

JAN 17 2020

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, established that all elections shall
3 conducted by mail beginning with the 2020 primary election.
4 This Act is a housekeeping measure to address various
5 inconsistencies in elections law to clarify and improve the
6 administration of elections by mail.

7 SECTION 2. Section 11-1, Hawaii Revised Statutes, is
8 amended to read 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. A "ballot" includes a ballot summary reflecting
4 a completed record of the ballot selections made by a voter
5 utilizing a hypertext markup language ballot or similar
6 accessible ballot that produces a ballot summary. A "ballot"
7 also includes a voter verifiable paper audit trail in the event
8 there is a discrepancy between a voting machine's electronic
9 record of the voted ballot and the voter verifiable paper audit
10 trail. "Ballot" includes a ballot used in an election by mail
11 pursuant to part VIIA, including a ballot approved for
12 electronic transmission. A ballot may consist of one or more
13 cards or pieces of paper, or one face of a card or piece of
14 paper, or a portion of the face of a card or piece of paper,
15 depending on the number of offices, candidates to be elected
16 thereto, questions or issues to be voted on, and the voting
17 system in use.

18 3. By amending the definition of "district" to read:
19 "District" means, unless otherwise specified, the district
20 of political representation [~~with the fewest eligible voters in~~
21 ~~a particular election.~~] associated with a state representative."



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

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

6 The affidavit shall contain the following information:

7 (1) Name;

8 (2) The applicant's Hawaii driver's license number or
9 Hawaii state identification card number; provided
10 that:

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

15 (B) If no social security number has been issued to
16 the applicant, an election official or county
17 clerk shall assign the applicant a unique
18 identification number for voter registration
19 purposes and enroll the applicant in the State's
20 computerized voter registration list, if any;

21 (3) Date of birth;



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1 (4) Residence, including mailing address;

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

7 (6) That the person is a citizen.

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

10 SECTION 4. Section 11-15.2, Hawaii Revised Statutes, is
11 amended by amending subsection (g) to read as follows:

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

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



1 "(b) The clerk shall also identify or remove the name of
2 any registered voter if the clerk, after mailing a notice or
3 other correspondence, properly addressed, with postage prepaid,
4 receives the notice or other correspondence as return mail with
5 a postal notation that the notice or other correspondence was
6 not deliverable. On election day, any person identified or
7 removed shall have the person's name corrected or restored in
8 the register and shall be allowed to vote if the person
9 completes an affidavit or other form prescribed by the chief
10 election officer affirming that the person:

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

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

20 "(c) Any person whose name appears on the registered
21 voters list whose residence has changed since the last election,



1 and whom the clerk has not transferred under section 11-20, may
2 apply on a form prescribed by the chief election officer on the
3 day of the election for transfer of registration to the
4 [~~district~~] precinct of the new residence. Any person so
5 transferring voter registration shall be immediately added to
6 the register of the new [~~district~~] precinct.

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

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

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

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



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

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

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

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



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

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

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

10 "**§11-92.1 Election proclamation; establishment of a new**
11 **precinct; voter service centers and places of deposit; changes**
12 **to [~~district~~] precinct boundaries.** (a) The chief election
13 officer shall issue a proclamation listing all voter service
14 centers and places of deposit as may have been determined by the
15 clerk as of the proclamation date[-] and whenever a new precinct
16 is established in any representative district. The clerk shall
17 make arrangements for the rental or erection of suitable shelter
18 for the establishment of a voter service center whenever public
19 buildings are not available and shall cause these voter service
20 centers to be equipped with the necessary facilities for
21 lighting, ventilation, and equipment needed for elections on any



1 island. This proclamation may be issued jointly with the
2 proclamation required in section 11-91.

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

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

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

12 "**§11-92.3 Natural disasters; postponement; consolidation**
13 **of [~~districts;~~] precincts; special elections.** (a) In the event
14 of a flood, tsunami, earthquake, volcanic eruption, high wind,
15 or other natural disaster, occurring before an election where
16 the extent of damage caused is such that the ability of voters,
17 in any precinct, district, or county, to exercise their right to
18 vote is substantially impaired, the chief election officer or
19 clerk in the case of county elections may postpone the
20 conducting of an election in the affected [~~area~~] precinct for no
21 more than twenty-one days; provided that any postponement shall



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

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

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



1 special, special primary, or special general election is to be
2 held, of the special, special primary, or special general
3 election [~~districts~~] precincts."

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

6 "[~~§~~11-101~~§~~] **Elections eligible to be conducted by mail.**

7 Beginning with the 2020 primary election, all elections shall be
8 conducted by mail in accordance with this title. A voter in an
9 election conducted by mail shall not be precluded from voting by
10 absentee ballot pursuant to chapter 15 or chapter 15D if the
11 voter complies with applicable requirements."

