

JAN 27 2021

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# A BILL FOR AN ACT

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RELATING TO ELECTIONS.

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

1       SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended  
2 by adding three new sections to part VIIA to be appropriately  
3 designated and to read as follows:

4       "§11-     Ballot handling and storage; watchers. Watchers  
5 appointed pursuant to section 11-77 shall be permitted to be  
6 present to observe the handling of ballots in every case where  
7 ballots are handled for the purpose of being placed in or  
8 removed from storage.

9       §11-     Audits of electronic vote tabulation; watchers.  
10 Watchers appointed pursuant to section 11-77 shall be permitted  
11 to be present to observe all audits of electronic vote  
12 tabulation.

13       §11-     Transportation of ballots; watchers. Watchers  
14 appointed pursuant to section 11-77 shall be permitted to be  
15 present in every vehicle used to transport ballots while ballots  
16 are in the vehicle, where practicable; provided that this  
17 section shall not apply to vehicles operated by the United



1 States Post Office for the purpose of delivering or transporting  
2 mail."

3 SECTION 2. Section 11-77, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§11-77 Appointment of watchers; scope; service. (a)

6 Each qualified political party shall be entitled to appoint ~~[n]~~  
7 more than one watcher who may be present ~~[at]~~ during any of the  
8 following election functions:

- 9 (1) Testing of electronic voting systems before and after  
10 elections;
- 11 (2) Mailing of ballots to voters;
- 12 (3) Review of returned ballots;
- 13 (4) Resolution of requests for replacement of defective  
14 ballots;
- 15 (5) Sending electronic ballots to voters and processing  
16 returned electronic ballots;
- 17 (6) Signature verification;
- 18 (7) Counting and certification of ballots;
- 19 (8) Audit of vote tabulation;
- 20 (9) Handling, transporting, and storing paper ballots;
- 21 (10) Recounts; and



1        (11) At any time at a voter service center[-], counting  
2                    center, mailing center, place of deposit, and vehicle  
3                    used for transporting ballot materials, as  
4                    practicable.

5 Each party shall submit its list of watchers no later than  
6 4:30 p.m. on the twentieth day before any election to the clerk.  
7 ~~[All watchers shall serve without expense to the county.]~~ All  
8 watchers so appointed shall be registered voters.

9        (b) A media organization shall be entitled to appoint more  
10 than one media representative as a watcher who may be present  
11 during any of the election functions in which a watcher  
12 appointed by a political party pursuant to subsection (a) may be  
13 present. Each media organization shall submit its list of  
14 watchers no later than 4:30 p.m. on the twentieth day before any  
15 election to the clerk. All watchers so appointed shall be  
16 registered voters.

17        ~~[-(b)-]~~ (c) Each watcher shall be provided with  
18 identification from the clerk stating the watcher's name and the  
19 name of the party or media organization the watcher represents.

20        ~~[-(e)-]~~ (d) The watcher shall call the attention of the  
21 clerk to any violations of the election laws that the watcher



1 observes. After the clerk's attention is called to the  
2 violation, the clerk shall make an attempt to correct the  
3 violation. If the clerk fails to correct the violation, the  
4 watcher may appeal to the chief election officer."

5 SECTION 3. Section 11-102, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[~~f~~]§11-102[~~f~~] Procedures for conducting elections by  
8 mail. (a) Ballot packages for elections by mail shall include:

- 9 (1) An official ballot;  
10 (2) A return identification envelope with postage prepaid;  
11 (3) A secrecy envelope or secrecy sleeve; and  
12 (4) Instructions.

