
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 elections by mail and, under
3 the new election policy, the 2020 elections resulted in record
4 participation by Hawaii's voters. The legislature also finds
5 that Hawaii voters embraced voting by mail with ninety-nine and
6 ninety-five per cent of voters using the mail balloting process
7 in the primary and general elections, respectively.

8 The purpose of this Act is to implement various
9 housekeeping and other amendments to clarify policy, address
10 inconsistencies, and further encourage voting by mail in Hawaii
11 elections.

12 SECTION 2. Section 8-1, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§8-1 Holidays designated. The following days of each
15 year are set apart and established as state holidays:

16 The first day in January, New Year's Day;



1 The third Monday in January, Dr. Martin Luther King, Jr.,
2 Day;
3 The third Monday in February, Presidents' Day;
4 The twenty-sixth day in March, Prince Jonah Kuhio
5 Kalanianaʻole Day;
6 The Friday preceding Easter Sunday, Good Friday;
7 The last Monday in May, Memorial Day;
8 The eleventh day in June, King Kamehameha I Day;
9 The fourth day in July, Independence Day;
10 The third Friday in August, Statehood Day;
11 The first Monday in September, Labor Day;
12 The eleventh day in November, Veterans' Day;
13 The fourth Thursday in November, Thanksgiving Day;
14 The twenty-fifth day in December, Christmas Day;
15 ~~[All election days, except primary and special election~~
16 ~~days, in the county wherein the election is held,]~~
17 Any day designated by proclamation by the President of the
18 United States or by the governor as a holiday."
19 SECTION 3. Section 11-1, Hawaii Revised Statutes, is
20 amended as follows:



1 1. By adding four new definitions to be appropriately
2 inserted and to read:

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

5 "Closing hour of voting" means 7:00 p.m. Hawaiian standard
6 time on any election day.

7 "Precinct" means the smallest political subdivision
8 established by law.

9 "Provisional ballot" means a ballot and any accompanying
10 materials issued to a voter and segregated for review and
11 subsequent determination of validity, in accordance with
12 eligibility criteria and other requirements of law."

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

14 "Ballot" means a [~~ballot,~~] voting medium, including an
15 absentee ballot, that is a written or printed, or partly written
16 and partly printed paper or papers containing the names of
17 persons to be voted for, the office to be filled, and the
18 questions or issues to be voted on. A "ballot" may include a
19 record of selections made by a voter using a hypertext markup
20 language ballot or similar accessible application that produces
21 a summary of cast votes. A "ballot" may include a voter



1 verifiable paper audit trail in the event that there is a
2 discrepancy between a voting device's electronic record of voter
3 selections and the voter verifiable paper audit trail. "Ballot"
4 includes a ballot used in an election by mail pursuant to part
5 VIIA, including a ballot approved for electronic transmission.
6 A ballot may consist of one or more cards or pieces of paper, or
7 one face of a card or piece of paper, or a portion of the face
8 of a card or piece of paper, depending on the number of offices,
9 candidates to be elected thereto, questions or issues to be
10 voted on, and the voting system in use."

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

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

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

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

20 The affidavit shall contain the following information:

21 (1) Name;



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

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

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

(3) Date of birth;

(4) Residence, including mailing address;

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

(6) That the person is a citizen.



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

3 SECTION 5. Section 11-15.2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§11-15.2 Late registration.** (a) Notwithstanding the
6 closing of the general county register pursuant to section
7 11-24, a person who is ~~[eligible to vote but is]~~ not registered
8 to vote may register by appearing in person at any voter service
9 center on or before election day~~[-]~~ or register electronically
10 pursuant to section 15-3.

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

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

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

18 (2) Acknowledging that the person has not voted and will
19 not attempt to vote again in that election, and has
20 not cast and will not cast any absentee ballot
21 pursuant to chapter 15 in that election; and



(3) Acknowledging that providing false information may result in a class C felony, punishable by a fine not exceeding \$1,000 or imprisonment not exceeding five years, or both.

~~[(d)]~~ (c) The registration clerk may accept, as prima facie evidence, the allegation of the person in the application regarding the person's residence in accordance with section 11-15(b), unless the allegation is contested by a qualified voter. The registration clerk may demand that the person furnish substantiating evidence to the other allegations of the person's application in accordance with section 11-15(b).

