

JAN 18 2019

A BILL FOR AN ACT

RELATING TO VOTING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that absentee voting by
2 mail currently requires voters to visually read their ballots
3 and mark their only copy of the ballot by hand, which is then
4 submitted by mail and subsequently read by a machine. As a
5 result, vote-by-mail systems for absentee ballots allow
6 ambiguity in determining the intent of each voter, so that
7 ballot reading machines may reject a ballot and, since the
8 voters are not present to correct the issue, their ballots may
9 not be counted properly. If a voter marks his or her absentee
10 ballot and subsequently needs to correct an error, that voter
11 has only one copy of the unmarked ballot and must attempt to
12 correct that error on the same ballot that includes the error.
13 In addition, if a box is not completely filled in, it may be
14 rejected by the ballot reading machine. Human error in the
15 ballot marking process therefore reduces that efficacy of the
16 current vote-by-mail system.



1 The legislature further finds that voters with disabilities
2 have the same rights to vote privately and independently by
3 absentee ballot as do voters without disabilities. Voting
4 precincts with high population densities are magnets for
5 residents with disabilities due to increased access to public
6 transportation, and in time of natural disasters some precincts
7 are set up as mail-in-only precincts in which all voters are
8 automatically mailed an absentee ballot and where there is no
9 set polling location. Voters with some disabilities currently
10 do not have an option for private and independent voting using
11 absentee ballots.

12 The purpose of this Act is to create an option for all
13 absentee voters to mark their absentee ballots using an online
14 ballot marking tool, enabling the voter to print out a
15 completely marked official ballot and submit it like any other
16 absentee ballot, thus reducing human error in the ballot marking
17 process, making the intent of each voter more obvious, and
18 creating greater access to private and independent voting for
19 all voters including voters with disabilities.



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1 SECTION 2. Section 15-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Online ballot marking tool" means a system that allows
5 voters to:

6 (1) Access a blank ballot that conforms to the
7 requirements of part VIII of chapter 11 through the
8 Internet;

9 (2) Electronically mark the ballot with the voter's
10 selections; and

11 (3) Print a paper copy of the marked ballot to be returned
12 as specified in section 15-9."

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

15 "§15-4 Request for absentee ballot. (a) Any person
16 registered to vote may request an absentee ballot or permanent
17 absentee ballot in person or in writing from the clerk at any
18 time but not later than 4:30 p.m. on the seventh day prior to
19 the election. Any mailed requests for an absentee ballot or
20 permanent absentee ballot shall be mailed by the person directly
21 to the clerk. The clerk may waive any or all of the foregoing



1 requirements in special cases as provided in the rules adopted
2 by the chief election officer.

3 The request shall include information such as the person's
4 social security number, date of birth, and the address under
5 which the person is registered to vote. The request shall also
6 include the address to which the person wishes the requested
7 ballot to be forwarded. The request, when made for any primary
8 or special primary election, may include an additional request
9 for an absentee ballot to be voted at any election immediately
10 following the primary or special primary; provided the person so
11 indicates in the person's request.

12 Subsequent to the closing of registration for each
13 election, the clerk may mail a request form for an absentee
14 ballot and permanent absentee ballot to each voter in a remote
15 area who has not already made such a request. The request form
16 shall be accompanied by:

- 17 (1) A stamped, self-addressed envelope; and
- 18 (2) Instructions regarding the manner of completing and
19 returning the request form.

20 (b) Notwithstanding subsection (a), the respective clerk
21 shall be allowed to conduct an absentee ballot-only election and



1 may mail an absentee ballot for each primary, special primary,
2 special, general, and special general election to each
3 registered voter who resides in the county of Kalawao or on any
4 island of a county with a population of less than one hundred
5 eighty thousand, except for the island where the county seat of
6 government is located. The chief election officer may adopt
7 rules to carry out this subsection.

8 (c) Notwithstanding any law to the contrary, in the event
9 there are fewer than five hundred registered voters as of the
10 preceding general election in an area covered by a unique ballot
11 type, the clerk shall mail an absentee ballot to each registered
12 voter who resides in such an area, if the chief election
13 officer, or the clerk in a county only election, determines that
14 an election day polling place will not be established for such
15 voters.

16 (d) For the purposes of this section, "ballot type" means
17 the unique ballot containing the contests, questions, or issues
18 that will be used by the voters of a specific area.

