
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.
4 The purpose of this Act is to:
- 5 (1) Make various housekeeping amendments to clarify and
6 improve the administration of elections by mail in
7 Hawaii, including restoring the previous usage of
8 precincts instead of districts, extending registration
9 deadlines, and requiring additional voter service
10 centers on election day;
- 11 (2) Prohibit agents of a candidate for any office listed
12 on the ballot from providing voting assistance;
- 13 (3) Allow the elections commission to refer a complaint to
14 the attorney general or a county prosecutor in
15 addition to any administrative determination and
16 without the requirement that the commission believes



1 the respondent recklessly, knowingly, or intentionally
2 committed a violation;

3 (4) Increase the disqualification period for a person
4 convicted of certain criminal election offenses from
5 holding elective public office from four years to ten
6 years;

7 (5) Repeal language excluding any person who has paid or
8 agreed to pay fines related to report filing and
9 advertisement violations before the commencement of
10 criminal proceedings from criminal prosecution; and

11 (6) Change the deadline to file nomination papers to the
12 first Tuesday in May.

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

15 1. By adding three new definitions to be appropriately
16 inserted and to read:

17 ""Ballot marking device" means a device that may be used to
18 mark a ballot or to generate a marked ballot or ballot summary
19 reflecting the ballot selections of the voter.

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



1 "Precinct" means the smallest political subdivision
2 established by law."

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

4 ""Ballot" means a ballot, including an absentee ballot,
5 that is a written or printed, or partly written and partly
6 printed paper or papers containing the names of persons to be
7 voted for, the office to be filled, and the questions or issues
8 to be voted on. "Ballot" includes [a]:

9 (1) A ballot summary that is produced by a voter using a
10 web-based ballot or similarly accessible ballot;

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

15 (3) A ballot used in an election by mail pursuant to part
16 VIIA, including a ballot approved for electronic
17 transmission.

18 A ballot may consist of one or more cards or pieces of paper, or
19 one face of a card or piece of paper, or a portion of the face
20 of a card or piece of paper, depending on the number of offices,



1 candidates to be elected thereto, questions or issues to be
2 voted on, and the voting system in use."

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

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

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

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

12 The affidavit shall contain the following information:

13 (1) Name;

14 (2) The applicant's Hawaii driver's license number or
15 Hawaii state identification card number; provided
16 that:

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



1 (B) If no social security number has been issued to
2 the applicant, an election official or county
3 clerk shall assign the applicant a unique
4 identification number for voter registration
5 purposes and enroll the applicant in the State's
6 computerized voter registration list, if any;

7 (3) Date of birth;

8 (4) Residence, including mailing address;

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

14 (6) That the person is a citizen.

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

17 SECTION 4. Section 11-15.2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§11-15.2 ~~[Late registration.]~~ Same day in-person
20 registration. (a) Notwithstanding the closing of the general
21 county register pursuant to section 11-24, a person who is



1 ~~[eligible to vote but is]~~ not registered to vote may register by
2 appearing in person at any voter service center on or before
3 election day.

4 (b) The clerk shall designate a registration clerk~~[, who~~
5 ~~may be an election official,~~] at each voter service center~~[-~~

6 ~~(c) The registration clerk]~~ who shall process applications
7 for any person ~~[not registered to vote]~~ who submits a signed
8 affidavit in accordance with section 11-15, which shall include
9 a sworn affirmation:

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

11 (2) Acknowledging that the person has not voted and will
12 not attempt to vote again in that election, and has
13 not cast and will not cast any absentee ballot
14 pursuant to chapter 15 in that election; and

15 (3) Acknowledging that providing false information may
16 result in a class C felony, punishable by a fine not
17 exceeding ~~[\$1,000]~~ \$10,000 or imprisonment not
18 exceeding five years, or both.

19 ~~[-(d)]~~ (c) The registration clerk may accept, as prima
20 facie evidence, the allegation of the person in the application
21 regarding the person's residence in accordance with section



1 11-15(b), unless the allegation is contested by a qualified
2 voter. The registration clerk may demand that the person
3 furnish substantiating evidence to the other allegations of the
4 person's application in accordance with section 11-15(b).

