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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. The legislature finds that Act 136, Session  
2 Laws of Hawaii 2019, required all elections statewide to be  
3 conducted by mail beginning with the 2020 primary election. The  
4 purpose of this Act is to make various housekeeping amendments  
5 to clarify and improve the administration of elections by mail  
6 in Hawaii.

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

9           1. By adding two new definitions to be appropriately  
10 inserted and to read:

11           "Ballot summary" means a complete record of ballot  
12 selections that is verified by the voter.

13           "Precinct" means the smallest political subdivision  
14 established by law."

15           2. By amending the definition of "ballot" to read:

16           "Ballot" means a ballot, including an absentee ballot,  
17 that is a written or printed, or partly written and partly



1 printed, paper or papers containing the names of persons to be  
2 voted for, the office to be filled, and the questions or issues  
3 to be voted on. "Ballot" includes [a]:

4 (1) A ballot summary reflecting a complete record of the  
5 ballot selections made by a voter utilizing a web-  
6 based ballot or similar accessible ballot that  
7 produces a ballot summary;

8 (2) A voter verifiable paper audit trail in the event  
9 there is a discrepancy between a voting machine's  
10 electronic record of the voted ballot and the voter  
11 verifiable paper audit trail; and

12 (3) A ballot used in an election by mail pursuant to part  
13 VIIA, including a ballot approved for electronic  
14 transmission.

15 A ballot may consist of one or more cards or pieces of paper, or  
16 one face of a card or piece of paper, or a portion of the face  
17 of a card or piece of paper, depending on the number of offices,  
18 candidates to be elected thereto, questions or issues to be  
19 voted on, and the voting system in use."

20 3. By amending the definition of "district" to read:



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1        "District" means, unless otherwise specified, the district  
2 of political representation [~~with the fewest eligible voters in~~  
3 ~~a particular election.~~] associated with a state representative."

4        SECTION 3. Section 11-15, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6        "(a) Any person qualified to and desiring to register as a  
7 voter in any county shall make and subscribe to an application  
8 in the form of an affidavit.

9        The affidavit shall contain the following information:

10       (1) Name;

11       (2) The applicant's Hawaii driver's license number or  
12 Hawaii state identification card number; provided  
13 that:

14       (A) If no driver's license or identification card has  
15 been issued to the applicant, the last four  
16 digits of the applicant's social security number;  
17 and

18       (B) If no social security number has been issued to  
19 the applicant, an election official or county  
20 clerk shall assign the applicant a unique  
21 identification number for voter registration



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1                   purposes and enroll the applicant in the State's  
2                   computerized voter registration list, if any;

3           (3)   Date of birth;

4           (4)   Residence, including mailing address;

5           (5)   That the residence stated in the affidavit is not  
6                simply because of the person's presence in the State,  
7                but that the residence was acquired with the intent to  
8                make Hawaii the person's legal residence with all the  
9                accompanying obligations therein; and

10          (6)   That the person is a citizen.

11          ~~[An application to register to vote shall include a space~~  
12 ~~to request a permanent absentee ballot.] "~~

13          SECTION 4.   Section 11-15.2, Hawaii Revised Statutes, is  
14 amended as follows:

15          1.   By amending subsection (c) to read:

16          "(c)   The registration clerk shall process applications for  
17 any person not registered to vote who submits a signed affidavit  
18 in accordance with section 11-15, which shall include a sworn  
19 affirmation:

20          (1)   Of the person's qualification to vote;



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1           (2) Acknowledging that the person has not voted and will  
2           not attempt to vote again in that election, and has  
3           not cast and will not cast any absentee ballot  
4           pursuant to chapter 15 in that election; and

5           (3) Acknowledging that providing false information may  
6           result in a class C felony, punishable by a fine not  
7           exceeding [~~\$1,000~~] \$10,000 or imprisonment not  
8           exceeding five years, or both."

9           2. By amending subsection (g) to read:

10          "(g) The clerk of each county shall add persons who  
11 properly register under this section to the respective general  
12 county register. Within thirty days of registration, the clerk  
13 shall mail to the person a notice including the person's name,  
14 current street address, district [~~7~~] and precinct, and date of  
15 registration. A notice mailed pursuant to this subsection shall  
16 serve as prima facie evidence that the person is a registered  
17 voter as of the date of registration."