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

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

~~[(g)] The clerk of each county shall add persons who properly register under this section to the respective general county register. Within thirty days of registration, the clerk shall mail to the person a notice including the person's name, current street address, district, and date of registration. A~~



1 ~~notice mailed pursuant to this subsection shall serve as prima~~
2 ~~facie evidence that the person is a registered voter as of the~~
3 ~~date of registration.]~~

4 If additional time or information is required to validate
5 an application, the applicant will be provided a provisional
6 ballot."

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

9 "§11-16 ~~[Application when not made in person.]~~

10 Registration by mail. (a) Any qualified person unable for any
11 cause to appear in person before the clerk for registration may
12 register to vote by mail [~~, not later than thirty days prior to a~~
13 ~~primary or general election, through the affidavit on]~~ by
14 submitting an application for voter registration or other form
15 prescribed by the chief election officer. The form shall
16 include a self-subscribing oath for the applicant to swear to
17 the truth of the allegations in the application. An applicant
18 unable to write for reason of illiteracy, blindness, or other
19 physical disability shall have the applicant's mark witnessed by
20 a person who shall sign the affidavit in the space provided.
21 ~~[Each application form shall also include a space to request a~~



1 ~~permanent absentee ballot.~~] Application forms shall be made
2 available to any qualified person through community groups,
3 political parties, and other groups prescribed by the chief
4 election officer. Application forms shall be made available to
5 any qualified person at the time of that person's driver's
6 license application or renewal through the examiner of drivers.

7 (b) Upon receipt of the properly executed application, the
8 clerk shall proceed to ~~[number the same and]~~ register the name
9 of the voter in the general county register as provided in
10 section 11-15. In registering persons under this section the
11 clerk may accept requests for absentee ballot submitted in
12 accordance with the Federal Voting Assistance Act of 1955 or
13 other similar federal law as being sufficient for registration
14 purposes."

15 SECTION 7. Section 11-17, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§11-17 Removal of names from register, when;
18 reregistration. (a) The clerk, ~~[no later than 4:30 p.m. on the~~
19 ~~sixtieth day]~~ after every general election, shall remove the
20 [name] names of [any] registered [voter] voters that were
21 identified as having an outdated or undeliverable address and



1 who did not vote in [~~that general election, and also did not~~
2 ~~vote in the primary election preceding that general election,~~
3 ~~and also did not vote in the previous general election, and also~~
4 ~~did not vote in the primary election preceding that general~~
5 ~~election, and also did not vote in the regularly scheduled~~
6 ~~special elections held in conjunction with those primary and~~
7 ~~general elections, if any,]~~ all elections held during the two
8 previous federal election cycles, with the exception of[+

9 ~~(1) Those who submitted written requests for absentee~~
10 ~~ballots as provided in section 15-4, or~~

11 ~~(2) Anyone]~~ anyone who preregistered pursuant to section
12 11-12(b).

13 [~~If a person voted, at least once, in any of the above mentioned~~
14 ~~elections, the person's name shall remain on the list of~~
15 ~~registered voters.] For this purpose, "vote" means the~~
16 ~~depositing of the ballot in the ballot box regardless of whether~~
17 ~~the ballot is blank or later rejected for any reason. In the~~
18 ~~case of voting machines, "vote" means the voter has activated~~
19 ~~the proper mechanism and fed the ballot into the machine. In~~
20 ~~the case of an election by mail pursuant to part VIIA, "vote"~~
21 ~~means the voter has returned the ballot to the chief election~~



1 officer or clerk by the United States Postal Service, by
2 personal delivery of the ballot to a place of deposit or voter
3 service center, or by electronic transmission under certain
4 circumstances pursuant to part VIIA.

5 (b) [The] Prior to removal, pursuant to subsection (a),
6 the clerk shall [also] identify [or remove the name of any]
7 registered voter [if the clerk, after] names from a postal
8 database containing outdated or undeliverable addresses or by
9 mailing a notice or other correspondence, properly addressed,
10 [with postage prepaid, receives the notice or other
11 correspondence as return mail with] and receiving a postal
12 notation that the notice or other correspondence was not
13 deliverable. [On election day, any person identified or removed
14 shall have the person's name corrected or restored in the
15 register and shall be allowed to vote if the person completes an
16 affidavit or other form prescribed by the chief election officer
17 affirming that the person:

18 (1) ~~Claims the person's legal residence at the address~~
19 ~~listed on the register;~~

20 (2) ~~Changed the person's legal residence after the closing~~
21 ~~of the register for that election; or~~



1 ~~(3) Moved to a new residence within the same district as~~
2 ~~the person's residence as listed on the register.]~~

3 (c) Upon identification of names of registered voters, as
4 prescribed in section (b), the clerk shall conduct any
5 notification mailings as required by applicable federal law.