5 ~~[(e) Registration may be challenged in accordance with
6 section 11-25.~~

7 ~~(f) Notwithstanding subsection (a), registration pursuant
8 to this section may also be used by a person who is registered
9 to vote but whose name cannot be found on the county register.~~

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, and date of registration. A
15 notice mailed pursuant to this subsection shall serve as prima
16 facie evidence that the person is a registered voter as of the
17 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 11-24, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§11-24 Closing register.** (a) At 4:30 p.m. on the
21 [~~thirtieth~~] tenth day [~~prior to~~] before each [~~primary, special~~



1 ~~primary, or special]~~ election, but if the day is a Saturday,
2 Sunday, or holiday then at 4:30 p.m. on the first working day
3 immediately thereafter, the general county register shall be
4 closed to registration for persons seeking to vote [~~at the~~
5 ~~primary, special primary, or special election]~~ and remain closed
6 to registration until after the election, subject to change only
7 as provided in sections 11-15.2, 11-21(c), 11-22, 11-25, 11-26,
8 and this section.

9 (b) Notwithstanding the [~~closing of the register for~~
10 ~~registration to vote at the primary or special primary election,~~
11 ~~the register shall remain open for the registration of persons~~
12 ~~seeking to vote at the general or special general election,~~
13 ~~until 4:30 p.m. on the thirtieth day prior to the general or~~
14 ~~special general election, but if the day is a Saturday, Sunday,~~
15 ~~or holiday then at 4:30 p.m. on the first working day~~
16 ~~immediately thereafter, at the end of which period the general~~
17 ~~county register shall be closed to registration and remain~~
18 ~~closed until after the general or special general election next~~
19 ~~following, subject to change only as provided in~~
20 ~~sections 11-21(c), 11-22, 11-25, and 11-26.] time of closing the
21 general county register under subsection (a), the clerk may~~



1 accept an application submitted on the tenth day if it was
2 received electronically in accordance with section 11-15.3 or
3 received as part of a drivers' licensing transaction. The clerk
4 shall also accept an application that is postmarked before or on
5 the tenth day before the election."

6 SECTION 9. Section 11-25, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

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

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

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



1 "(a) In cases where the clerk, or [~~precinct~~] voter service
2 center officials, rules on a challenge on election day, the
3 person ruled against may appeal from the ruling to the board of
4 registration of the person's county for review under part III.
5 The appeal shall be brought before the challenger and challenged
6 party leave the [~~polling place.~~] voter service center. If an
7 appeal is brought, both the challenger and the challenged voter
8 may be parties to the appeal."

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

10 "(c) If the appeal is sustained, the board shall
11 immediately certify that finding to the clerk, who shall
12 thereupon alter the register to correspond to the findings of
13 the board, and when necessary, the clerk shall notify the
14 [~~precinct~~] voter service center officials of the change in the
15 register."

16 SECTION 11. Section 11-92.1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§11-92.1 Election proclamation; establishment of a new**
19 **precinct; voter service centers and places of deposit; changes**
20 **to [~~district~~] precinct boundaries.** (a) The chief election
21 officer shall issue a proclamation [~~listing~~]:



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

4 (2) Whenever a new precinct is established in any
5 representative district.

6 The clerk shall make arrangements for the rental or erection of
7 suitable shelter for the establishment of a voter service center
8 whenever public buildings are not available and shall cause
9 these voter service centers to be equipped with the necessary
10 facilities for lighting, ventilation, and equipment needed for
11 elections on any island. This proclamation may be issued
12 jointly with the proclamation required in section 11-91.

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

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

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



1 "§11-92.3 Natural disasters; postponement; consolidation
2 of [~~districts;~~] precincts; special elections. (a) In the event
3 of a flood, tsunami, earthquake, volcanic eruption, high wind,
4 or other natural disaster, occurring before an election where
5 the extent of damage caused is such that the ability of voters,
6 in any precinct, district, or county, to exercise their right to
7 vote is substantially impaired, the chief election officer or
8 clerk in the case of county elections may postpone the
9 conducting of an election in the affected [~~area~~] precinct for no
10 more than twenty-one days; provided that any postponement shall
11 not affect the conduct of the election, tabulation, or
12 distribution of results for those precincts, districts, or
13 counties not designated for postponement. The chief election
14 officer or clerk in the case of county elections shall give
15 notice of the postponement by whatever possible news or
16 broadcast media are available.

17 (b) In the event the chief election officer or the clerk
18 in a county election determines that the number of candidates or
19 issues on the ballot in a special, special primary, or special
20 general election does not require the full number of established
21 [~~districts,~~] precincts, the [~~districts~~] precincts may be



1 consolidated for the purposes of the special, special primary,
2 or special general election into a small number of special,
3 special primary, or special general election [~~districts.~~]
4 precincts.