18          SECTION 5. Section 11-17, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20          "(b) The clerk shall also identify or remove the name of  
21 any registered voter if the clerk, after mailing a notice or



1 other correspondence, properly addressed, with postage prepaid,  
2 receives the notice or other correspondence as return mail with  
3 a postal notation that the notice or other correspondence was  
4 not deliverable. On election day, any person identified or  
5 removed shall have the person's name corrected or restored in  
6 the register and shall be allowed to vote if the person  
7 completes an affidavit or other form prescribed by the chief  
8 election officer affirming that the person:

- 9 (1) Claims the person's legal residence at the address  
10 listed on the register;
- 11 (2) Changed the person's legal residence after the closing  
12 of the register for that election; or
- 13 (3) Moved to a new residence within the same [~~district~~]  
14 precinct as the person's residence as listed on the  
15 register."

16 SECTION 6. Section 11-21, Hawaii Revised Statutes, is  
17 amended by amending subsections (c) and (d) to read as follows:

18 "(c) Any person whose name appears on the registered  
19 voters list whose residence has changed since the last election,  
20 and whom the clerk has not transferred under section 11-20, may  
21 apply on a form prescribed by the chief election officer on the



1 day of the election for transfer of registration to the  
2 [~~district~~] precinct of the new residence. Any person so  
3 transferring voter registration shall be immediately added to  
4 the register of the new [~~district~~] precinct.

5 (d) Where a person was incorrectly placed on a list of  
6 voters of a [~~district~~] precinct in which the person does not  
7 actually reside, the person may correct the registration."

8 SECTION 7. Section 11-22, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) The clerk shall correct the register if at any time  
11 it shall be manifest to the clerk that the name of a person  
12 registered has been accidentally misspelled, or that the person  
13 has been misnamed therein, or that the person has been  
14 accidentally registered under the wrong [~~district~~,] precinct, or  
15 that the person was accidentally removed pursuant to section  
16 11-17(a), or that the name of the person should be corrected or  
17 restored pursuant to section 11-17(b)."

18 SECTION 8. Section 11-25, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20 "(a) Any registered voter may challenge the right of a  
21 person to be or to remain registered as a voter in any precinct



1 for any cause not previously decided by the board of  
2 registration or the supreme court in respect to the same person.  
3 The challenge shall be in writing, setting forth the grounds  
4 upon which it is based, and be signed by the person making the  
5 challenge. The challenge shall be delivered to the clerk who  
6 shall immediately serve notice thereof on the person challenged.  
7 The clerk shall, as soon as possible, investigate and rule on  
8 the challenge."

9 SECTION 9. Section 11-26, Hawaii Revised Statutes, is  
10 amended as follows:

11 1. By amending subsection (a) to read:

12 "(a) In cases where the clerk, or [~~precinct~~] voter service  
13 center officials, rules on a challenge on election day, the  
14 person ruled against may appeal from the ruling to the board of  
15 registration of the person's county for review under part III.  
16 The appeal shall be brought before the challenger and challenged  
17 party leave the [~~polling place.~~] voter service center. If an  
18 appeal is brought, both the challenger and the challenged voter  
19 may be parties to the appeal."

20 2. By amending subsection (c) to read:





1           "(c) If the appeal is sustained, the board shall  
2 immediately certify that finding to the clerk, who shall  
3 thereupon alter the register to correspond to the findings of  
4 the board, and when necessary, the clerk shall notify the  
5 [~~precinct~~] voter service center officials of the change in the  
6 register."

7           SECTION 10. Section 11-92.1, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "§11-92.1 Election proclamation; establishment of a new  
10 precinct; voter service centers and places of deposit; changes  
11 to [~~district~~] precinct boundaries. (a) The chief election  
12 officer shall issue a proclamation [~~listing~~]:

13           (1) Listing all voter service centers and places of  
14 deposit as may have been determined by the clerk as of  
15 the proclamation date[-]; and

16           (2) Whenever a new precinct is established in any  
17 representative district.

18 The clerk shall make arrangements for the rental or erection of  
19 suitable shelter for the establishment of a voter service center  
20 whenever public buildings are not available and shall cause  
21 these voter service centers to be equipped with the necessary



1 facilities for lighting, ventilation, and equipment needed for  
2 elections on any island. This proclamation may be issued  
3 jointly with the proclamation required in section 11-91.

4 (b) No change shall be made in the boundaries of any  
5 [~~district~~] precinct later than 4:30 p.m. on the tenth day before  
6 the close of filing for an election.

7 (c) Notwithstanding subsection (a), and pursuant to  
8 section 15-2.5, the clerk is not required to establish voter  
9 service centers for [~~districts~~] precincts affected by natural  
10 disasters, as provided in section 15-2.5."