6 ~~[(e)]~~ (d) The clerk may also remove the name of any
7 registered voter, if the voter so desires and properly notifies
8 the clerk pursuant to the procedures established by the chief
9 election officer.

10 ~~[(d) Any person whose name has been removed from the~~
11 ~~register, at any time prior to the closing of the register, as~~
12 ~~provided in section 11-24, may have that person's name restored~~
13 ~~in the register by presenting oneself to the clerk and~~
14 ~~reregistering pursuant to section 11-15, or by making~~
15 ~~application by mail or otherwise pursuant to procedures~~
16 ~~established by the clerk. The clerk shall require satisfactory~~
17 ~~evidence to establish the identity of the applicant. The names~~
18 ~~of all those persons shall be reentered in the register.]"~~

19 SECTION 8. Section 11-21, Hawaii Revised Statutes, is
20 amended by amending subsections (c) and (d) to read as follows:



1 "(c) Any person whose name appears on the registered
2 voters list whose residence has changed since the last election,
3 and whom the clerk has not transferred under section 11-20, may
4 apply on a form prescribed by the chief election officer on the
5 day of the election for transfer of registration to the
6 ~~[district]~~ precinct of the new residence. Any person so
7 transferring voter registration shall be immediately added to
8 the register of the new ~~[district.]~~ precinct.

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

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

14 "(a) The clerk shall correct the register if at any time
15 it shall be manifest to the clerk that the name of a person
16 registered has been accidentally misspelled, or that the person
17 has been misnamed therein, or that the person has been
18 accidentally registered under the wrong ~~[district,]~~ precinct, or
19 that the person was accidentally removed pursuant to section
20 11-17(a), or that the name of the person should be corrected or
21 restored pursuant to section 11-17(b)."



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

3 "§11-23 Changing register; striking names of disqualified
4 voters. [~~(a)~~] Whenever the clerk receives from the department
5 of health or any informing agency, information of the death,
6 loss of voting rights of a person sentenced for a felony as
7 provided in section 831-2, adjudication as an incapacitated
8 person under the provisions of chapter 560, loss of citizenship,
9 or any other disqualification to vote, [~~of any person registered~~
10 ~~to vote in that county, or who the clerk has reason to believe~~
11 ~~may be registered to vote therein, the clerk shall thereupon~~
12 ~~make such investigation as may be necessary to prove or disprove~~
13 ~~the information, giving the person concerned, if available,~~
14 ~~notice and an opportunity to be heard. If after the~~
15 ~~investigation the clerk finds that the person is dead, or~~
16 ~~incapacitated to the extent that the person lacks sufficient~~
17 ~~understanding or capacity to make or communicate responsible~~
18 ~~decisions concerning voting, or has lost voting rights pursuant~~
19 ~~to section 831-2, or has lost citizenship, or is disqualified~~
20 ~~for any other reason to vote, the clerk shall remove the name of~~
21 ~~the person from the register.~~



1 ~~(b) The clerk shall make and keep an index of all~~
2 ~~information furnished to the clerk under any requirements of law~~
3 ~~concerning any of the matters in this section. Whenever any~~
4 ~~person applies to register as a voter, the clerk shall, before~~
5 ~~registering the person, consult the index for the purpose of~~
6 ~~ascertaining whether or not the person is in any manner~~
7 ~~disqualified to vote.]~~ the clerk may accept the reported
8 information as prima facie evidence to maintain and update the
9 general register. Any person whose name is removed from the
10 register of voters under this section may reregister to vote or
11 appeal in the manner provided by sections 11-26 and 11-51, and
12 such proceedings shall be had upon the appeal as in other
13 appeals under these sections."

14 SECTION 11. Section 11-24, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§11-24 Closing register[-]; voter registration deadline.

