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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- Automatic recount of votes; when required. (a)

5 The chief election officer, or the county clerk in the case of  
6 county elections, shall conduct a recount of all votes cast:

7 (1) For any office at any election if the official canvass  
8 of all of the returns for that office reveals that the  
9 difference in the number of votes cast for a candidate  
10 apparently qualified for the general election ballot  
11 or elected to office and the number of votes cast for  
12 the closest apparently defeated opponent is equal to  
13 or less than one hundred votes or one-half of one per  
14 cent of the total number of votes cast for the  
15 candidate apparently qualified for the general  
16 election ballot or elected to office, whichever is  
17 greater; and



1       (2) On any question if the difference in the number of  
2       votes cast in the affirmative on a question and the  
3       number of votes cast in the negative on the question  
4       is equal to or less than one hundred votes or one-half  
5       of one per cent of the votes cast on the question,  
6       whichever is greater.

7       (b) No cost of a mandatory recount under this section may  
8       be charged to any candidate.

9       (c) All mandatory recounts of votes under this section  
10       shall be completed and the results publicly announced no later  
11       than on the seventh day following the election.

12       (d) The chief election officer shall adopt rules pursuant  
13       to chapter 91 for the mandatory recount of votes under this  
14       section; provided that the rules shall:

15       (1) Authorize candidates affected by the recount, or their  
16       designated representatives, to attend and witness the  
17       recount; and

18       (2) Require notification of the parties described in  
19       paragraph (1) of the time and place of the recount no  
20       later than one day prior to the date of the recount."



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

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

- 10 (1) The results of the canvass of ballots conducted  
11 pursuant to chapter 16;
- 12 (2) The audit of pollbooks (and related record books) and  
13 resultant overage and underage report;
- 14 (3) The audit results of the manual audit team;
- 15 (4) The results of the absentee ballot reconciliation  
16 report compiled by the clerks; [~~and~~]
- 17 (5) The results of any mandatory recount of votes  
18 conducted pursuant to section 11- ; and
- 19 [~~(5)~~] (6) All logs, tally sheets, and other documents  
20 generated during the election and in the canvass of  
21 the election results.



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

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

15 "(a) In primary and special primary election contests, and  
 16 county election contests held concurrently with a regularly  
 17 scheduled primary or special primary election, the complaint  
 18 shall be filed in the office of the clerk of the supreme court  
 19 not later than 4:30 p.m. on the sixth day after a primary or  
 20 special primary election, or county election contests held  
 21 concurrently with a regularly scheduled primary or special



1 primary election, and shall be accompanied by a deposit for  
2 costs of court as established by rules of the supreme court[-];  
3 provided that, notwithstanding the foregoing, a complaint  
4 pertaining to votes subject to a mandatory recount pursuant to  
5 section 11- shall be filed no later than 4:30 p.m. on the  
6 fifth day after the public announcement of the results of the  
7 mandatory recount pursuant to section 11- (c). The clerk shall  
8 issue to the defendants named in the complaint a summons to  
9 appear before the supreme court not later than 4:30 p.m. on the  
10 fifth day after service thereof."

11 SECTION 4. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date.

14 SECTION 5. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect on January 28, 2081  
17 and upon ratification of a constitutional amendment allowing the  
18 recount of votes cast at an election to be conducted in a manner  
19 provided by law.



**Report Title:**

Elections; Ballot Questions; Mandatory Recount of Votes

**Description:**

Requires an automatic recount of votes cast for a candidate or on a ballot question when the difference in the number of votes cast for the top two candidates or on the question is equal to or less than 100 votes or 0.5 percent, whichever is greater.

(HB428 HD1)

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