11 SECTION 11. Section 11-92.3, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§11-92.3 Natural disasters; postponement; consolidation**  
14 **of [~~districts,~~] precincts; special elections.** (a) In the event  
15 of a flood, tsunami, earthquake, volcanic eruption, high wind,  
16 or other natural disaster, occurring before an election where  
17 the extent of damage caused is such that the ability of voters,  
18 in any precinct, district, or county, to exercise their right to  
19 vote is substantially impaired, the chief election officer or  
20 clerk in the case of county elections may postpone the  
21 conducting of an election in the affected [~~area~~] precinct for no



1 more than twenty-one days; provided that any postponement shall  
2 not affect the conduct of the election, tabulation, or  
3 distribution of results for those precincts, districts, or  
4 counties not designated for postponement. The chief election  
5 officer or clerk in the case of county elections shall give  
6 notice of the postponement by whatever possible news or  
7 broadcast media are available.

8 (b) In the event the chief election officer or the clerk  
9 in a county election determines that the number of candidates or  
10 issues on the ballot in a special, special primary, or special  
11 general election does not require the full number of established  
12 [~~districts,~~] precincts, the [~~districts~~] precincts may be  
13 consolidated for the purposes of the special, special primary,  
14 or special general election into a small number of special,  
15 special primary, or special general election [~~districts-~~]  
16 precincts.

17 A special, special primary, or special general election  
18 [~~district~~] precinct shall be considered the same as an  
19 established [~~district~~] precinct for all purposes. No later than  
20 4:30 p.m. on the tenth day before the special, special primary,  
21 or special general election, the chief election officer or the



1 clerk shall give public notice, in the area in which the  
2 special, special primary, or special general election is to be  
3 held, of the special, special primary, or special general  
4 election [~~districts-~~] precincts."

5 SECTION 12. Section 11-101, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[+]§11-101[+] Elections eligible to be conducted by mail.  
8 Beginning with the 2020 primary election, all elections shall be  
9 conducted by mail in accordance with this title. A voter in an  
10 election conducted by mail shall not be precluded from voting by  
11 absentee ballot under chapters 15 or 15D, if the voter complies  
12 with the applicable requirements."

13 SECTION 13. Section 11-102, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15 "(b) To the extent practicable, the clerk shall mail a  
16 ballot package by non-forwardable mail to each registered voter  
17 in the county so as to enable voters to receive the ballot  
18 package approximately eighteen days before the election. The  
19 clerk shall continue mailing ballot packages to voters who  
20 update their voter registration address no later than [~~fourteen~~]  
21 seven days before the date of the election. The clerk may



1 continue to mail ballots to those who have updated their voter  
2 registration address after the seventh day, if:

3 (1) The clerk believes there is sufficient time for the  
4 voter to return the ballot by the applicable deadline;

5 or

6 (2) Another statute provides for the transmittal of the  
7 ballot during that time frame.

8 In determining the initial mailing date of the ballot packages,  
9 the clerk shall consider the mailing place of origin and the  
10 most recent postal service delivery standards. The clerk shall  
11 not mail a ballot package to any voter in the county register  
12 who is identified as having an outdated or non-deliverable  
13 mailing address. Nothing in this part shall be construed to  
14 change the responsibilities of the clerk or chief election  
15 officer under chapter 15 with respect to voters requesting to  
16 vote by absentee ballot or chapter 15D with respect to uniform  
17 military and overseas voters."

18 SECTION 14. Section 11-104, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "[+]§11-104[+] **Ballot instructions; ballot return.** (a)

21 After a voter receives a ballot package, the voter shall comply



1 with the instructions included in the ballot package in order to  
2 cast a valid vote. The instructions shall include directions  
3 for:

4 (1) Marking the ballot;

5 (2) Inserting the marked ballot in the secrecy envelope or  
6 secrecy sleeve;

7 (3) Inserting the secrecy envelope or secrecy sleeve with  
8 the marked ballot in the return identification  
9 envelope; and

10 (4) Signing the affirmation on the return identification  
11 envelope before mailing or delivering the return  
12 identification envelope containing the secrecy  
13 envelope or secrecy sleeve with the marked ballot.

14 The affirmation shall consist of a statement to be  
15 subscribed to by the voter that affirms the fact that  
16 the voter is the person voting and that the voter's  
17 employer or agent of the employer, agent of the  
18 voter's labor union, or any candidate listed on the  
19 ballot did not assist the voter, as described in  
20 section 11-139, along with the instruction that the



1           voter's ballot will be valid only if the affirmation  
2           statement is signed.

3           (b) The instructions shall include information on election  
4 fraud and voter fraud, as provided in sections 19-3(5) and  
5 19-3.5, and notice that violation of either section may subject  
6 the voter, upon conviction, to imprisonment, a fine, or both.