17 (a) At 4:30 p.m. on the [~~thirtieth~~] fifteenth day prior to each
18 [~~primary, special primary, or special~~] election, but if the day
19 is a Saturday, Sunday, or holiday then at 4:30 p.m. on the first
20 working day immediately thereafter, the general county register
21 shall be closed [~~to registration for persons seeking to vote at~~



1 ~~the primary, special primary, or special election and remain~~
2 ~~closed to registration until after the election,]~~ for in-person
3 registration at drivers licensing offices or other physical
4 locations that may be designated by the chief election officer
5 or clerk.

6 (b) An application for voter registration submitted by
7 postal mail under section 11-16 may be accepted if it is
8 postmarked no later than the date of the closing of the register
9 under this section.

10 (c) After the closing of the register, the register shall
11 be subject to change only as provided in sections 11-15.2,
12 11-15.3, 11-21(c), 11-22, 11-25, 11-26, and this section.

13 ~~[(b) Notwithstanding the closing of the register for~~
14 ~~registration to vote at the primary or special primary election,~~
15 ~~the register shall remain open for the registration of persons~~
16 ~~seeking to vote at the general or special general election,~~
17 ~~until 4:30 p.m. on the thirtieth day prior to the general or~~
18 ~~special general election, but if the day is a Saturday, Sunday,~~
19 ~~or holiday then at 4:30 p.m. on the first working day~~
20 ~~immediately thereafter, at the end of which period the general~~
21 ~~county register shall be closed to registration and remain~~



1 ~~closed until after the general or special general election next~~
2 ~~following, subject to change only as provided in sections 11-~~
3 ~~21(c), 11-22, 11-25, and 11-26.] "~~

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

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

16 SECTION 13. Section 11-26, Hawaii Revised Statutes, is
17 amended as follows:

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

19 "(a) In cases where the clerk [~~or precinct officials,~~]
20 rules on a challenge on election day, the person ruled against
21 may appeal from the ruling to the board of registration of the



1 person's county for review under part III. The appeal shall be
2 brought before the challenger and challenged party leave the
3 ~~[polling place.]~~ voter service center. If an appeal is brought,
4 both the challenger and the challenged voter may be parties to
5 the appeal."

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

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

13 SECTION 14. Section 11-92.1, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§11-92.1 Election proclamation; establishment of a new
16 precinct; voter service centers and places of deposit; changes
17 to ~~[district]~~ precinct boundaries. (a) The chief election
18 officer shall issue a proclamation listing all voter service
19 centers and places of deposit as may have been determined by the
20 clerk as of the proclamation date~~[-]~~ and whenever a new precinct
21 is established in any representative district. The clerk shall



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

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

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

15 SECTION 15. Section 11-92.3, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§11-92.3 Natural disasters; postponement; consolidation
18 of ~~[districts;]~~ precincts; special elections. (a) ~~[In the~~
19 ~~event of]~~ If a flood, tsunami, earthquake, volcanic eruption,
20 high wind, or other natural disaster~~[, occurring]~~ occurs before
21 an election where the extent of damage caused is such that the



1 ability of voters, in any precinct, district, or county, to
2 exercise their right to vote is substantially impaired, the
3 chief election officer or clerk in the case of county elections
4 may postpone the conducting of an election in the affected
5 [area] precinct for no more than twenty-one days; provided that
6 any postponement shall not affect the conduct of the election,
7 tabulation, or distribution of results for those precincts,
8 districts, or counties not designated for postponement. The
9 chief election officer or clerk in the case of county elections
10 shall give notice of the postponement by whatever possible news
11 or broadcast media are available.

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



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

10 SECTION 16. Section 11-101, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~[+]~~§11-101~~[+]~~ Elections eligible to be conducted by mail.
13 Beginning with the 2020 primary election, all elections shall be
14 conducted by mail in accordance with this title. A voter in an
15 election conducted by mail shall not be precluded from voting by
16 absentee ballot pursuant to chapter 15 or chapter 15D if the
17 voter complies with applicable requirements."

18 SECTION 17. Section 11-102, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) To the extent practicable, the clerk shall mail a
21 ballot package by non-forwardable mail to each registered voter



1 in the county so as to enable voters to receive the ballot
2 package approximately eighteen days before the election. The
3 clerk shall continue mailing ballot packages to voters who
4 ~~[update]~~ were added to the registry or who updated their voter
5 registration address ~~[no later than fourteen]~~ but have not yet
6 voted, until seven days before the date of the election. In
7 determining the initial mailing date of the ballot packages, the
8 clerk shall consider the mailing place of origin and the most
9 recent postal service delivery standards. The clerk shall not
10 mail a ballot package to any voter in the county register who is
11 identified as having an outdated or non-deliverable mailing
12 address. Nothing in this part shall be construed to change the
13 responsibilities of the clerk or chief election officer under
14 chapter 15 with respect to voters requesting to vote by absentee
15 ballot or chapter 15D with respect to uniform military and
16 overseas voters."