5 A special, special primary, or special general election
6 [~~district~~] precinct shall be considered the same as an
7 established [~~district~~] precinct for all purposes. No later than
8 4:30 p.m. on the tenth day before the special, special primary,
9 or special general election, the chief election officer or the
10 clerk shall give public notice, in the area in which the
11 special, special primary, or special general election is to be
12 held, of the special, special primary, or special general
13 election [~~districts.~~] precincts."

14 SECTION 13. Section 11-101, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~{}~~**\$11-101**~~}~~ **Elections eligible to be conducted by mail.**
17 Beginning with the 2020 primary election, all elections shall be
18 conducted by mail in accordance with this title. A voter in an
19 election conducted by mail shall not be precluded from voting by
20 absentee ballot under chapters 15 or 15D if the voter complies
21 with the applicable requirements."



1 SECTION 14. Section 11-102, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
3 "(b) To the extent practicable, the clerk shall mail a
4 ballot package by non-forwardable mail to each registered voter
5 in the county so as to enable voters to receive the ballot
6 package approximately eighteen days before the election. The
7 clerk shall continue mailing ballot packages to voters who
8 register to vote no later than ten days before the date of the
9 election and to voters who update their voter registration
10 address no later than [~~fourteen~~ seven days before the date of
11 the election[-]; provided that the clerk may continue mailing
12 ballot packages beyond the deadlines established by this
13 subsection if the clerk determines that there is reasonable time
14 for a voter to receive and submit the ballot package before the
15 election. In determining the initial mailing date of the ballot
16 packages, the clerk shall consider the mailing place of origin
17 and the most recent postal service delivery standards. The
18 clerk shall not mail a ballot package to any voter in the county
19 register who is identified as having an outdated or
20 non-deliverable mailing address. Nothing in this part shall be
21 construed to change the responsibilities of the clerk or chief



1 election officer under chapter 15 with respect to voters
2 requesting to vote by absentee ballot or chapter 15D with
3 respect to uniform military and overseas voters."

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

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

7 "(a) After a voter receives a ballot package, the voter
8 shall comply with the instructions included in the ballot
9 package in order to cast a valid vote. The instructions shall
10 include directions for:

11 (1) Marking the ballot;

12 (2) Inserting the marked ballot in the secrecy envelope or
13 secrecy sleeve;

14 (3) Inserting the secrecy envelope or secrecy sleeve with
15 the marked ballot in the return identification
16 envelope; and

17 (4) Signing the affirmation on the return identification
18 envelope before mailing or delivering the return
19 identification envelope containing the secrecy
20 envelope or secrecy sleeve with the marked ballot.

21 The affirmation shall consist of a statement to be



1 subscribed to by the voter that affirms the fact that
2 the voter is the person voting and that the voter's
3 employer or agent of the employer, agent of the
4 voter's labor union, or any candidate or agent of any
5 candidate for any office listed on the ballot did not
6 assist the voter, as described in section 11-139,
7 along with the instruction that the voter's ballot
8 will be valid only if the affirmation statement is
9 signed."

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

11 "(c) To cast a valid ballot, the voter shall return the
12 return identification envelope containing the secrecy envelope
13 or secrecy sleeve with the marked ballot[+] in any manner:

14 (1) [~~By mail so~~] So that the return identification
15 envelope is received [~~at the office of~~] by the clerk
16 or the clerk's designee no later than the closing time
17 [~~provided~~] on election day in accordance with section
18 11-131 [~~on the date of the election~~]; provided that
19 anyone who is standing in line at 7:00 p.m. on the
20 date of the election with the intent of returning a
21 ballot shall be permitted to do so;



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

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

17 SECTION 16. Section 11-105, Hawaii Revised Statutes, is
18 amended by amending subsections (b) and (c) to read as follows:

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



- 1 (1) Verify the registration of the voter and ensure that
2 another ballot has not been returned by the voter;
- 3 (2) Record that the voter has requested a replacement
4 ballot;
- 5 (3) Mark the return identification envelope as containing
6 a replacement ballot; and
- 7 (4) Issue the replacement ballot package by mail or make
8 the ballot package available for pick-up by the voter.
- 9 (c) Voters who obtain a replacement ballot shall return
10 the return identification envelope containing the secrecy
11 envelope or secrecy sleeve with the marked replacement ballot[+]
12 in any manner:
- 13 (1) [~~By mail so~~] So that the return identification
14 envelope is received [~~at the office of~~] by the clerk
15 or the clerk's designee no later than the closing time
16 [~~provided~~] on election day in accordance with section
17 11-131 [~~on the date of the election~~]; provided that
18 anyone who is standing in line at 7:00 p.m. on the
19 date of the election with the intent of returning a
20 ballot shall be permitted to do so;



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

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

17 SECTION 17. Section 11-106, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 "~~[+]~~**\$11-106**~~[+]~~ **Deficient return identification envelopes.**

20 If:

1 (1) A return identification envelope is returned with an
2 unsigned affirmation;
3 (2) The affirmation signature does not match a reference
4 signature image; or
5 (3) A return identification envelope contains another
6 condition that would not allow the counting of the
7 ballot,
8 the clerk shall make an attempt to notify the voter by first
9 class mail, telephone, or electronic mail to inform the voter of
10 the procedure to correct the deficiency. The voter shall have
11 [~~five-business~~] seven days after the date of the election to
12 cure the deficiency. The chief election officer may adopt rules
13 regarding requirements and procedures for correcting deficient
14 return identification envelopes. The counting of ballots and
15 disclosure of subsequent election results may continue during
16 the time period permitted to cure a deficiency under this
17 section. The clerk's inability to contact voters under this
18 section shall not be grounds for a contest for cause under
19 section 11-172. This section shall apply to all return
20 identification envelopes, including ballots using the provisions
21 of section 11-107 or chapters 15 or 15D."



1 SECTION 18. Section 11-107, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) If a ballot package is not received by a voter by the
4 fifth day before the date of the election or a voter otherwise
5 requires a replacement ballot within five days of an election,
6 the voter may request that a ballot be forwarded by electronic
7 transmission; provided that a voter with special needs may
8 request that a ballot be forwarded by electronic transmission at
9 any time~~[-]~~, but no earlier than the date that the voter's
10 initial ballot package was or would have been transmitted. Upon
11 receipt of such a request and confirmation that [~~proper~~
12 ~~application was made,~~] the voter has not already voted, the
13 clerk may transmit the appropriate ballot, together with a form
14 containing the affirmations, information, and a waiver of the
15 right to secrecy under section 11-137.

16 (b) The voter may return the completed replacement ballot
17 and executed forms:

18 (1) By electronic transmission so that the completed
19 replacement ballot and executed forms are received [~~at~~
20 ~~the office of]~~ by the clerk or the clerk's designee no
21 later than the closing time [~~provided]~~ on election day



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



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

8 SECTION 19. Section 11-108, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

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

20 SECTION 20. Section 11-109, Hawaii Revised Statutes, is
21 amended as follows:



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

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

7 (b) [~~Voter~~] At least eight voter service centers shall be
8 established for each election and shall be apportioned between
9 counties by the chief elections officer. A county clerk may add
10 additional voter service centers than the number apportioned to
11 it. In each county, a voter service [~~centers~~] center shall be
12 open from the tenth business day preceding the day of the
13 election during regular business hours until the time provided
14 in section 11-131 on the date of the election and at the same
15 times statewide. The clerks may operate additional voter
16 service centers with varying days or hours of operations to
17 service the voters of particular areas that could not otherwise
18 support the operation of a voter service center for ten business
19 days or the same times statewide; provided that on election day
20 the clerk of any county with a population less than five hundred
21 thousand shall operate one additional voter service center on



1 each island and the clerk of any county with a population of
2 five hundred thousand or more shall operate three additional
3 voter service centers, one of which shall be on the Windward
4 side; provided further that on election day all additional voter
5 service centers shall be open until 7:00 p.m. Anyone standing
6 in line at a voter service center at the closing time on
7 election day in accordance with section 11-131 with the intent
8 of voting shall be permitted to do so. A person eligible to
9 vote but who is not registered to vote and is standing in line
10 at a voter service center at the closing time on election day in
11 accordance with section 11-131 shall be permitted to apply under
12 section 11-15.2 to register to vote and subsequently vote that
13 election day. To the extent the registration clerk determines
14 the applicant to be registered at that time, the applicant will
15 be permitted to vote a regular ballot. If additional time is
16 required to process the application, the applicant will be
17 provided a provisional ballot."