7           (c) To cast a valid ballot, the voter shall return the  
8 return identification envelope containing the secrecy envelope  
9 or secrecy sleeve with the marked ballot ~~[+]~~ in any manner:

10           (1) ~~[By mail so]~~ So that the return identification  
11 envelope is received ~~[at the office of]~~ by the clerk  
12 or the clerk's designee no later than the closing time  
13 ~~[provided]~~ on election day in accordance with section  
14 11-131 ~~[on the date of the election]~~; provided that  
15 anyone who is standing in line at 7:00 p.m. on the  
16 date of the election with the intent of returning a  
17 ballot shall be permitted to do so;

18           (2) ~~[By personal delivery at]~~ To any place of deposit no  
19 later than 7:00 p.m. on the date of the election;  
20 provided that ~~[any voter]~~ anyone who is standing in  
21 line at a place of deposit at 7:00 p.m. on the date of



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1 the election with the intent of returning a ballot  
2 ~~[and casting a vote]~~ shall be ~~[allowed to vote,]~~  
3 permitted to do so; or

4 (3) ~~[By personal delivery to]~~ To any voter service center  
5 no later than the closing time provided in section  
6 11-131 on the date of the election; provided that ~~[any~~  
7 ~~voter]~~ anyone who is standing in line at a voter  
8 service center at the closing time provided in section  
9 11-131 on the date of the election with the intent of  
10 returning a ballot ~~[and casting a vote]~~ shall be  
11 ~~[allowed to vote.]~~ permitted to do so.

12 (d) Once a voter has returned a return identification  
13 envelope containing the secrecy envelope or secrecy sleeve with  
14 the marked ballot, that voter's ballot shall be deemed cast and  
15 may not be recast in the election.

16 (e) Before opening the return identification envelopes and  
17 counting the ballots, the return identification envelopes shall  
18 be checked for the following:

19 (1) Signature on the affirmation statement;





- 1        (2) Whether the signature corresponds with the absentee  
2        request or register as prescribed in the rules adopted  
3        by the chief election officer; and  
4        (3) Whether the person is a registered voter and has  
5        complied with the requirements of sections 11-15 and  
6        11-16."

7        SECTION 15. Section 11-105, Hawaii Revised Statutes, is  
8 amended by amending subsections (b) and (c) to read as follows:

9        "~~(b) [Upon receipt of a completed replacement ballot~~  
10 ~~application form, the]~~ The clerk shall:

- 11        (1) Verify the registration of the voter and ensure that  
12        another ballot has not been returned by the voter;  
13        (2) Record that the voter has requested a replacement  
14        ballot;  
15        (3) Mark the return identification envelope as containing  
16        a replacement ballot; and  
17        (4) Issue the replacement ballot package by mail or make  
18        the ballot package available for pick-up by the voter.  
19        (c) Voters who obtain a replacement ballot shall return  
20 the return identification envelope containing the secrecy



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1 envelope or secrecy sleeve with the marked replacement ballot[+]  
2 in any manner:

3 (1) [~~By mail to~~] So that the return identification  
4 envelope is received [~~at the office of~~] by the clerk  
5 or the clerk's designee no later than the closing time  
6 [~~provided~~] on election day in accordance with section  
7 11-131 [~~on the date of the election~~]; provided that  
8 anyone who is standing in line at 7:00 p.m. on the  
9 date of the election with the intent of returning a  
10 ballot shall be permitted to do so;

11 (2) [~~By personal delivery to~~] To any place of deposit no  
12 later than 7:00 p.m. on the date of the election;  
13 provided that [~~any voter~~] anyone who is standing in  
14 line at a place of deposit at 7:00 p.m. on the date of  
15 the election with the intent of returning a ballot  
16 [~~and casting a vote~~] shall be [~~allowed to vote,~~]  
17 permitted to do so; or

18 (3) [~~By personal delivery to~~] To any voter service center  
19 no later than the closing time provided in section  
20 11-131 on the date of the election; provided that [~~any~~  
21 ~~voter~~] anyone who is standing in line at a voter



1 service center at the closing time provided in section  
2 11-131 on the date of the election with the intent of  
3 returning a ballot [~~and casting a vote~~] shall be  
4 [~~allowed to vote.~~] permitted to do so."

5 SECTION 16. Section 11-106, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[+]§11-106[+] Deficient return identification envelopes.