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

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



1 their voter registration addresses after the seventh day if the
2 clerk believes there is sufficient time for the voter to return
3 the ballot by the applicable deadline or if another statutory
4 section provides for the transmittal of the ballot during that
5 time frame. In determining the initial mailing date of the
6 ballot packages, the clerk shall consider the mailing place of
7 origin and the most recent postal service delivery standards.
8 The clerk shall not mail a ballot package to any voter in the
9 county register who is identified as having an outdated or non-
10 deliverable mailing address. Nothing in this part shall be
11 construed to change the responsibilities of the clerk or chief
12 election officer under chapter 15 with respect to voters
13 requesting to vote by absentee ballot or chapter 15D with
14 respect to uniform military and overseas voters."

15 SECTION 14. Section 11-104, Hawaii Revised Statutes, is
16 amended as follows:

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

18 "(a) After a voter receives a ballot package, the voter
19 shall comply with the instructions included in the ballot
20 package in order to cast a valid vote. The instructions shall
21 include directions for:



- 1 (1) Marking the ballot;
- 2 (2) Inserting the marked ballot in the secrecy envelope or
- 3 secrecy sleeve;
- 4 (3) Inserting the secrecy envelope or secrecy sleeve with
- 5 the marked ballot in the return identification
- 6 envelope; and
- 7 (4) Signing the affirmation on the return identification
- 8 envelope before mailing or delivering the return
- 9 identification envelope containing the secrecy
- 10 envelope or secrecy sleeve with the marked ballot.
- 11 The affirmation shall consist of a statement to be
- 12 subscribed to by the voter that affirms the fact that
- 13 the voter is the person voting and that the voter's
- 14 employer or agent of the employer, agent of the
- 15 voter's labor union, or any candidate listed on the
- 16 ballot did not assist the voter, as described in
- 17 section 11-139, along with the instruction that the
- 18 voter's ballot will be valid only if the affirmation
- 19 statement is signed."
- 20 2. By amending subsection (c) to read:



1 "(c) To cast a valid ballot, the voter shall return the
2 return identification envelope containing the secrecy envelope
3 or secrecy sleeve with the marked ballot:

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

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

20 (3) [~~By personal delivery~~] In any manner to any voter
21 service center no later than the closing time provided



1 in section 11-131 on the date of the election;
 2 provided that [~~any voter~~] anyone who is standing in
 3 line at a voter service center at the closing time
 4 provided in section 11-131 on the date of the election
 5 with the intent of returning a ballot [~~and casting a~~
 6 ~~vote~~] shall be [~~allowed to vote.~~] permitted to do so."

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
 21 envelope or secrecy sleeve with the marked replacement ballot:



- 1 (1) ~~[By mail]~~ In any manner so that the return
2 identification envelope is received ~~[at the office of]~~
3 by the clerk or the clerk's designee no later than the
4 closing ~~[time provided]~~ hour on election day in
5 accordance with section 11-131 ~~[on the date of the~~
6 ~~election]~~; provided that anyone who is standing in
7 line at 7:00 p.m. on the date of the election with the
8 intent of returning a ballot shall be permitted to do
9 so;
- 10 (2) ~~[By personal delivery]~~ In any manner to any place of
11 deposit no later than 7:00 p.m. on the date of the
12 election; provided that ~~[any voter]~~ anyone who is
13 standing in line at a place of deposit at 7:00 p.m. on
14 the date of the election with the intent of returning
15 a ballot ~~[and casting a vote]~~ shall be ~~[allowed to~~
16 ~~vote,]~~ permitted to do so; or
- 17 (3) ~~[By personal delivery]~~ In any manner to any voter
18 service center no later than the closing time provided
19 in section 11-131 on the date of the election;
20 provided that ~~[any voter]~~ anyone who is standing in
21 line at a voter service center at the closing time



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

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

6 "[+]§11-106[+] Deficient return identification envelopes.

7 If:

8 (1) A return identification envelope is returned with an
9 unsigned affirmation;

10 (2) The affirmation signature does not match a reference
11 signature image; or

12 (3) A return identification envelope contains another
13 condition that would not allow the counting of the
14 ballot,

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



1 disclosure of subsequent election results may continue during
 2 the time period permitted to cure a deficiency under this
 3 section. The clerk's inability to contact voters under this
 4 section shall not be grounds for a contest for cause under
 5 section 11-172. This section shall apply to all return
 6 identification envelopes, including return identification
 7 envelopes returned pursuant to section 11-107, chapter 15, or
 8 chapter 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~~] hour provided in section
9 11-131 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 ballot shall be validated beyond the seventh day following an
20 election."