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

19 "(d) At least thirty places of deposit shall be
20 established for each election and shall be apportioned between
21 counties by the chief elections officer. A county clerk may add



1 additional places of deposit than the number apportioned to it.
2 The clerks may designate and provide for places of deposit to be
3 open five business days before the election until 7:00 p.m. on
4 the day of the election; provided that the locations and
5 apparatus for receiving voted ballots can be securely maintained
6 during the period of use for each election, and as may be
7 permitted by the operational hours. The clerks may provide
8 additional places of deposit with varying or shorter days or
9 hours of operations; provided that on election day all
10 additional places of deposit shall be open until 7:00 p.m."

11 SECTION 21. Section 11-117, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) On receipt of the notice of death, withdrawal, or
14 upon determination of disqualification, the chief election
15 officer or the clerk shall inform the chairperson of the
16 political party of which the person deceased, withdrawing, or
17 disqualified was a candidate. When a candidate dies, withdraws,
18 or is disqualified after the close of filing and the ballots
19 have been printed, the chief election officer or the clerk may
20 order the candidate's name stricken from the ballot or order
21 that a notice of the death, withdrawal, or disqualification be



1 prominently posted at the appropriate [~~polling places~~] voter
2 service centers on election day."

3 SECTION 22. Section 11-138, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§11-138 Time allowed voters.** A voter shall be allowed to
6 remain in the voting booth for five minutes, and having voted
7 the voter shall at once emerge and leave the voting booth. If
8 the voter refuses to leave when so requested by a majority of
9 [~~precinct~~] voter service center officials after the lapse of
10 five minutes, the voter shall be removed by the [~~precinct~~] voter
11 service center officials."

12 SECTION 23. Section 11-139, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§11-139 Voting assistance.** (a) Except as otherwise
15 provided, any voter who requires assistance may be given
16 assistance by a person of the voter's choice. A person with
17 disabilities may be provided assistance at a voter service
18 center pursuant to any state or federal law relating to persons
19 with disabilities. The voter's employer or agent of that
20 employer, agent of the voter's labor union, or a candidate or
21 agent of a candidate for any office that is listed on the ballot



1 shall not provide assistance. Written or oral instructions
2 delivered via telephone, electronic means, or mail shall not be
3 deemed assistance prohibited by this section; provided that the
4 voter's employer or agent of that employer, agent of the voter's
5 labor union, or a candidate or agent of a candidate for any
6 office listed on the ballot is not physically present with the
7 voter when the instructions are delivered.

8 (b) Violation of this section by an employer or agent of
9 that employer, agent of the voter's labor union, or a candidate
10 or agent of a candidate shall constitute election fraud as
11 provided under section 19-3.

12 (c) For purposes of this section, "agent of a candidate"
13 means a person who:

- 14 (1) Receives compensation from the candidate or
15 candidate's candidate committee; or
16 (2) Is an official officer of the candidate's candidate
17 committee."

18 SECTION 24. Section 11-153, Hawaii Revised Statutes, is
19 amended by amending subsection (c) to read as follows:

20 "(c) The chief election officer or the clerk shall make a
21 list of all [~~districts~~] precincts in which an overage or



1 underage occurred and the amount of the overage or underage.
2 This list shall be filed and kept as a public record in the
3 office of the chief election officer or the clerk in county
4 elections.

5 An election contest may be brought under part XI, if the
6 overage or underage in any [~~district~~] precinct could affect the
7 outcome of an election."

8 SECTION 25. Section 11-155, Hawaii Revised Statutes, is
9 amended to read as follows:

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

- 17 (1) The results of the canvass of ballots conducted
- 18 pursuant to chapter 16;
- 19 (2) The audit of [~~pollbooks (and related record books)~~]
- 20 records and resultant overage and underage report;
- 21 (3) The audit results of the manual audit team;



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

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

20 SECTION 26. Section 11-172, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§11-172 Contests for cause; generally.** With respect to
2 any election, any candidate, or qualified political party
3 directly interested, or any thirty voters of any election
4 district, may file a complaint in the supreme court. The
5 complaint shall set forth any cause or causes, such as but not
6 limited to, provable fraud, overages, or underages, that could
7 cause a difference in the election results. The complaint shall
8 also set forth any reasons for reversing, correcting, or
9 changing the decisions of the [~~precinct~~] voter service center
10 officials or the officials at a counting center in an election
11 using the electronic voting system. A copy of the complaint
12 shall be delivered to the chief election officer or the clerk in
13 the case of county elections."