8 If:

- 9 (1) A return identification envelope is returned with an  
10 unsigned affirmation;  
11 (2) The affirmation signature does not match a reference  
12 signature image; or  
13 (3) A return identification envelope contains another  
14 condition that would not allow the counting of the  
15 ballot,

16 the clerk shall make an attempt to notify the voter by first  
17 class mail, telephone, or electronic mail to inform the voter of  
18 the procedure to correct the deficiency. The voter shall have  
19 five business days after the date of the election to cure the  
20 deficiency. The chief election officer may adopt rules  
21 regarding requirements and procedures for correcting deficient



1 return identification envelopes. The counting of ballots and  
2 disclosure of subsequent election results may continue during  
3 the time period permitted to cure a deficiency under this  
4 section. The clerk's inability to contact voters under this  
5 section shall not be grounds for a contest for cause under  
6 section 11-172. This section shall apply to all return  
7 identification envelopes, including ballots utilizing the  
8 provisions of section 11-107 or chapters 15 or 15D."

9 SECTION 17. Section 11-107, Hawaii Revised Statutes, is  
10 amended by amending subsections (a) and (b) to read as follows:

11 "(a) If a ballot package is not received by a voter by the  
12 fifth day before the date of the election or a voter otherwise  
13 requires a replacement ballot within five days of an election,  
14 the voter may request that a ballot be forwarded by electronic  
15 transmission; provided that a voter with special needs may  
16 request that a ballot be forwarded by electronic transmission at  
17 any time[-], but no earlier than the date that the voter's  
18 initial ballot package was or would have been transmitted. Upon  
19 receipt of such a request and confirmation that [~~proper~~  
20 ~~application was made,~~] the voter has not already voted, the  
21 clerk may transmit the appropriate ballot, together with a form



1 containing the affirmations, information, and a waiver of the  
2 right to secrecy under section 11-137.

3 (b) The voter may return the completed replacement ballot  
4 and executed forms:

5 (1) By electronic transmission so that the completed  
6 replacement ballot and executed forms are received [~~at~~  
7 ~~the office of~~] by the clerk or the clerk's designee no  
8 later than the closing time provided in section 11-131  
9 on the date of the election;

10 (2) [~~By mail~~] In any manner so that the completed  
11 replacement ballot and executed forms are received [~~at~~  
12 ~~the office of~~] by the clerk or the clerk's designee no  
13 later than the closing time provided in section 11-131  
14 on the date of the election;

15 (3) [~~By personal delivery~~] In any manner to any place of  
16 deposit no later than 7:00 p.m. on the date of the  
17 election; provided that [~~any voter~~] anyone who is  
18 standing in line at a place of deposit at 7:00 p.m. on  
19 the date of the election with the intent of returning  
20 a ballot [~~and casting a vote~~] shall be [~~allowed to~~  
21 ~~vote,~~] permitted to do so; or



1           (4)   ~~[By personal delivery]~~ In any manner to a voter  
2                   service center no later than the closing time provided  
3                   in section 11-131 on the date of the election;  
4                   provided that ~~[any voter]~~ anyone who is standing in  
5                   line at a voter service center at the closing time  
6                   provided in section 11-131 on the date of the election  
7                   with the intent of returning a ballot ~~[and casting a~~  
8                   ~~vote]~~ shall be ~~[allowed to vote.]~~ permitted to do so."

9           SECTION 18. Section 11-108, Hawaii Revised Statutes, is  
10   amended by amending subsection (c) to read as follows:

11           "(c) Any ballot the validity of which cannot be  
12   established upon receipt shall be retained by the clerk and  
13   shall not be commingled with ballots for which validity has been  
14   established until the validity of the ballot in question can be  
15   verified by the clerk. No ballot shall be included in an  
16   initial tabulation until the clerk has determined its validity.  
17   The clerk shall make reasonable efforts to determine the  
18   validity of ballots within seven days following an election day.  
19   No ballots shall be validated beyond the seventh day following  
20   an election."



1 SECTION 19. Section 11-109, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsections (a) and (b) to read:

4 "(a) Voter service centers shall be established [~~at the~~  
5 ~~office of the clerk, and may be established at additional~~  
6 ~~locations within a county as may be designated by a clerk]~~ by  
7 the clerks to service the particular needs of [a] each county's  
8 voters.

9 (b) [~~Voter~~] In each county, a voter service [centers]  
10 center shall be open from the tenth business day preceding the  
11 day of the election during regular business hours until the time  
12 provided in section 11-131 on the date of the election and at  
13 the same times statewide. The clerks may operate additional  
14 voter services centers with varying days or hours of operations  
15 to service the voters of particular areas that could not  
16 otherwise support the operation of a voter service center for  
17 ten business days or the same times statewide. Any voter  
18 standing in line at a voter service center at the closing time  
19 provided in section 11-131 on the date of the election with the  
20 intent of voting shall be allowed to vote. A person eligible to  
21 vote but who is not registered to vote standing in line at a



1 voter service center at the closing time provided in section  
2 11-131 on the date of the election shall be permitted to apply  
3 under section 11-15.2 to register to vote and subsequently vote  
4 that election day. To the extent the registration clerk  
5 determines the applicant to be registered at that time, the  
6 applicant will be permitted to vote a regular ballot. If  
7 additional time is required to process the application, the  
8 applicant will be provided a provisional ballot."

