

JAN 22 2021

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) Establish a minimum number of district precincts;
6 (2) Prohibit campaigning or electioneering from occurring
7 within two hundred feet of the last person standing in
8 line to vote or deposit a ballot at a voter service
9 center or place of deposit; and
10 (3) Make various housekeeping amendments to clarify and
11 improve the administration of elections by mail in
12 Hawaii, including restoring the previous usage of
13 precincts instead of districts, extending registration
14 deadlines, requiring additional voter service centers
15 on election day, and establishing public reporting
16 requirements.



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

"§11- Precincts; minimum number. There shall be a minimum of four district precincts in each district; provided that each island shall have at least one precinct.

§11- Campaigning and electioneering; prohibited. (a) Campaigning or electioneering within two hundred feet of the last person waiting in line to vote or deposit a ballot at any voter service center or place of deposit is prohibited. Any person who remains or loiters within two hundred feet of the last person waiting in line to vote or deposit a ballot at any voter service center or place of deposit for the purpose of campaigning or electioneering is guilty of a misdemeanor.

(b) The chief election officer shall adopt rules pursuant to chapter 91 to ensure enforcement of this prohibition."

SECTION 3. Section 11-1, Hawaii Revised Statutes, is amended as follows:

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



1 ""Ballot marking system" means a system that may be used to
2 mark a ballot or to generate a marked ballot or ballot summary
3 reflecting the ballot selections of the voter.

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

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

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

9 ""Ballot" means a ballot, including an absentee ballot,
10 that is a written or printed, or partly written and partly
11 printed paper or papers containing the names of persons to be
12 voted for, the office to be filled, and the questions or issues
13 to be voted on. "Ballot" includes [a]:

14 (1) A ballot summary that is produced by a voter using a
15 web-based ballot or similarly accessible ballot
16 marking system;

17 (2) A voter verifiable paper audit trail in the event
18 there is a discrepancy between a voting machine's
19 electronic record of the voted ballot and the voter
20 verifiable paper audit trail; and



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

4 A ballot may consist of one or more cards or pieces of paper, or
5 one face of a card or piece of paper, or a portion of the face
6 of a card or piece of paper, depending on the number of offices,
7 candidates to be elected thereto, questions or issues to be
8 voted on, and the voting system in use."

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

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

13 SECTION 4. Section 11-1.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§11-1.5 Office of elections established.** (a) There is
16 established an office of elections to provide support to the
17 chief election officer. The office shall be placed within the
18 department of accounting and general services for administrative
19 purposes. The chief election officer shall be the administrator
20 of the office of elections. Except for exercising the right to
21 vote, the full-time employees of the office of elections shall



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not support, advocate, or aid in the election or defeat of any candidate for public office.

(b) The office of elections shall provide staff support to the elections commission, as requested by the elections commission.

(c) Beginning on the day that ballots are received, the office of elections shall publish a weekly report on its website of the number of ballots received, broken down by county and by ballots received by mail versus ballots cast in person; provided that this report shall be published on a daily basis starting in the last two weeks before the election."

SECTION 5. Section 11-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

The affidavit shall contain the following information:

(1) Name;

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



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

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

11 (3) Date of birth;

12 (4) Residence, including mailing address;

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

18 (6) That the person is a citizen.

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



SECTION 6. Section 11-15.2, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

(2) Acknowledging that the person has not voted and will not attempt to vote again in that election, and has not cast and will not cast any absentee ballot 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



1 exceeding [~~\$1,000~~] \$10,000 or imprisonment not
2 exceeding five years, or both.

3 ~~[(d)]~~ (c) The registration clerk may accept, as prima
4 facie evidence, the allegation of the person in the application
5 regarding the person's residence in accordance with section 11-
6 15(b), unless the allegation is contested by a qualified voter.
7 The registration clerk may demand that the person furnish
8 substantiating evidence to the other allegations of the person's
9 application in accordance with section 11-15(b).

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

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

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



1 ~~facie evidence that the person is a registered voter as of the~~
2 ~~date of registration.] "~~

3 SECTION 7. Section 11-17, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

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

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



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

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

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

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

"(a) The clerk shall correct the register if at any time it shall be manifest to the clerk that the name of a person registered has been accidentally misspelled, or that the person has been misnamed therein, or that the person has been accidentally registered under the wrong ~~[district]~~ precinct, or that the person was accidentally removed pursuant to section 11-



1 17(a), or that the name of the person should be corrected or
2 restored pursuant to section 11-17(b)."

