

JAN 18 2019

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. The Hawaii Revised Statutes is amended by
11 adding a new chapter to be appropriately designated and to read
12 as follows:

13 "CHAPTER

14 RANKED CHOICE VOTING

15 § -A Definitions. (a) The definitions of chapter 11
16 shall apply to this chapter unless the context clearly requires
17 otherwise.

18 (b) In addition to the definitions under subsection (a),
19 the following definitions shall apply to this chapter:

20 "Exhausted" means an occurrence during an election using
21 the ranked choice method when a voter does not rank on the



1 ballot any candidate that remains in the subsequent rounds, a
2 ballot contains an overvote at the highest continuing ranking,
3 or a ballot contains a skipped ranking before its highest
4 continuing ranking.

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

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

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

19 § -B Ranked choice method; applicability. (a) The
20 ranked choice method shall be used in all of the following state
21 or county election contests held in the State:



1 (1) Partisan primary elections;
2 (2) Special elections; and
3 (3) Nonpartisan general elections.

4 (b) The chief election officer shall adopt rules pursuant
5 to chapter 91 to implement the use of mechanical, electronic, or
6 other means devised for marking, sorting, and counting the
7 ballots and tabulating and transferring the votes in an election
8 using the ranked choice method; provided that these rules shall
9 be consistent with the intent and purpose of the ranked choice
10 method.

11 § -C Ranked choice method; ballots. (a) In addition to
12 the requirements under sections 11-111 and 11-119, the ballots
13 for an election using the ranked choice method shall allow a
14 voter to rank no more than four candidates for an office in
15 order of preference. If more than one seat is to be filled by
16 the same ballot, the voter may be limited to voting for no more
17 than twice the number of candidates as seats to be filled.

18 Instructions on the ballot shall include the following
19 statement: "You may mark up to three alternate choices in order
20 of preference. Marking a second choice cannot help defeat your



1 first choice. Marking a subsequent choice cannot help defeat
2 your higher-ranked choices."

3 (b) The chief election officer or county clerk in the case
4 of a county election shall print informational materials
5 containing a facsimile ballot that depicts the official ballot
6 to be used in the election and voting instructions and
7 procedures for the election using the ranked choice method. The
8 informational materials shall be:

- 9 (1) Posted near the entrance to the polling place where
10 the information can be easily seen by voters prior to
11 voting;
- 12 (2) Posted in or near a voting booth;
- 13 (3) Included in the instruction materials for absentee
14 ballots;
- 15 (4) Posted on the website of the office of elections or
16 county clerk, as applicable; and
- 17 (5) Included in any voter education materials distributed
18 by the office of elections or county clerk in the case
19 of a county election prior to the election using the
20 ranked choice method.



1 (c) Prior to the printing of ballots for an election using
2 the ranked choice method, the chief election officer or county
3 clerk in the case of a county election shall make a sample
4 ballot available on the website of the office of elections or
5 county clerk, as applicable. The sample ballot shall be
6 accessible on the applicable website for no less than fifteen
7 calendar days prior to printing for public review and comment.

8 § -D Ranked choice method; method of counting. (a) To
9 determine the winners in an election using the ranked choice
10 method, election officials shall initially count the ballots
11 according to the first choice marked on each ballot. If at the
12 end of the initial count, one candidate receives a majority of
13 the first-choice votes cast, then that candidate shall be
14 declared the winner for the office for which the candidate seeks
15 election.

16 (b) If at the end of the initial count, no candidate
17 receives a majority of the first-choice votes cast, the chief
18 election officer or county clerk, as applicable, shall declare
19 that no candidate has received a majority of first-choice votes
20 and that the candidate with the fewest first-choice votes is
21 defeated. The chief election officer or county clerk, as



1 applicable, shall recalculate the votes using the continuing
2 candidate with the next highest ranking on each of the ballots
3 for each voter who had selected a defeated candidate. If after
4 the first round of recalculating votes, no candidate has
5 received a majority of votes cast for the office, the process of
6 eliminating candidates; recalculating the eliminated candidates'
7 votes, including any previously recalculated votes, to
8 candidates who remain in the race; and tabulating results shall
9 continue until one candidate receives a majority of the votes
10 cast or the majority of the votes cast for the two remaining
11 candidates. Blank and spoiled votes shall not be tabulated.

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



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

4 § -E Ranked choice method; vote count. (a) Each
5 voter's ballot shall count for no more than one candidate per
6 seat in each round of tabulation. Once a ballot in an election
7 using the ranked choice method has no more available choices
8 ranked on it, the ballot shall be deemed exhausted.

9 (b) If a ballot in an election using the ranked choice
10 method skips a ranking by leaving a ranking blank and then
11 ranking a candidate at a subsequent ranking, the ballot shall be
12 deemed exhausted. A ballot that gives two or more candidates
13 the same ranking shall be deemed exhausted when that ranking is
14 reached unless only one of the candidates so ranked is still in
15 the race when the vote is due to be transferred pursuant to
16 section -D(b).

17 (c) If a tie between candidates for last place, and thus
18 elimination, occurs during any round of tabulation, the tie
19 shall be resolved by eliminating the candidate who received the
20 lowest number of combined first-choice votes and recalculated
21 votes at the previous round of tabulation. In the case of a tie



1 to which a previous round of tabulation does not apply, or where
2 the previous round of tabulation was also a tie, the tie shall
3 be resolved by drawing lots. However, if a tie occurs when
4 there are only two candidates remaining, the tie shall be
5 resolved as set forth in section 11-157."