9 2. By amending subsection (d) to read:

10 "(d) The clerks may designate and provide for places of  
11 deposit to be open five business days before the election until  
12 7:00 p.m. on the day of the election; provided that the  
13 locations and apparatus for receiving voted ballots can be  
14 securely maintained during the period of use for each election,  
15 and as may be permitted by the operational hours. As such, the  
16 clerks may provide for places of deposit with varying or shorter  
17 days or hours of operations."

18 SECTION 20. Section 11-117, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20 "(b) On receipt of the notice of death, withdrawal, or  
21 upon determination of disqualification, the chief election





1 officer or the clerk shall inform the chairperson of the  
2 political party of which the person deceased, withdrawing, or  
3 disqualified was a candidate. When a candidate dies, withdraws,  
4 or is disqualified after the close of filing and the ballots  
5 have been printed, the chief election officer or the clerk may  
6 order the candidate's name stricken from the ballot or order  
7 that a notice of the death, withdrawal, or disqualification be  
8 prominently posted at the appropriate [~~polling places~~] voter  
9 service centers on election day."

10 SECTION 21. Section 11-138, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "§11-138 Time allowed voters. A voter shall be allowed to  
13 remain in the voting booth for five minutes, and having voted  
14 the voter shall at once emerge and leave the voting booth. If  
15 the voter refuses to leave when so requested by a majority of  
16 [~~precinct~~] voter service center officials after the lapse of  
17 five minutes, the voter shall be removed by the [~~precinct~~] voter  
18 service center officials."

19 SECTION 22. Section 11-153, Hawaii Revised Statutes, is  
20 amended by amending subsection (c) to read as follows:



1           "(c) The chief election officer or the clerk shall make a  
2 list of all [~~districts~~] precincts in which an overage or  
3 underage occurred and the amount of the overage or underage.  
4 This list shall be filed and kept as a public record in the  
5 office of the chief election officer or the clerk in county  
6 elections.

7           An election contest may be brought under part XI, if the  
8 overage or underage in any district could affect the outcome of  
9 an election."

10           SECTION 23. Section 11-155, Hawaii Revised Statutes, is  
11 amended to read as follows:

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

19           (1) The results of the canvass of ballots conducted  
20                 pursuant to chapter 16;



- 1           (2) The audit of [~~pollbooks (and related record books)~~]  
2           records and resultant overage and underage report;
- 3           (3) The audit results of the manual audit team;
- 4           (4) The results of the absentee ballot reconciliation  
5           report compiled by the clerks;
- 6           (5) The results of any mandatory recount of votes  
7           conducted pursuant to section 11-158; and
- 8           (6) All logs, tally sheets, and other documents generated  
9           during the election and in the canvass of the election  
10          results.
- 11 A certificate of election or a certificate of results declaring  
12 the results of the election as of election day shall be issued  
13 pursuant to section 11-156; provided that in the event of an  
14 overage or underage, a list of all precincts in which an overage  
15 or underage occurred shall be attached to the certificate. The  
16 number of candidates to be elected receiving the highest number  
17 of votes in any election district shall be declared to be  
18 elected. Unless otherwise provided, the term of office shall  
19 begin or end as of the close of [~~polls~~] voter service centers on  
20 election day. The position on the question receiving the



1 appropriate majority of the votes cast shall be reflected in a  
2 certificate of results issued pursuant to section 11-156."

3 SECTION 24. Section 11-172, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§11-172 **Contests for cause; generally.** With respect to  
6 any election, any candidate, or qualified political party  
7 directly interested, or any thirty voters of any election  
8 district, may file a complaint in the supreme court. The  
9 complaint shall set forth any cause or causes, such as but not  
10 limited to, provable fraud, overages, or underages, that could  
11 cause a difference in the election results. The complaint shall  
12 also set forth any reasons for reversing, correcting, or  
13 changing the decisions of the [~~precinct~~] voter service center  
14 officials or the officials at a counting center in an election  
15 using the electronic voting system. A copy of the complaint  
16 shall be delivered to the chief election officer or the clerk in  
17 the case of county elections."