3 SECTION 10. Section 11-24, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "**§11-24 Closing register.** (a) At 4:30 p.m. on the
6 ~~[thirtieth]~~ tenth day ~~[prior to]~~ before each ~~[primary, special~~
7 ~~primary, or special]~~ election, but if the day is a Saturday,
8 Sunday, or holiday then at 4:30 p.m. on the first working day
9 immediately thereafter, the general county register shall be
10 closed to registration for persons seeking to vote ~~[at the~~
11 ~~primary, special primary, or special election]~~ and remain closed
12 to registration until after the election, subject to change only
13 as provided in sections 11-15.2, 11-21(c), 11-22, 11-25, 11-26,
14 and this section."

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

17 "(a) Any registered voter may challenge the right of a
18 person to be or to remain registered as a voter in any precinct
19 for any cause not previously decided by the board of
20 registration or the supreme court in respect to the same person.
21 The challenge shall be in writing, setting forth the grounds



1 upon which it is based, and be signed by the person making the
2 challenge. The challenge shall be delivered to the clerk who
3 shall immediately serve notice thereof on the person challenged.
4 The clerk shall, as soon as possible, investigate and rule on
5 the challenge."

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

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

9 "(a) In cases where the clerk~~[7]~~ rules or ~~[precinct]~~ voter
10 service center officials~~[7, rules]~~ rule on a challenge on
11 election day, the person ruled against may appeal from the
12 ruling to the board of registration of the person's county for
13 review under part III. The appeal shall be brought before the
14 challenger and challenged party leave the ~~[polling place.]~~ voter
15 service center. If an appeal is brought, both the challenger
16 and the challenged voter may be parties to the appeal."

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

18 "(c) If the appeal is sustained, the board shall
19 immediately certify that finding to the clerk, who shall
20 thereupon alter the register to correspond to the findings of
21 the board, and when necessary, the clerk shall notify the



1 ~~[precinct]~~ voter service center officials of the change in the
2 register."

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

5 "§11-92.1 Election proclamation; establishment of a new
6 precinct; voter service centers and places of deposit; changes
7 to ~~[district]~~ precinct boundaries. (a) The chief election
8 officer shall issue a proclamation ~~[listing]~~:

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

12 (2) Whenever a new precinct is established in any
13 representative district.

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



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

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

8 SECTION 14. Section 11-92.3, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§11-92.3 Natural disasters; postponement; consolidation**
11 **of [~~districts~~] precincts; special elections.** (a) In the event
12 of a flood, tsunami, earthquake, volcanic eruption, high wind,
13 or other natural disaster, occurring before an election where
14 the extent of damage caused is such that the ability of voters,
15 in any precinct, district, or county, to exercise their right to
16 vote is substantially impaired, the chief election officer or
17 clerk in the case of county elections may postpone the
18 conducting of an election in the affected [~~area~~] precinct,
19 district, or county for no more than twenty-one days; provided
20 that any postponement shall not affect the conduct of the
21 election, tabulation, or distribution of results for those



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

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

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



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

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

5 "[~~f~~]**\$11-101[~~f~~]** **Elections eligible to be conducted by mail.**
6 Beginning with the 2020 primary election, all elections shall be
7 conducted by mail in accordance with this title. A voter in an
8 election conducted by mail shall not be precluded from voting by
9 absentee ballot under chapter 15 or 15D if the voter complies
10 with the applicable requirements."

11 SECTION 16. Section 11-102, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

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~~] no later than eighteen days before the
17 election. The clerk shall continue mailing ballot packages to
18 voters who register to vote no later than ten days before the
19 date of the election and to voters who update their voter
20 registration address no later than fourteen days before the date
21 of the election[~~;~~]; provided that the clerk may continue mailing



1 ballot packages beyond the deadlines established by this
2 subsection if the clerk determines that there is reasonable time
3 for a voter to receive and submit the ballot package before the
4 election. In determining the initial mailing date of the ballot
5 packages, the clerk shall consider the mailing place of origin
6 and the most recent postal service delivery standards. The
7 clerk shall not mail a ballot package to any voter in the county
8 register who is identified as having an outdated or non-
9 deliverable mailing address. Nothing in this part shall be
10 construed to change the responsibilities of the clerk or chief
11 election officer under chapter 15 with respect to voters
12 requesting to vote by absentee ballot or chapter 15D with
13 respect to uniform military and overseas voters."