6 SECTION 3. Section 11-112, Hawaii Revised Statutes, is
7 amended to read as follows:

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

16 (b) The ballot may include questions concerning proposed
17 state constitutional amendments, proposed county charter
18 amendments, or proposed initiative or referendum issues.

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



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

5 (e) The name of the candidate may be printed with the
6 Hawaiian or English equivalent or nickname, if the candidate so
7 requests in writing at the time the candidate's nomination
8 papers are filed. Candidates' names, including the Hawaiian or
9 English equivalent or nickname, shall be set on one line.

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

12 (g) The ballot may include language necessary to use the
13 ranked choice method pursuant to chapter ."

14 SECTION 4. Section 11-151, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§11-151 Vote count.** ~~[Each]~~ Except for contests in which
17 the ranked choice method subject to chapter are used, each
18 contest or question on a ballot shall be counted independently
19 as follows:

20 (1) If the votes cast in a contest or question are equal
21 to or less than the number to be elected or chosen for



1 that contest or question, the votes for that contest
2 or question shall be counted;
3 (2) If the votes cast in a contest or question exceed the
4 number to be elected or chosen for that contest or
5 question, the votes for that contest or question shall
6 not be counted; and
7 (3) If a contest or question requires a majority of the
8 votes for passage, any blank, spoiled, or invalid
9 ballot shall not be tallied for passage or as votes
10 cast except that such ballots shall be counted as
11 votes cast in ratification of a constitutional
12 amendment or a question for a constitutional
13 convention."

14 SECTION 5. Section 11-152, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§11-152 Method of counting.** (a) In an election using
17 the paper ballot voting system, immediately after the close of
18 the polls, the chairperson of the precinct officials shall open
19 the ballot box. The precinct officials at the precinct shall
20 proceed to count the votes as follows:



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1 (1) The whole number of ballots shall first be counted to
2 see if their number corresponds with the number of
3 ballots cast as recorded by the precinct officials;
4 (2) If the number of ballots corresponds with the number
5 of persons recorded by the precinct officials as
6 having voted, the precinct officials shall then
7 proceed to count the vote cast for each candidate;
8 (3) If there are more ballots or less ballots than the
9 record calls for the precinct officials shall proceed
10 as directed in section 11-153.
11 (b) In those precincts using the electronic voting system,
12 the ballots shall be taken in the sealed ballot boxes to the
13 counting center according to the procedure and schedule
14 promulgated by the chief election officer to promote the
15 security of the ballots. In the presence of official observers,
16 counting center employees may start to count the ballots prior
17 to the closing of the polls provided there shall be no printout
18 by the computer or other disclosure of the number of votes cast
19 for a candidate or on a question prior to the closing of the
20 polls. For the purposes of this section, the closing of the



1 polls is that time identified in section 11-131 as the closing
2 hour of voting.

3 (c) In an election using the ranked choice method of
4 voting pursuant to chapter , votes shall be counted as
5 provided in section -D."

6 SECTION 6. Section 11-155, Hawaii Revised Statutes, is
7 amended to read as follows:

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

- 15 (1) The results of the canvass of ballots conducted
16 pursuant to chapter 16;
- 17 (2) The audit of pollbooks (and related record books) and
18 resultant overage and underage report;
- 19 (3) The audit results of the manual audit team;
- 20 (4) The results of the absentee ballot reconciliation
21 report compiled by the clerks; and



1 (5) All logs, tally sheets, and other documents generated
2 during the election and in the canvass of the election
3 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[-]; provided that candidates in contests subject to the
12 ranked choice method pursuant to chapter shall be declared
13 to be elected pursuant to section -D. Unless otherwise
14 provided, the term of office shall begin or end as of the close
15 of polls on election day. The position on the question
16 receiving the appropriate majority of the votes cast shall be
17 reflected in a certificate of results issued pursuant to section
18 11-156."

19 SECTION 7. In codifying the new sections added by section
20 2 of this Act, the revisor of statutes shall substitute



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1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 8. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

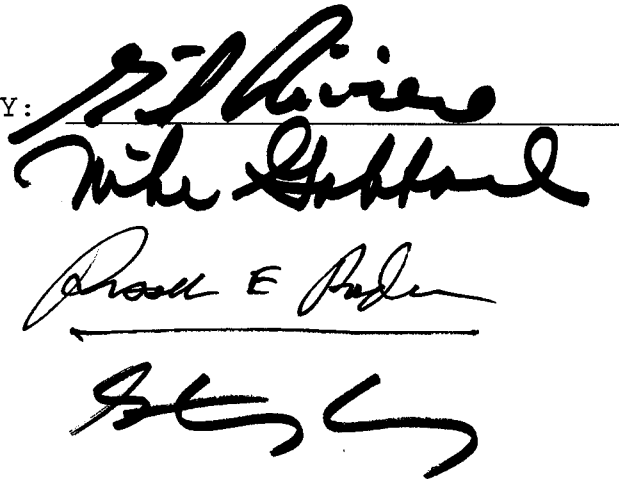
5 SECTION 9. This Act shall take effect upon its approval;
6 provided that:

7 (1) This Act shall not apply to any election held prior to
8 January 1, 2020; and

9 (2) No later than December 31, 2019, the chief election
10 officer and each county clerk shall adopt rules
11 pursuant to chapter 91, Hawaii Revised Statutes, to
12 effectuate the purposes of this Act.

13

INTRODUCED BY:





S.B. NO. 956

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 1/1/2020.

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