17 SECTION 18. Section 11-104, Hawaii Revised Statutes, is
18 amended as follows:

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

20 "(a) After a voter receives a ballot package, the voter
21 shall comply with the instructions included in the ballot



1 package in order to cast a valid vote. The instructions shall
2 include directions for:

- 3 (1) Marking the ballot;
- 4 (2) Inserting the marked ballot in the secrecy envelope or
5 secrecy sleeve;
- 6 (3) Inserting the secrecy envelope or secrecy sleeve with
7 the marked ballot in the return identification
8 envelope; and
- 9 (4) Signing the affirmation on the return identification
10 envelope before mailing or delivering the return
11 identification envelope containing the secrecy
12 envelope or secrecy sleeve with the marked ballot.
13 The affirmation shall consist of a statement that the
14 voter is the person voting and that the voter's
15 employer or agent of the employer, agent of the
16 voter's labor union, or any candidate listed on the
17 ballot did not assist the voter, as described in
18 section 11-139."

19 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 optional secrecy
3 envelope or secrecy sleeve with the marked ballot:

4 (1) By mail so that the return identification envelope is
5 received ~~[at the office of]~~ by the clerk or the
6 clerk's designee no later than the closing ~~[time~~
7 ~~provided in]~~ hour of voting as defined in section [11-
8 ~~131 on the date of the election,]~~ 11-1;

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

17 (3) By ~~[personal]~~ delivery to any voter service center no
18 later than the closing ~~[time provided in section 11-~~
19 ~~131 on the date of the election,]~~ hour of voting;
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~~
2 ~~election]~~ hour of voting with the intent of returning
3 a ballot ~~[and casting a vote]~~ shall be ~~[allowed to~~
4 ~~vote.]~~ permitted to do so."

5 SECTION 19. Section 11-105, Hawaii Revised Statutes, is
6 amended by amending subsections (b) and (c) to read as follows:

7 "(b) Upon receipt of a completed replacement ballot
8 application form~~[7]~~ or request, the clerk shall:

9 (1) Verify the registration of the voter and ensure that
10 another ballot has not been returned by the voter;

11 (2) Record that the voter has requested a replacement
12 ballot;

13 (3) Mark the return identification envelope as containing
14 a replacement ballot; and

15 (4) Issue the replacement ballot package by mail or make
16 the ballot package available for pick-up by the voter.

17 (c) Voters who obtain a replacement ballot shall return
18 the return identification envelope containing the ~~[secrecy~~
19 ~~envelope or secrecy sleeve with the]~~ marked replacement ballot ~~[+]~~

20 ~~(1) By mail so that the return identification envelope is~~
21 ~~received at the office of the clerk no later than the~~



1 ~~closing time provided in section 11-131 on the date of~~
2 ~~the election;~~

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

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

16 in the same manner as provided in section 11-104(c)."

17 SECTION 20. 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~~] seven business 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 ballot return
20 envelopes in use pursuant to section 11-107, chapter 15, or
21 chapter 15D."



1 SECTION 21. Section 11-107, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~[§]11-107[§]~~ Electronic transmission under certain
4 circumstances. (a) If a ballot package is not received by a
5 voter by the fifth day before the date of the election or a
6 voter otherwise requires a replacement ballot within five days
7 of an election, the voter may request that a ballot be forwarded
8 by electronic transmission; provided that a voter with special
9 needs may request that a ballot be forwarded by electronic
10 transmission at any time. The ballot forwarded by electronic
11 transmission to voters with special needs shall be available no
12 earlier than the date that the ballot packages are mailed to all
13 voters. Upon receipt of ~~[such a]~~ the request and confirmation
14 that ~~[proper application was made,]~~ the voter has not already
15 voted, the clerk may transmit the appropriate ballot, ~~[together~~
16 ~~with a form containing the affirmations,]~~ voting information,
17 and a waiver of the right to secrecy under section 11-137. The
18 waiver of the right to secrecy shall not be required if the
19 voted ballot is returned in a signed ballot return
20 identification envelope issued to the voter pursuant to section
21 11-102.