13 (b) To the extent practicable, the clerk shall mail a  
14 ballot package by non-forwardable mail to each registered voter  
15 in the county so as to enable voters to receive the ballot  
16 package approximately eighteen days before the election. The  
17 clerk shall continue mailing ballot packages to voters who  
18 update their voter registration address no later than fourteen  
19 days before the date of the election. In determining the  
20 initial mailing date of the ballot packages, the clerk shall  
21 consider the mailing place of origin and the most recent postal



1 service delivery standards. The clerk shall not mail a ballot  
2 package to any voter in the county register who is identified as  
3 having an outdated or non-deliverable mailing address. Nothing  
4 in this part shall be construed to change the responsibilities  
5 of the clerk or chief election officer under chapter 15D with  
6 respect to uniform military and overseas voters.

7 (c) The clerks shall determine and provide for voter  
8 service centers and places of deposit pursuant to this part and  
9 section 11-92.1.

10 (d) In every case where ballots or ballot packages are  
11 handled by the clerk or other election officials or election  
12 employees in preparation for mailing to voters, watchers  
13 appointed pursuant to section 11-77 shall be permitted to be  
14 present."

15 SECTION 4. Section 11-105, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

17 "(b) Upon receipt of a completed replacement ballot  
18 application form, the clerk shall:

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



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

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

5           (4) Issue the replacement ballot package by mail or make  
6           the ballot package available for pick-up by the  
7           voter[-];

8 provided that watchers appointed pursuant to section 11-77 shall  
9 be permitted to be present."

10           SECTION 5. Section 11-107, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12           "(a) If a ballot package is not received by a voter by the  
13 fifth day before the date of the election or a voter otherwise  
14 requires a replacement ballot within five days of an election,  
15 the voter may request that a ballot be forwarded by electronic  
16 transmission; provided that a voter with special needs may  
17 request that a ballot be forwarded by electronic transmission at  
18 any time. Upon receipt of such a request and confirmation that  
19 proper application was made, the clerk may transmit the  
20 appropriate ballot[-] together with a form containing the  
21 affirmations, information, and a waiver of the right to secrecy



1 under section 11-137[-]; provided that watchers appointed  
2 pursuant to section 11-77 shall be permitted to be present."

3 SECTION 6. Section 11-108, Hawaii Revised Statutes, is  
4 amended by amending subsections (c) and (d) to read as follows:

5 "(c) Any ballot the validity of which cannot be  
6 established upon receipt shall be retained by the clerk and  
7 shall not be commingled with ballots for which validity has been  
8 established until the validity of the ballot in question can be  
9 verified by the clerk. No ballot shall be included in an  
10 initial tabulation until the clerk has determined its validity.  
11 The clerk shall make reasonable efforts to determine the  
12 validity of ballots within seven days following an election day.  
13 Watchers appointed pursuant to section 11-77 shall be permitted  
14 to be present during all procedures intended to determine the  
15 validity of ballots, including the verification of signatures.

16 (d) Any initial recount provided by law shall include only  
17 ballots verified for the purpose of the initial tabulation. In  
18 no event shall a recount of an initial tabulation include  
19 ballots the validity of which could not be verified by 6:00 a.m.  
20 on the day following an election day. Watchers appointed



1 pursuant to section 11-77 shall be permitted to be present  
2 during all recounts."

3 SECTION 7. Section 11-109, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

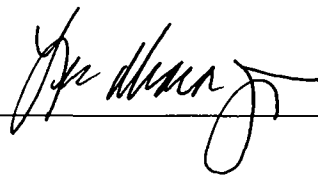
5 "(b) Voter service centers shall be open from the tenth  
6 business day preceding the day of the election during regular  
7 business hours until the time provided in section 11-131 on the  
8 date of the election and at the same times statewide. Watchers  
9 appointed pursuant to section 11-77 shall be permitted to be  
10 present at voter service centers whenever the voter service  
11 center is open and ballots are being handled or processed."

12 SECTION 8. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_





# S.B. NO. 1289

**Report Title:**

Elections; Ballots; Watchers

**Description:**

Expands access of election watchers during elections to include all instances in which ballots are handled, prepared, tabulated, or reviewed. Allows for more than one election watcher to be appointed by a political party. Allows for election watchers to be appointed by media organizations.

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

