
7 overage or underage, a list of all precincts in which an overage  
8 or underage occurred shall be attached to the certificate. The  
9 number of candidates to be elected receiving the highest number  
10 of votes in any election district shall be declared to be  
11 elected. Unless otherwise provided, the term of office shall  
12 begin or end as of the close of polls on election day. The  
13 position on the question receiving the appropriate majority of  
14 the votes cast shall be reflected in a certificate of results  
15 issued pursuant to section 11-156."

16       SECTION 3. Section 11-173.5, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18       "(a) In a primary and special primary election [~~contests,~~  
19 ~~and~~] contest, or a county election [~~contests~~] contest held  
20 concurrently with a regularly scheduled primary or special  
21 primary election, the complaint shall be filed in the office of



1 the clerk of the supreme court not later than 4:30 p.m. on the  
2 sixth day after a primary or special primary election[7] or a  
3 county election [~~contests~~] contest held concurrently with a  
4 regularly scheduled primary or special primary election, and  
5 shall be accompanied by a deposit for costs of court as  
6 established by the rules of the supreme court [-]; provided that  
7 a complaint for a contest for cause that arises from a mandatory  
8 recount pursuant to section 11- shall be filed no later than  
9 4:30 p.m. on the third calendar day following the public  
10 announcement of the results of the mandatory recount pursuant to  
11 section 11- (c). The clerk shall issue to the defendants named  
12 in the complaint a summons to appear before the supreme court  
13 not later than 4:30 p.m. on the fifth day after service  
14 [~~thereof.~~] of the summons."

15 SECTION 4. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Elections; Ballot; Mandatory Recount; Votes; Margin of Victory

**Description:**

Requires a mandatory recount of election votes and ballot measures when the margin of victory for election contests or tabulation for ballot measures is equal to or less than one hundred or one-half of one per cent of the votes cast, whichever is greater. (SB216 HD1)

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