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

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

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

21 (1) Marking the ballot;



- 1 (2) Inserting the marked ballot in the secrecy envelope or
2 secrecy sleeve;
- 3 (3) Inserting the secrecy envelope or secrecy sleeve with
4 the marked ballot in the return identification
5 envelope; and
- 6 (4) Signing the affirmation on the return identification
7 envelope before mailing or delivering the return
8 identification envelope containing the secrecy
9 envelope or secrecy sleeve with the marked ballot."
- 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 18. 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[+] 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;



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

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

SECTION 19. Section 11-106, Hawaii Revised Statutes, is amended to read as follows:

"~~[f]~~§11-106~~[f]~~ **Deficient return identification envelopes.**

If:



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

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

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

the clerk shall make an attempt to notify the voter by first class mail, telephone, or electronic mail to inform the voter of the procedure to correct the deficiency. The voter shall have ~~[five-business]~~ seven days after the date of the election to cure the deficiency. The chief election officer may adopt rules regarding requirements and procedures for correcting deficient return identification envelopes. The counting of ballots and disclosure of subsequent election results may continue during the time period permitted to cure a deficiency under this section. The clerk's inability to contact voters under this section shall not be grounds for a contest for cause under section 11-172. This section shall apply to all return identification envelopes, including ballots using the provisions of section 11-107 or chapter 15 or 15D."



SECTION 20. Section 11-107, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

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

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

(1) By electronic transmission so that the completed replacement ballot and executed forms are received ~~[at the office of]~~ by the clerk or the clerk's designee no 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



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

SECTION 21. Section 11-108, Hawaii Revised Statutes, is
amended by amending subsection (c) to read as follows:

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

SECTION 22. Section 11-109, Hawaii Revised Statutes, is
amended to read 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 service centers shall be open from the tenth
8 business day preceding the day of the election during regular
9 business hours until the time provided in section 11-131 on the
10 date of the election and at the same times statewide. A county
11 clerk may add voter service centers in addition to the number
12 apportioned to each county, which may be operated with varying
13 days or hours of operations to service the voters of a
14 particular area. Anyone standing in line at a voter service
15 center at the closing time on election day in accordance with
16 section 11-131 with the intent of voting shall be permitted to
17 do so. A person eligible to vote but who is not registered to
18 vote and is standing in line at a voter service center at the
19 closing time on election day in accordance with section 11-131
20 shall be permitted to apply under section 11-15.2 to register to
21 vote and subsequently vote that election day. To the extent the



1 registration clerk determines the applicant to be registered at
2 that time, the applicant shall be permitted to vote a regular
3 ballot. If additional time is required to process the
4 application, the applicant shall be provided a provisional
5 ballot."

6 2. By amending subsection (d) to read as follows:

7 "(d) A county clerk may add places of deposit in addition
8 to the number apportioned to a county. The clerks may designate
9 and provide for places of deposit to be open [~~five business days~~
10 ~~before the election until 7:00 p.m. on the day of the election;~~]
11 as early as the mailing of ballots by the clerks; provided that
12 the locations and apparatus for receiving voted ballots can be
13 securely maintained during the period of use for each election,
14 and as may be permitted by the operational hours."

15 SECTION 23. Section 11-117, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

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



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

7 SECTION 24. Section 11-138, Hawaii Revised Statutes, is
8 amended to read as follows:

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

16 SECTION 25. Section 11-153, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

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



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

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

6 SECTION 26. Section 11-155, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§11-155 Certification of results of election.** On receipt
9 of certified tabulations from the election officials concerned,
10 the chief election officer, or county clerk in a county
11 election, shall compile, certify, and release the election
12 results after the expiration of the time for bringing an
13 election contest. The certification shall be based on a
14 comparison and reconciliation of the following:

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



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

(6) All logs, tally sheets, and other documents generated
during the election and in the canvass of the election
results.