14 SECTION 27. Section 11-174.5, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

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



1 At the hearing, the court shall cause the evidence to be
2 reduced to writing and shall give judgment, stating all findings
3 of fact and of law. The judgment may invalidate the general,
4 special general, special, or runoff election on the grounds that
5 a correct result cannot be ascertained because of a mistake or
6 fraud on the part of the [~~precinct~~] voter service center
7 officials; or decide that a certain candidate, or certain
8 candidates, received a majority or plurality of votes cast and
9 were elected. If the judgment should be that the general,
10 special general, special, or runoff election was invalid, a
11 certified copy thereof shall be filed with the governor, and the
12 governor shall duly call a new election to be held [~~not~~] no
13 later than one hundred twenty days after the judgment is filed.
14 If the court shall decide which candidate or candidates have
15 been elected, a copy of that judgment shall be served on the
16 chief election officer or county clerk, who shall sign and
17 deliver to the candidate or candidates certificates of election,
18 and the same shall be conclusive of the right of the candidate
19 or candidates to the offices."

20 SECTION 28. Section 11-410, Hawaii Revised Statutes, is
21 amended by amending subsection (h) to read as follows:



1 "(h) ~~[This]~~ Except for subsection (g), this section shall
2 not apply to any person who, ~~[prior to]~~ before the commencement
3 of proceedings under this section, has paid or agreed to pay the
4 fines prescribed by sections 11-340 and 11-391(b)."

5 SECTION 29. Section 11-411, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~[+]§11-411[+]~~ **Criminal referral.** ~~[In lieu of an]~~ In
8 addition to any administrative determination that a violation of
9 this part has been committed, the commission may refer the
10 complaint to the attorney general or county prosecutor ~~[at any~~
11 ~~time it believes the respondent may have recklessly, knowingly,~~
12 ~~or intentionally committed a violation]."~~

13 SECTION 30. Section 11-412, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~[+]§11-412[+]~~ **Criminal prosecution.** (a) Any person who
16 recklessly, knowingly, or intentionally violates any provision
17 of this part shall be guilty of a misdemeanor.

18 (b) Any person who knowingly or intentionally falsifies
19 any report required by this part with the intent to circumvent
20 the law or deceive the commission or who violates section 11-352
21 or 11-353 shall be guilty of a class C felony. A person charged



1 with a class C felony shall not be eligible for a deferred
2 acceptance of guilty plea or nolo contendere plea under chapter
3 853.

4 (c) A person who is convicted under this section shall be
5 disqualified from holding elective public office for a period of
6 [~~four~~] ten years from the date of conviction.

7 (d) For purposes of prosecution for violation of this
8 part, the offices of the attorney general and the prosecuting
9 attorney of the respective counties shall be deemed to have
10 concurrent jurisdiction to be exercised as follows:

11 (1) Prosecution shall commence with a written request from
12 the commission or upon the issuance of an order of the
13 court; provided that prosecution may commence [~~prior~~
14 ~~to~~] before any proceeding initiated by the commission
15 or final determination;

16 (2) In the case of statewide offices, parties, or issues,
17 the attorney general or the prosecuting attorney for
18 the city and county of Honolulu shall prosecute any
19 violation; and



1 (3) In the case of all other offices, parties, or issues,
2 the attorney general or the prosecuting attorney for
3 the respective county shall prosecute any violation.

4 In the commission's choice of prosecuting agency, it shall
5 be guided by whether any conflicting interest exists between the
6 agency and its appointive authority.

7 (e) The court shall give priority to the expeditious
8 processing of prosecutions under this section.

9 (f) Prosecution for violations of this part shall not
10 commence after five years have elapsed from the date of the
11 violation or date of filing of the report covering the period in
12 which the violation occurred, whichever is later.