1 (b) The voter may return the completed replacement ballot
2 and executed forms:

3 (1) By electronic transmission 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] hour of voting provided
7 in section [~~11-131 on the date of the election;~~] 11-1;
8 or

9 ~~[(2) By mail so that the completed replacement ballot and~~
10 ~~executed forms are received at the office of the clerk~~
11 ~~no later than the closing time provided in section 11-~~
12 ~~131 on the date of the election;~~

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

19 ~~(4) By personal delivery to a voter service center no~~
20 ~~later than the closing time provided in section 11-131~~
21 ~~on the date of the election; provided that any voter~~



1 ~~who is standing in line at a voter service center at~~
2 ~~the closing time provided in section 11-131 on the~~
3 ~~date of the election with the intent of returning a~~
4 ~~ballot and casting a vote shall be allowed to vote.]~~

5 (2) In the same manner as provided in section 11-104.

6 (c) Upon receipt, the clerk shall verify compliance with
7 the requirements of this part; provided that if the voter
8 returns multiple voted ballots for the same election, the clerk
9 shall prepare only the first ballot returned that is not
10 spoiled.

11 (d) The clerk may maintain a listing of voters with
12 special needs that use a ballot forwarded by electronic
13 transmission to facilitate the provision of voting services in
14 subsequent elections."

15 SECTION 22. Section 11-108, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) Any ballot the validity of which cannot be
18 established upon receipt shall be retained by the clerk and
19 shall not be commingled with ballots for which validity has been
20 established until the validity of the ballot in question can be
21 verified by the clerk. No ballot shall be included in an



1 initial tabulation until the clerk has determined its validity.
2 The clerk shall make reasonable efforts to determine the
3 validity of ballots within seven days following an election day.
4 No ballot shall be validated beyond the tenth business day
5 following an election."

6 SECTION 23. Section 11-109, Hawaii Revised Statutes, is
7 amended as follows:

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

9 "(a) Voter service centers shall be established at the
10 office of the clerk, and may be established at additional
11 locations within a county as may be designated by [a] each clerk
12 to service the particular needs of [a] each county's voters."

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

14 "(d) The clerks may designate and provide for places of
15 deposit to be open [~~five-business days~~] not later than eighteen
16 days before the election or as soon as ballots are available to
17 voters in the county, until [7:00 p.m.] the closing hour of
18 voting on the day of the election; provided that the locations
19 and apparatus for receiving voted ballots can be securely
20 maintained during the period of use for each election, and as
21 may be permitted by the operational hours."



1 SECTION 24. Section 11-117, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

14 SECTION 25. Section 11-131, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§11-131 Voter service center hours.** The hours of voting
17 at voter service centers shall be:

- 18 (1) Regular business hours as prescribed in section 11-109
19 and by the clerk; and



H.B. NO. 1262

1 (2) On an election day, from 7:00 a.m. until ~~[7:00 p.m. of~~
2 ~~that day.]~~ the closing hour of voting as defined in
3 section 11-1.

4 If, at ~~[7:00 p.m. on an election day,]~~ the closing hour of
5 voting, any voter is standing in line at a voter service center
6 with the desire of entering and voting, but due to the voter
7 service center being overcrowded has been unable to do so, the
8 voter shall be allowed to vote. No voter shall be permitted to
9 enter or join the line after the prescribed hours of voting
10 specified in this section. Notwithstanding voting activity that
11 may continue as noted above, the chief election officer, or
12 clerk in the case of county elections, may release election
13 results after the closing hour of voting with the exception of
14 results for any contests affected by a postponement or extension
15 of voting hours pursuant to section 11-92.3."

16 SECTION 26. Section 11-138, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§11-138 Time allowed voters.** A voter shall be allowed to
19 remain in the voting booth for five minutes, and having voted
20 the voter shall at once emerge and leave the voting booth. If
21 the voter refuses to leave when so requested ~~[by a majority of~~



1 ~~precinct officials]~~ after the lapse of five minutes, the voter
2 shall be removed by the [~~precinct~~] voter service center
3 officials."