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

SECTION 27. Section 11-172, Hawaii Revised Statutes, is
amended to read as follows:

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



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

12 SECTION 28. Section 11-174.5, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

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

20 At the hearing, the court shall cause the evidence to be
21 reduced to writing and shall give judgment, stating all findings



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

18 SECTION 29. Section 15-2, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§15-2 Who may vote by absentee ballot.** Any person
21 registered to vote may cast an absentee ballot in any election,



1 including an election conducted by mail, in the manner provided
2 in this chapter and rules adopted by the chief election
3 officer."

4 SECTION 30. Section 15-2.5, Hawaii Revised Statutes, is
5 amended by amending subsections (a) and (b) to read as follows:

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

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

17 SECTION 31. Section 15-5, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) If absentee ballots requested under section 15-4 are
20 not received by a voter within five days of an election, if a
21 voter requires a replacement ballot within five days of an



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



SECTION 32. Section 15-9, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

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

~~(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 treated in the same manner as a return identification
envelope in an election by mail as provided by part VIIA of
chapter 11."

SECTION 33. 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]~~ a voter service center on election day. An
absentee voter who ~~[does cast]~~ casts a ballot at ~~[the polls]~~ a



1 voter service center shall be guilty of an election offense
2 under section 19-3(5)."

3 SECTION 34. Section 15-13.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~f~~]**\$15-13.5[~~f~~]** **Eligibility of voter after absentee ballot**
6 **cast.** The absentee ballot of any voter who was eligible to vote
7 at the time the ballot was cast shall not be deemed invalid
8 solely because the voter became ineligible to vote after casting
9 the ballot. For the purposes of this section, "cast" means that
10 the voter has:

- 11 (1) Deposited the absentee ballot in the mail for ballots
12 mailed in accordance with section [~~15-9(a)(1)~~], 15-9;
13 (2) Delivered the absentee ballot to the appropriate
14 county clerk or polling place in accordance with
15 section [~~15-9(a)(2) or (3)~~], 15-9; or
16 (3) Completed voting in person at an absentee polling
17 place."

18 SECTION 35. Section 15D-10, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[~~f~~]**\$15D-10[~~f~~]** **Receipt of voted ballot.** A valid military-
21 overseas ballot shall be counted if it is received by the close



1 of the [~~polls~~] voter service centers on the day of the election
2 and meets the requirements prescribed under section 15-9."

3 SECTION 36. Section 16-23, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§16-23 Paper ballot; voting.** Upon receiving the ballot
6 the voter shall proceed into one of the voting booths provided
7 for the purpose, and shall mark the voter's ballot in the manner
8 prescribed by section 16-22.

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

15 SECTION 37. Section 16-26, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§16-26 Questionable ballots.** A ballot shall be
18 questionable if:

- 19 (1) [A] The ballot contains any mark or symbol whereby it
20 can be identified, or any mark or symbol contrary to
21 the provisions of law; or



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

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

SECTION 38. Section 16-27, Hawaii Revised Statutes, is amended to read as follows:

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

SECTION 39. Section 16-28, Hawaii Revised Statutes, is amended to read as follows:



1 "~~§16-28~~ **Declaration of results.** When the [~~precinct~~] voter
2 service center officials have ascertained the number of votes
3 given for each candidate they shall make public declaration of
4 the whole number of votes cast, the names of the persons voted
5 for, and the number of votes for each person."

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

8 [~~"§11-181 Capital equipment.~~ The State shall pay for all
9 ~~voting system capital equipment.~~ This shall include, but not be
10 ~~limited to voting machines, voting devices, and initial computer~~
11 ~~programs.~~"]

12 SECTION 41. This Act does not affect rights and duties
13 that matured, penalties that were incurred, and proceedings that
14 were begun before its effective date.

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

17 SECTION 43. This Act shall take effect on January 1, 2022.

18
INTRODUCED BY:





S.B. NO. 637

Report Title:

Elections; Vote by Mail; Voting Assistance; Nomination Papers

Description:

Establishes minimum number of district precincts per district. Prohibits campaigning or electioneering within two hundred feet of the last person in line to vote or deposit a ballot at a voter service center or place of deposit. Makes housekeeping amendments to Hawaii's elections laws to clarify and improve the administration of elections by mail.

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