13 [~~(g) This section shall not apply to any person who, prior
14 to the commencement of proceedings under this section, has paid
15 or agreed to pay the fines prescribed by sections 11-340 and 11-
16 391(b).~~]

17 SECTION 31. Section 12-6, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) For members of Congress, state offices, county
20 offices, and the board of trustees for the office of Hawaiian
21 affairs, nomination papers shall be filed with the chief



1 election officer, or clerk in case of county offices, [~~not~~] no
2 later than 4:30 p.m. on the first Tuesday in [~~June.~~] May.
3 However, in the event of a special primary or special election,
4 the filing deadline shall be determined in the proclamation that
5 is issued calling for the election as provided for by state law
6 or county charter. A state candidate from the counties of
7 Hawaii, Maui, and Kauai may file the declaration of candidacy
8 with the respective clerk. The clerk shall transmit to the
9 office of the chief election officer the state candidate's
10 declaration of candidacy without delay."

11 SECTION 32. Section 15-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§15-2 Who may vote by absentee ballot.** Any person
14 registered to vote may cast an absentee ballot in any election,
15 including an election conducted by mail, in the manner provided
16 in this chapter and rules adopted by the chief election
17 officer."

18 SECTION 33. Section 15-2.5, Hawaii Revised Statutes, is
19 amended by amending its title and subsections (a) and (b) to
20 read as follows:



1 "§15-2.5 Voting by mail in [~~district~~] precinct affected by
2 **natural disasters.** (a) If the chief election officer and clerk
3 of a county affected as a result of a natural disaster determine
4 that the opening of a designated voter service center will
5 adversely affect the health and safety of voters or precinct
6 officials, the chief election officer and county clerk, by
7 written order, may require the registered voters of any
8 [~~district~~] precinct to vote by mail as provided in part VIIA of
9 chapter 11.

10 (b) Within thirty days after the issuance of such an
11 order, the chief election officer and county clerk shall notify
12 all registered voters in the affected [~~district~~] precinct of the
13 issuance of the order."

14 SECTION 34. Section 15-5, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) If absentee ballots requested under section 15-4 are
17 not received by a voter within five days of an election, if a
18 voter requires a replacement ballot within five days of an
19 election, or if a voter would otherwise not be able to return a
20 properly issued ballot by the close of polls, then a voter may
21 request that absentee ballots be forwarded by electronic



1 transmission; provided that a voter with special needs,
2 including a disability, may request that a ballot be forwarded
3 by electronic transmission at any time. Upon receipt of such a
4 request and confirmation that proper application was made, the
5 clerk may transmit appropriate ballots, together with a form
6 requiring the affirmations and information required by section
7 15-6, and a form containing a waiver of the right to secrecy, as
8 provided by section 11-137. The voter may return the voted
9 ballots and executed forms by electronic transmission or mail;
10 provided that they are received by the issuing clerk no later
11 than the close of polls on election day. Upon receipt, the
12 clerk shall verify compliance with the requirements of section
13 [~~15-9(e)~~] 15-9 and prepare the ballots for counting pursuant to
14 section 15-10; provided that if the voter returns multiple voted
15 absentee ballots for the same election, the clerk shall, for
16 purposes of counting ballots, prepare only the first absentee
17 ballot returned that is not spoiled."

18 SECTION 35. Section 15-6, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§15-6 Return envelope, ballot envelope; instructions.**

21 (a) The clerk shall provide the absentee voter with the



1 ballots, ballot envelopes, and a return envelope that shall
2 contain a statement to be subscribed to by the voter that
3 affirms the fact that the voter is the person voting and that
4 the voter's employer or agent of the employer, agent of the
5 voter's labor union, or any candidate or agent of any candidate
6 for any office listed on the ballot did not assist the voter, as
7 described in section 11-139, along with the instruction that the
8 voter's ballot will be valid only if the affirmation statement
9 is signed, materials summarizing the provisions in sections 19-
10 3, 19-3.5, 19-4, and 19-6, and any other information prescribed
11 by the rules promulgated by the chief election officer."

12 SECTION 36. Section 15-9, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§15-9 Return [and], receipt, processing, and treatment of
15 absentee ballots. [~~(a) The return envelope shall be:~~

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

19 ~~(2) Delivered other than by mail to the clerk issuing the~~
20 ~~absentee ballot, or to a voter service center no later~~



1 ~~than the closing hour on election day in accordance~~
2 ~~with section 11-131.~~

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

6 ~~(c) Before opening the return and ballot envelopes and~~
7 ~~counting the ballots, the return envelopes shall be checked for~~
8 ~~the following:~~

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

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

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

16 ~~(d) If any requirement listed in subsection (c) is not met~~
17 ~~or if the return or ballot envelope appears to be tampered with,~~
18 ~~the clerk or the absentee ballot team official shall mark across~~
19 ~~the face of the envelope "invalid" and it shall be kept in the~~
20 ~~eustody of the clerk and disposed of as prescribed for ballots~~
21 ~~in section 11-154.]~~



1 An absentee ballot shall be returned, received, processed,
2 and treated in the same manner as a return identification
3 envelope in an election by mail as provided by part VIIA of
4 chapter 11."