19 (e) When a registered voter requests an absentee ballot,
20 the voter also may include an additional request to receive
21 absentee ballots permanently. After receiving a request for



1 permanent absentee voter status, the clerk shall mail to the
2 voter who requested permanent absentee voter status an absentee
3 ballot for all subsequent elections conducted in that precinct.
4 The forwarding address for absentee ballots to be permanently
5 mailed shall be the in-state mailing address contained in the
6 voter's registration record. Subject to the conditions of
7 subsection (a), a permanent absentee voter may also request from
8 the clerk that the voter's ballot be forwarded temporarily to an
9 address other than the permanent absentee mailing address
10 originally requested, either in or outside of the State, for a
11 single election or for a primary or special primary election and
12 the election immediately following the primary or special
13 primary election. A permanent absentee voter's request for a
14 ballot to be forwarded temporarily shall not serve as a
15 cancellation of the voter's permanent absentee status or as a
16 change to the voter's permanent absentee mailing address. Upon
17 the completion of the election or elections covered by the
18 permanent absentee voter's temporary request under this
19 subsection, the clerk shall resume mailing the voter's ballots
20 to the permanent absentee mailing address originally requested
21 under subsection (a).



1 (f) The chief election officer shall inform voters of the
2 option of applying for permanent absentee voter status and shall
3 provide any necessary form to request the permanent absentee
4 ballot option to any registered voter requesting an absentee
5 ballot and any person applying to register to vote.

6 (g) A permanent absentee voter shall be responsible for
7 informing the clerk of any changes to personal information,
8 including changes to the voter's forwarding address.

9 (h) Except as provided in subsection (c), a voter's
10 permanent absentee voter status shall be terminated if any of
11 the following conditions apply:

12 (1) The voter requests in writing that such status be
13 terminated;

14 (2) The voter dies, loses voting rights, registers to vote
15 in another jurisdiction, or is otherwise disqualified
16 from voting;

17 (3) The voter's absentee ballot, voter notification
18 postcard, or any other election mail is returned to
19 the clerk as undeliverable for any reason; or



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1 (4) The voter does not return a voter ballot by 6:00 p.m.
2 on election day in both the primary and general
3 election of an election year.

4 (i) If a voter's permanent absentee voter status has been
5 terminated due to one or more of the conditions specified in
6 subsection (h), the voter shall be responsible for again
7 requesting permanent absentee status as specified in subsection
8 (e).

9 (j) Any person who requests an absentee or permanent
10 absentee ballot may request to receive the absentee or permanent
11 absentee ballot through an online ballot marking tool. The
12 request to receive the absentee or permanent absentee ballot
13 through an online ballot marking tool shall conform to the
14 requirements of subsection (a). The clerk shall make an online
15 ballot marking tool available to any person who requests to
16 receive the absentee or permanent absentee ballot through that
17 method."

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

20 "(a) Immediately upon receipt of a request for absentee
21 ballot within the time limit specified in section 15-4, the



1 clerk shall examine the records to ascertain whether the voter
2 is lawfully entitled to vote as requested. If the clerk
3 ascertains that the voter is lawfully entitled to vote as
4 requested, no earlier than thirty days before the election, the
5 clerk shall mail in a forwarding envelope, or deliver in person
6 if the voter appears at the office of the clerk, an official
7 ballot or online ballot marking tool documentation and other
8 materials prescribed in section 15-6, except that an
9 incapacitated voter may send a representative to obtain the
10 voter's ballots pursuant to the rules adopted by the chief
11 election officer; provided that official ballots and other
12 materials prescribed in section 15-6 shall be mailed or
13 delivered:

- 14 (1) To uniform military and overseas voters pursuant to
15 section 15D-9; and
16 (2) No later than twenty-four hours after receipt of the
17 request for absentee ballot for requests received on
18 the last day specified in section 15-4."

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



1 "§15-6 Return envelope, ballot envelope; instructions.

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

15 (b) If an absentee voter has requested to receive the
16 absentee or permanent absentee ballot through an online ballot
17 marking tool pursuant to section 15-4(j), the clerk shall
18 provide the absentee voter with documentation that includes:

19 (1) The uniform resource locator to the web page through
20 which the voter may access the online ballot marking
21 tool; and



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1 (2) Instructions on how to access and use the online
2 ballot marking tool."

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval.

6

INTRODUCED BY: 



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Report Title:

Elections; Absentee Ballots; Online Ballot Marking Tools

Description:

Allows voters to request to receive an absentee or permanent absentee ballot through an online ballot marking tool that enables the voter to access a blank ballot online, mark the ballot with the voter's selections, and print the completed ballot to be mailed to the clerk issuing the ballot.

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