18 SECTION 25. Section 11-173.5, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20 "(a) In a primary and special primary election contest, or  
21 a county election contest held concurrently with a regularly



1 scheduled primary or special primary election, the complaint  
2 shall be filed in the office of the clerk of the supreme court  
3 no later than 4:30 p.m. on the thirteenth day after a primary or  
4 special primary election or a county election contest held  
5 concurrently with a regularly scheduled primary or special  
6 primary election, and shall be accompanied by a deposit for  
7 costs of court as established by the rules of the supreme  
8 court [~~;~~ ~~provided that a complaint for a contest for cause that~~  
9 ~~arises from a mandatory recount pursuant to section 11-158 shall~~  
10 ~~be filed no later than 4:30 p.m. on the third calendar day~~  
11 ~~following the public announcement of the results of the~~  
12 ~~mandatory recount pursuant to section 11-158(e)]]. The clerk  
13 shall issue to the defendants named in the complaint a summons  
14 to appear before the supreme court no later than 4:30 p.m. on  
15 the fifth day after service of the summons."~~

16 SECTION 26. Section 11-174.5, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) In cases involving general, special general, special,  
19 or runoff elections the complaint shall be heard by the supreme  
20 court in which the complaint was filed as soon as it reasonably  
21 may be heard. On the return day, the court, upon its motion or



1 otherwise, may direct summons to be issued to any person who may  
2 be interested in the result of the proceedings.

3 At the hearing, the court shall cause the evidence to be  
4 reduced to writing and shall give judgment, stating all findings  
5 of fact and of law. The judgment may invalidate the general,  
6 special general, special, or runoff election on the grounds that  
7 a correct result cannot be ascertained because of a mistake or  
8 fraud on the part of the [~~precinct~~] voter service center  
9 officials; or decide that a certain candidate, or certain  
10 candidates, received a majority or plurality of votes cast and  
11 were elected. If the judgment should be that the general,  
12 special general, special, or runoff election was invalid, a  
13 certified copy thereof shall be filed with the governor, and the  
14 governor shall duly call a new election to be held not later  
15 than one hundred twenty days after the judgment is filed. If  
16 the court shall decide which candidate or candidates have been  
17 elected, a copy of that judgment shall be served on the chief  
18 election officer or county clerk, who shall sign and deliver to  
19 the candidate or candidates certificates of election, and the  
20 same shall be conclusive of the right of the candidate or  
21 candidates to the offices."



1 SECTION 27. Section 15-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§15-2 Who may vote by absentee ballot. Any person  
4 registered to vote may cast an absentee ballot in any election,  
5 including an election conducted by mail, in the manner provided  
6 in this chapter and rules adopted by the chief election  
7 officer."

8 SECTION 28. Section 15-2.5, Hawaii Revised Statutes, is  
9 amended by amending its title and subsections (a) and (b) to  
10 read as follows:

11 "§15-2.5 Voting by mail in [~~district~~] precinct affected by  
12 natural disasters. (a) If the chief election officer and clerk  
13 of a county affected as a result of a natural disaster determine  
14 that the opening of a designated voter service center will  
15 adversely affect the health and safety of voters or precinct  
16 officials, the chief election officer and county clerk, by  
17 written order, may require the registered voters of any  
18 [~~district~~] precinct to vote by mail as provided in part VIIA of  
19 chapter 11.

20 (b) Within thirty days after the issuance of such an  
21 order, the chief election officer and county clerk shall notify



1 all registered voters in the affected [~~district~~] precinct of the  
2 issuance of the order."

3 SECTION 29. Section 15-9, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§15-9 Return [and], receipt, processing, and treatment of  
6 absentee ballots. [~~(a) The return envelope shall be:~~

7 ~~(1) Mailed and must be received by the clerk issuing the~~  
8 ~~absentee ballot no later than the closing hour on~~  
9 ~~election day in accordance with section 11-131; or~~

10 ~~(2) Delivered other than by mail to the clerk issuing the~~  
11 ~~absentee ballot, or to a voter service center no later~~  
12 ~~than the closing hour on election day in accordance~~  
13 ~~with section 11-131.~~

14 ~~(b) Upon receipt of the return envelope from any person~~  
15 ~~voting under this chapter, the clerk may prepare the ballots for~~  
16 ~~counting pursuant to this section and section 15-10.~~

17 ~~(c) Before opening the return and ballot envelopes and~~  
18 ~~counting the ballots, the return envelopes shall be checked for~~  
19 ~~the following:~~

20 ~~(1) Signature on the affirmation statement;~~





1       ~~(2) Whether the signature corresponds with the absentee~~  
 2           ~~request or register as prescribed in the rules adopted~~  
 3           ~~by the chief election officer; and~~