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

3 "[+]§11-109[+] **Voter service centers; places of deposit.**

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

8 (b) [~~Voter~~] In each county, a voter service [centers]
9 center shall be open from the tenth business day preceding the
10 day of the election during regular business hours until the time
11 provided in section 11-131 on the date of the election and at
12 the same times statewide. The clerks may operate additional
13 voter service centers with varying days or hours of operations
14 to serve the voters of particular areas that otherwise could not
15 support the operation of a voter service center for days or the
16 same times statewide. Any voter standing in line at a voter
17 service center at the closing time provided in section 11-131 on
18 the date of the election shall be permitted to apply under
19 section 11-15.2 to register to vote and subsequently vote that
20 election day. To the extent the registration clerk determines
21 the applicant to be registered at that time, the applicant shall



1 be permitted to vote a regular ballot. If additional time is
2 required to process the application, the applicant will be
3 provided a provisional ballot.

4 (c) Each voter service center shall provide the services
5 specified in section 11-1 under the definition of "voter service
6 center".

7 (d) The clerks may designate and provide for places of
8 deposit to be open five business days before the election until
9 7:00 p.m. on the day of the election; provided that the
10 locations and apparatus for receiving voted ballots can be
11 securely maintained during the period of use for each election,
12 and as may be permitted by the operational hours. As such, the
13 clerks may provide for places of deposit with varying or shorter
14 days or hours of operations."

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

17 "(b) On receipt of the notice of death, withdrawal, or
18 upon determination of disqualification, the chief election
19 officer or the clerk shall inform the chairperson of the
20 political party of which the person deceased, withdrawing, or
21 disqualified was a candidate. When a candidate dies, withdraws,



1 or is disqualified after the close of filing and the ballots
2 have been printed, the chief election officer or the clerk may
3 order the candidate's name stricken from the ballot or order
4 that a notice of the death, withdrawal, or disqualification be
5 prominently posted at the appropriate [~~polling places~~] voter
6 service centers on election day."

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

9 "**§11-138 Time allowed voters.** A voter shall be allowed to
10 remain in the voting booth for five minutes, and having voted
11 the voter shall at once emerge and leave the voting booth. If
12 the voter refuses to leave when so requested by a majority of
13 [~~precinct~~] voter service center officials after the lapse of
14 five minutes, the voter shall be removed by the [~~precinct~~] voter
15 service center officials."

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

18 "(c) The chief election officer or the clerk shall make a
19 list of all [~~districts~~] precincts in which an overage or
20 underage occurred and the amount of the overage or underage.
21 This list shall be filed and kept as a public record in the



1 office of the chief election officer or the clerk in county
2 elections.

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

6 SECTION 23. 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, or county clerk in a county
11 election, shall compile, certify, and release the election
12 results after the expiration of the time for bringing an
13 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)]~~
18 records and 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;



- 1 (5) The results of any mandatory recount of votes
2 conducted pursuant to section 11-158; and
3 (6) All logs, tally sheets, and other documents generated
4 during the election and in the canvass of the election
5 results.

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

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

20 "**§11-172 Contests for cause; generally.** With respect to
21 any election, any candidate, or qualified political party



1 directly interested, or any thirty voters of any election
2 district, may file a complaint in the supreme court. The
3 complaint shall set forth any cause or causes, such as but not
4 limited to, provable fraud, overages, or underages, that could
5 cause a difference in the election results. The complaint shall
6 also set forth any reasons for reversing, correcting, or
7 changing the decisions of the [~~precinct~~] voter service center
8 officials or the officials at a counting center in an election
9 using the electronic voting system. A copy of the complaint
10 shall be delivered to the chief election officer or the clerk in
11 the case of county elections."

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

14 "(a) In a primary and special primary election contest, or
15 a county election contest held concurrently with a regularly
16 scheduled primary or special primary election, the complaint
17 shall be filed in the office of the clerk of the supreme court
18 no later than 4:30 p.m. on the thirteenth day after a primary or
19 special primary election or a county election contest held
20 concurrently with a regularly scheduled primary or special
21 primary election, and shall be accompanied by a deposit for



1 costs of court as established by the rules of the supreme
2 court[, ~~provided that a complaint for a contest for cause that~~
3 ~~arises from a mandatory recount pursuant to section 11-158 shall~~
4 ~~be filed no later than 4:30 p.m. on the third calendar day~~
5 ~~following the public announcement of the results of the~~
6 ~~mandatory recount pursuant to section 11-158(e)]. The clerk
7 shall issue to the defendants named in the complaint a summons
8 to appear before the supreme court no later than 4:30 p.m. on
9 the fifth day after service of the summons."~~

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

12 "(b) In cases involving general, special general, special,
13 or runoff elections the complaint shall be heard by the supreme
14 court in which the complaint was filed as soon as it reasonably
15 may be heard. On the return day, the court, upon its motion or
16 otherwise, may direct summons to be issued to any person who may
17 be interested in the result of the proceedings.