5 SECTION 37. Section 15-11, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**\$15-11 Voting by absentee voter at [polls] voter service**
8 **centers prohibited.** Any person having voted an absentee ballot
9 pursuant to this chapter shall not be entitled to cast a ballot
10 at [~~the polls~~] a voter service center on election day. An
11 absentee voter who does cast a ballot at [~~the polls~~] a voter
12 service center shall be guilty of an election offense under
13 section 19-3(5)."

14 SECTION 38. Section 15-13.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**[+] \$15-13.5 [+** **Eligibility of voter after absentee ballot**
17 **cast.** The absentee ballot of any voter who was eligible to vote
18 at the time the ballot was cast shall not be deemed invalid
19 solely because the voter became ineligible to vote after casting
20 the ballot. For the purposes of this section, "cast" means that
21 the voter has:



- 1 (1) Deposited the absentee ballot in the mail for ballots
- 2 mailed in accordance with section 15-9~~[(a)(1)]~~;
- 3 (2) Delivered the absentee ballot to the appropriate
- 4 county clerk or polling place in accordance with
- 5 section ~~[15-9(a)(2) or (3)]~~ 15-9; or
- 6 (3) Completed voting in person at an absentee polling
- 7 place."

8 SECTION 39. Section 15D-10, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~{}~~**\$15D-10**~~}~~ **Receipt of voted ballot.** A valid
11 military-overseas ballot shall be counted if it is received by
12 the close of the ~~[polls]~~ voter service centers on the day of the
13 election and meets the requirements prescribed under section
14 15-9."

15 SECTION 40. Section 16-23, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**\$16-23 Paper ballot; voting.** Upon receiving the ballot
18 the voter shall proceed into one of the voting booths provided
19 for the purpose, and shall mark the voter's ballot in the manner
20 prescribed by section 16-22.



1 The voter shall then leave the booth and deliver the ballot
2 to the [~~precinct~~] voter service center official in charge of the
3 ballot boxes. The [~~precinct~~] voter service center official
4 shall be sufficiently satisfied that there is but one ballot
5 enclosed, whereupon the ballot shall be immediately dropped into
6 the proper box by the [~~precinct~~] voter service center official."

7 SECTION 41. Section 16-26, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§16-26 Questionable ballots.** A ballot shall be
10 questionable if:

11 (1) A ballot contains any mark or symbol whereby it can be
12 identified, or any mark or symbol contrary to the
13 provisions of law; or

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

18 Each ballot which is held to be questionable shall be
19 endorsed on the back by [~~the chairperson of precinct officials~~
20 ~~with the chairperson's~~] a voter service center official with the
21 official's name or initials, and the word "questionable". All



1 questionable ballots shall be set aside uncounted and disposed
2 of as provided for ballots in section 11-154."

3 SECTION 42. Section 16-27, Hawaii Revised Statutes, is
4 amended to read as follows:

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

11 SECTION 43. Section 16-28, Hawaii Revised Statutes, is
12 amended to read as follows:

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

18 SECTION 44. Section 11-181, Hawaii Revised Statutes, is
19 repealed.

20 [~~"§11-181 Capital equipment. The State shall pay for all~~
21 ~~voting system capital equipment. This shall include, but not be~~



1 ~~limited to voting machines, voting devices, and initial computer~~
2 ~~programs."]~~

3 SECTION 45. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 46. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 47. This Act shall take effect upon its approval.



Report Title:

Elections; Vote by Mail; Voting Assistance; Criminal Referral;
Criminal Prosecution; Nomination Papers

Description:

Makes housekeeping amendments to Hawaii's elections laws to clarify and improve the administration of elections by mail. Prohibits agents of a candidate from providing voting assistance. Allows for the criminal referral of campaign finance law violations in addition to any administrative determination. Increases the disqualification period for a person convicted of certain criminal election offenses from holding elective public office. Repeals the exclusion of certain persons from criminal prosecution. Changes the deadline to file nomination papers to the first Tuesday in May. (HD1)

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