4       ~~(3) Whether the person is a registered voter and has~~  
 5           ~~complied with the requirements of sections 11-15 and~~  
 6           ~~11-16.~~

7       ~~(d) If any requirement listed in subsection (c) is not met~~  
 8       ~~or if the return or ballot envelope appears to be tampered with,~~  
 9       ~~the clerk or the absentee ballot team official shall mark across~~  
 10       ~~the face of the envelope "invalid" and it shall be kept in the~~  
 11       ~~eustody of the clerk and disposed of as prescribed for ballots~~  
 12       ~~in section 11-154.] An absentee ballot shall be returned,~~  
 13       ~~received, processed, and treated in the same manner as a return~~  
 14       ~~identification envelope in an election by mail under part VIIA~~  
 15       ~~of chapter 11."~~

16           SECTION 30. Section 15-11, Hawaii Revised Statutes, is  
 17 amended to read as follows:

18           "**§15-11 Voting by absentee voter at [polls] voter service**  
 19       **centers prohibited.** Any person having voted an absentee ballot  
 20 pursuant to this chapter shall not be entitled to cast a ballot  
 21 at [the polls] a voter service center on election day. An



1 absentee voter who does cast a ballot at [~~the polls~~] a voter  
2 service center shall be guilty of an election offense under  
3 section 19-3(5)."

4 SECTION 31. Section 15D-10, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[~~§~~15D-10[~~§~~] **Receipt of voted ballot.** A valid  
7 military-overseas ballot shall be counted if it is received by  
8 the close of the [~~polls~~] voter service centers on the day of the  
9 election and meets the requirements prescribed under section  
10 15-9."

11 SECTION 32. Section 16-23, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "**§16-23 Paper ballot; voting.** Upon receiving the ballot  
14 the voter shall proceed into one of the voting booths provided  
15 for the purpose, and shall mark the voter's ballot in the manner  
16 prescribed by section 16-22.

17 The voter shall then leave the booth and deliver the ballot  
18 to the [~~precinct~~] voter service center official in charge of the  
19 ballot boxes. The [~~precinct~~] voter service center official  
20 shall be sufficiently satisfied that there is but one ballot



1 enclosed, whereupon the ballot shall be immediately dropped into  
2 the proper box by the [~~precinct~~] voter service center official."

3 SECTION 33. Section 16-26, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§16-26 Questionable ballots. A ballot shall be  
6 questionable if:

- 7 (1) A ballot contains any mark or symbol whereby it can be  
8 identified, or any mark or symbol contrary to the  
9 provisions of law; or
- 10 (2) Two or more ballots are found in the ballot box so  
11 folded together as to make it clearly evident that  
12 more than one ballot was put in by one person, the  
13 ballots shall be set aside as provided below.

14 Each ballot which is held to be questionable shall be  
15 endorsed on the back by [~~the chairperson of precinct officials~~  
16 ~~with the chairperson's~~] a voter service center official with  
17 their name or initials, and the word "questionable". All  
18 questionable ballots shall be set aside uncounted and disposed  
19 of as provided for ballots in section 11-154."

20 SECTION 34. Section 16-27, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§16-27   Number of blank and questionable ballots; record  
2 of. In addition to the count of the valid ballots, the  
3 [~~precinct~~] voter service center officials shall, as to each  
4 separate official ballot, also determine and record the number  
5 of totally blank ballots and the number of questionable  
6 ballots."

7           SECTION 35. Section 16-28, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "§16-28   Declaration of results. When the [~~precinct~~] voter  
10 service center officials have ascertained the number of votes  
11 given for each candidate they shall make public declaration of  
12 the whole number of votes cast, the names of the persons voted  
13 for, and the number of votes for each person."

14           SECTION 36. Section 11-181, Hawaii Revised Statutes, is  
15 repealed.

16           ~~["§11-181   Capital equipment. The State shall pay for all~~  
17 ~~voting system capital equipment. This shall include, but not be~~  
18 ~~limited to voting machines, voting devices, and initial computer~~  
19 ~~programs."]~~

20           SECTION 37. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



# H.B. NO. 2128

1 SECTION 38. This Act shall take effect upon its approval.

2

INTRODUCED BY:

*[Signature]*

*James Skay*  
*John M. [Signature]*

*Sean*

*Richard [Signature]*

*Amy [Signature]*

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JAN 17 2020



# H.B. NO. 2128

**Report Title:**

Voting by Mail; Voter Service Centers; Precincts

**Description:**

Makes housekeeping amendments to Hawaii's elections laws to clarify and improve the administration of elections by mail.

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