18 At the hearing, the court shall cause the evidence to be
19 reduced to writing and shall give judgment, stating all findings
20 of fact and of law. The judgment may invalidate the general,
21 special general, special, or runoff election on the grounds that



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

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

18 "**§15-2 Who may vote by absentee ballot.** Any person
19 registered to vote may cast an absentee ballot in any election,
20 including an election conducted by mail, in the manner provided



1 in this chapter and rules adopted by the chief election
2 officer."

3 SECTION 28. Section 15-2.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§15-2.5 Voting by mail in [~~district~~] precinct affected by
6 **natural disasters.** (a) If the chief election officer and clerk
7 of a county affected as a result of a natural disaster determine
8 that the opening of a designated voter service center will
9 adversely affect the health and safety of voters or precinct
10 officials, the chief election officer and county clerk, by
11 written order, may require the registered voters of any
12 [~~district~~] precinct to vote by mail as provided in part VIIA of
13 chapter 11.

14 (b) Within thirty days after the issuance of such an
15 order, the chief election officer and county clerk shall notify
16 all registered voters in the affected [~~district~~] precinct of the
17 issuance of the order.

18 (c) The chief election officer shall adopt rules pursuant
19 to chapter 91 to implement this section."

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



1 "§15-9 Return [and], receipt, processing, and treatment of
2 absentee ballots. [~~(a) The return envelope shall be:~~

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

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

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

13 ~~(c) Before opening the return and ballot envelopes and~~
14 ~~counting the ballots, the return envelopes shall be checked for~~
15 ~~the following:~~

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

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



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

4 ~~(d) If any requirement listed in subsection (c) is not met~~
5 ~~or if the return or ballot envelope appears to be tampered with,~~
6 ~~the clerk or the absentee ballot team official shall mark across~~
7 ~~the face of the envelope "invalid" and it shall be kept in the~~
8 ~~custody of the clerk and disposed of as prescribed for ballots~~
9 ~~in section 11-154.]~~

10 An absentee ballot shall be returned, received, processed,
11 and treated in the same manner as a return identification
12 envelope in an election by mail under part VIIA of chapter 11."

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

15 "**§15-11 Voting by absentee voter at [polls] voter service**
16 **centers prohibited.** Any person having voted an absentee ballot
17 pursuant to this chapter shall not be entitled to cast a ballot
18 at [~~the polls~~] a voter service center on election day. An
19 absentee voter who does cast a ballot at [~~the polls~~] a voter
20 service center shall be guilty of an election offense under
21 section 19-3(5)."



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

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

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

10 "**§16-23 Paper ballot; voting.** Upon receiving the ballot
11 the voter shall proceed into one of the voting booths provided
12 for the purpose, and shall mark the voter's ballot in the manner
13 prescribed by section 16-22.

14 The voter shall then leave the booth and deliver the ballot
15 to the ~~[precinct]~~ voter service center official in charge of the
16 ballot boxes. The ~~[precinct]~~ voter service center official
17 shall be sufficiently satisfied that there is but one ballot
18 enclosed, whereupon the ballot shall be immediately dropped into
19 the proper box by the ~~[precinct]~~ voter service center official."

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



1 "**§16-26 Questionable ballots.** A ballot shall be
2 questionable if:

3 (1) A ballot contains any mark or symbol whereby it can be
4 identified, or any mark or symbol contrary to the
5 provisions of law; or

6 (2) Two or more ballots are found in the ballot box so
7 folded together as to make it clearly evident that
8 more than one ballot was put in by one person, the
9 ballots shall be set aside as provided below.

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

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

19 "**§16-27 Number of blank and questionable ballots; record**
20 **of.** In addition to the count of the valid ballots, the
21 [~~precinct~~] voter service center officials [~~shall~~], as to each



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1 separate official ballot, shall also determine and record the
2 number of totally blank ballots and the number of questionable
3 ballots."

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

6 "**§16-28 Declaration of results.** When the [~~pre~~inet] voter
7 service center officials have ascertained the number of votes
8 given for each candidate they shall make public declaration of
9 the whole number of votes cast, the names of the persons voted
10 for, and the number of votes for each person."


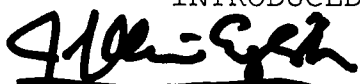
11 SECTION 36. Section 11-181, Hawaii Revised Statutes, is
12 repealed.

13 [~~"**§11-181 Capital equipment.** The State shall pay for all~~
14 ~~voting system capital equipment. This shall include, but not be~~
15 ~~limited to voting machines, voting devices, and initial computer~~
16 ~~programs."~~]

17 SECTION 37. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

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

20

INTRODUCED BY:  



S.B. NO. 2676

A handwritten signature in black ink, appearing to be 'DK' followed by a stylized flourish.



S.B. NO. 2676

Report Title:

Elections; Voting; Voter Service Centers; Mail; Absentee Ballots

Description:

Addresses various inconsistencies in existing elections law 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.