4 SECTION 27. Section 11-153, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

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

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

15 SECTION 28. Section 11-155, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§11-155 Certification of results of election.** On receipt
18 of certified tabulations from the election officials concerned,
19 the chief election officer, or county clerk in a county
20 election, shall compile, certify, and release the election
21 results after the expiration of the time for bringing an



1 election contest. The certification shall be based on a
2 comparison and reconciliation of the following:

3 (1) The results of the canvass of ballots conducted
4 pursuant to chapter 16;

5 (2) The audit of [~~pollbooks (and related record books)~~]
6 records and resultant overage and underage report;

7 (3) The audit results of the manual audit team;

8 [~~(4) The results of the absentee ballot reconciliation~~
9 ~~report compiled by the clerks,~~

10 ~~(5)]~~ (4) The results of any mandatory recount of votes
11 conducted pursuant to section 11-158; and

12 [~~(6)]~~ (5) All logs, tally sheets, and other documents
13 generated during the election and in the canvass of
14 the election results.

15 A certificate of election or a certificate of results declaring
16 the results of the election as of election day shall be issued
17 pursuant to section 11-156; provided that in the event of an
18 overage or underage, a list of all precincts in which an overage
19 or underage occurred shall be attached to the certificate. The
20 number of candidates to be elected receiving the highest number
21 of votes in any election district shall be declared to be



1 elected. Unless otherwise provided, the term of office shall
2 begin or end as of the close of ~~[polls]~~ voting on election day.
3 The position on the question receiving the appropriate majority
4 of the votes cast shall be reflected in a certificate of results
5 issued pursuant to section 11-156."

6 SECTION 29. Section 11-172, Hawaii Revised Statutes, is
7 amended to read as follows:

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



1 SECTION 30. Section 11-173.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

20 SECTION 31. Section 11-174.5, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



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

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



1 clerk, who shall sign and deliver to the candidate or candidates
2 certificates of election, and the same shall be conclusive of
3 the right of the candidate or candidates to the offices."

4 SECTION 32. Section 13D-3, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§13D-3 Qualifications of voters; registration. (a)

7 Every person who registers as required by law shall be entitled
8 to vote at any election of board members provided that the
9 person shall have attained the age of eighteen years at the time
10 of the election.

11 (b) No person shall be eligible to register as a voter for
12 the election of board members unless the person ~~[meets the~~
13 ~~following qualifications:~~

14 ~~(1) The person has attained the age of eighteen years or~~
15 ~~will have attained such age within one year of the~~
16 ~~date of the next election of board members; and~~

17 ~~(2) The person] is otherwise qualified to register to vote~~
18 ~~in the State.~~

19 (c) Any person eligible to and desiring to register as a
20 voter for the election of board members shall ~~[go to any~~
21 ~~location designated by the clerk of the county, then and there~~



1 ~~to be examined under oath as to the person's qualifications as a~~
2 ~~voter. Each applicant shall]~~ make and subscribe to an
3 application ~~[in the form of an affidavit]~~ as provided for under
4 section 11-15.

5 (d) The clerk of each county shall register all persons in
6 the county who are eligible to and desiring to register as
7 voters for the election of board members. The register may be
8 maintained in conjunction with the general county register[
9 ~~provided that the clerk shall be able to prepare a separate list~~
10 ~~of voters for the election of board members, capable of~~
11 ~~segregation by precinct and representative district]. The~~
12 maintenance, reproduction, and transmittal of records and
13 affidavits to a central file shall be in accordance with section
14 11-14.

15 [~~(e) The clerk of each county shall amend the general~~
16 ~~county register to include therein any person, who on November~~
17 ~~6, 1984, was registered to vote only for members of the board of~~
18 ~~trustees, to hereinafter be registered to vote in all elections~~
19 ~~held in the State.] "~~

20 SECTION 33. Section 15-2, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§15-2 Who may vote by absentee ballot. Any person
2 registered to vote may cast an absentee ballot in any election,
3 including an election conducted by mail, in the manner provided
4 in this chapter and rules adopted by the chief election
5 officer."

6 SECTION 34. Section 15-2.5, Hawaii Revised Statutes, is
7 amended to read as follows:

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

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



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

3 SECTION 35. Section 15-9, Hawaii Revised Statutes, is
4 amended to read as follows:

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

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

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

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

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

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



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

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

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

SECTION 36. Section 15-11, Hawaii Revised Statutes, is amended to read as follows:

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



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

4 SECTION 37. Section 15D-10, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~f~~]**\$15D-10**[~~h~~] **Receipt of voted ballot.** A valid military-
7 overseas ballot shall be counted if it is received by the close
8 of the ~~[polls]~~ voting on the day of the election and meets the
9 requirements ~~[prescribed under]~~ applied to absentee ballots
10 pursuant to section 15-9."

11 SECTION 38. Section 19-6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**\$19-6 Misdemeanors.** The following persons shall be
14 guilty of a misdemeanor:

15 (1) Any person who offers any bribe or makes any promise
16 of gain, or with knowledge of the same, permits any
17 person to offer any bribe or make any promise of gain
18 for the person's benefit to any voter to induce the
19 voter to sign a nomination paper, and any person who
20 accepts any bribe or promise of gain of any kind as
21 consideration for signing the same, whether the bribe



1 or promise of gain be offered or accepted before or
2 after the signing;

3 (2) Any person who wilfully tears down, destroys, or
4 defaces any election proclamation, poster, notice,
5 ~~[list of voters, visual aids, or facsimile ballot,]~~ or
6 election signage issued or posted by authority of law;

7 (3) Any person printing or duplicating or causing to be
8 printed or duplicated any ballot, conforming as to the
9 size, weight, shape, thickness, or color to the
10 official ballot so that it could be cast or counted as
11 an official ballot in an election;

12 (4) Every person who is disorderly or creates a
13 disturbance whereby any meeting of the board of
14 registration of voters during an election is disturbed
15 or interfered with; or whereby any person who intends
16 to be lawfully present at any meeting or election is
17 prevented from attending; or who causes any
18 disturbance at any election; and every person
19 assisting or aiding or abetting any disturbance;

20 (5) Every person who, either in person or through another,
21 in any manner breaks up or prevents, or endeavors to



1 break up or prevent, the holding of any meeting of the
2 board of registration of voters, or in any manner
3 breaks up or prevents, or endeavors to break up or
4 prevent, the holding of any election;

5 (6) Any person, other than those designated by section
6 11-132, who remains or loiters within the area set
7 aside for voting as set forth in section 11-132 during
8 the time appointed for voting;

9 (7) Any person, including candidates carrying on any
10 campaign activities within the area described in
11 section 11-132 during the period of time starting one
12 hour before voting opens and ending when voting closes
13 for the purpose of influencing votes. Campaign
14 activities shall include the following:

15 (A) Any distribution, circulation, carrying, holding,
16 posting, or staking of campaign cards, pamphlets,
17 posters, and other literature;

18 (B) The use of public address systems and other
19 public communication media;

20 (C) The use of motor caravans or parades; and



- 1 (D) The use of entertainment troupes or the free
- 2 distribution of goods and services;
- 3 (8) Any person who opens a return envelope containing:
- 4 (A) An absentee ballot voted under chapter 15 other
- 5 than those persons authorized to do so under
- 6 chapter 15; or
- 7 (B) A ballot voted by mail under part VIIA of chapter
- 8 11 other than those persons authorized to do so
- 9 under part VIIA of chapter 11;
- 10 (9) Any unauthorized person found in possession of any
- 11 voting machine or keys thereof; [and]
- 12 (10) Any person other than the postal service or the clerk
- 13 as authorized in section 11-109, who sponsors,
- 14 establishes, or displays a collection receptacle for
- 15 the purpose of receiving voted mail ballots or ballot
- 16 return envelopes in an election; and
- 17 ~~[(10)]~~ (11) Every person who wilfully violates or fails to
- 18 obey any of the provisions of law, punishment for
- 19 which is not otherwise specified in this chapter."

20 SECTION 39. Chapter 16, parts II and III, Hawaii Revised
21 Statutes, are repealed.



SECTION 40. Section 11-181, Hawaii Revised Statutes, is repealed.

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

SECTION 41. No later than December 31, 2021, the office of elections shall submit a report to the legislature that details the financial and other obligations for joining the Electronic Registration Information Center. The report shall include a preliminary plan for an interface to transfer, import, and incorporate data obtained from the Electronic Registration Information Center to the State's computerized registration list pursuant to applicable law.

SECTION 42. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 43. This Act shall take effect on July 1, 2021.

INTRODUCED BY:

Hakshini

JAN 27 2021



H.B. NO. 1262

Report Title:

Vote by Mail; Elections

Description:

Enacts various technical, housekeeping, and other amendments to further Hawaii's transition to 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.

