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# A BILL FOR AN ACT

RELATING TO ELECTION REFORM.

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

1 PART I

2 SECTION 1. The legislature finds that in the 2020 election  
3 cycle, thousands of ballots were received after the deadline  
4 despite the State and counties' best efforts to educate the  
5 public about submitting ballots before the deadline. Instead of  
6 requiring return identification envelopes to be received by  
7 election officials by the deadline on the election day, other  
8 states require return identification envelopes to be postmarked  
9 on or before election day, which makes it less confusing for the  
10 general public.

11 The purpose of this part is to:

- 12 (1) Require ballots returned by mail to be postmarked on  
13 or before election day; and  
14 (2) Deem ballots with illegible postmarks to have been  
15 timely postmarked if received no later than 5:00 p.m.  
16 on the third day following the election.



1       SECTION 2. Section 11-104, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3       "(c) To cast a valid ballot, the voter shall return the  
4 return identification envelope containing the secrecy envelope  
5 or secrecy sleeve with the marked ballot:

6       (1) By mail so that the return identification envelope is  
7       ~~[received at the office of the clerk no later than the~~  
8       ~~closing time provided in section 11-131 on the date of~~  
9       ~~the election;]~~ postmarked on or before election day;  
10       provided that if a ballot is received by mail no later  
11       than 5:00 p.m. on the third day following the election  
12       and the date of the postmark cannot be determined, the  
13       ballot shall be deemed to have been postmarked on or  
14       before election day;

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



1           (3) By personal delivery to any voter service center no  
2           later than the closing time provided in section 11-131  
3           on the date of the election; provided that any voter  
4           who is standing in line at a voter service center at  
5           the closing time provided in section 11-131 on the  
6           date of the election with the intent of returning a  
7           ballot and casting a vote shall be allowed to vote."

8           SECTION 3. Section 11-105, Hawaii Revised Statutes, is  
9           amended by amending subsection (c) to read as follows:

10          "(c) Voters who obtain a replacement ballot shall return  
11          the return identification envelope containing the secrecy  
12          envelope or secrecy sleeve with the marked replacement ballot:

13          (1) By mail so that the return identification envelope is  
14          ~~[received at the office of the clerk no later than the~~  
15          ~~closing time provided in section 11-131 on the date of~~  
16          ~~the election;]~~ postmarked on or before election day;  
17          provided that if a ballot is received by mail no later  
18          than 5:00 p.m. on the third day following the election  
19          and the date of the postmark cannot be determined, the  
20          ballot shall be deemed to have been postmarked on or  
21          before election day;



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

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

14          SECTION 4. Section 11-107, Hawaii Revised Statutes, is  
15          amended by amending subsection (b) to read as follows:

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

18               (1) By electronic transmission so that the completed  
19               replacement ballot and executed forms are received at  
20               the office of the clerk no later than the closing time



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

3 (2) By mail so that the completed replacement ballot and  
4 executed forms are [~~received at the office of the~~  
5 ~~clerk no later than the closing time provided in~~  
6 ~~section 11-131 on the date of the election;~~]  
7 postmarked on or before election day; provided that if  
8 a ballot is received by mail no later than 5:00 p.m.  
9 on the third day following the election and the date  
10 of the postmark cannot be determined, the ballot shall  
11 be deemed to have been postmarked on or before  
12 election day;

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

7           "(b) If absentee ballots requested under section 15-4 are  
8           not received by a voter within five days of an election, if a  
9           voter requires a replacement ballot within five days of an  
10          election, or if a voter would otherwise not be able to return a  
11          properly issued ballot by the close of polls, then a voter may  
12          request that absentee ballots be forwarded by electronic  
13          transmission; provided that a voter with special needs,  
14          including a disability, may request that a ballot be forwarded  
15          by electronic transmission at any time. Upon receipt of such a  
16          request and confirmation that proper application was made, the  
17          clerk may transmit appropriate ballots, together with a form  
18          requiring the affirmations and information required by section  
19          15-6, and a form containing a waiver of the right to secrecy, as  
20          provided by section 11-137. The voter may return the voted  
21          ballots and executed forms ~~[by]~~ by:



1        (1) By electronic transmission [~~or mail; provided that~~  
2        ~~they~~] so that the voted ballots and executed forms are  
3        received by the issuing clerk no later than the close  
4        of polls on election day~~[=]~~; or

5        (2) By mail so that the voted ballots and executed forms  
6        are postmarked on or before election day; provided  
7        that if a ballot is received by mail no later than  
8        5:00 p.m. on the third day following the election and  
9        the date of the postmark cannot be determined, the  
10       ballot shall be deemed to have been postmarked on or  
11       before election day.

12 Upon receipt, the clerk shall verify compliance with the  
13 requirements of section 15-9(c) and prepare the ballots for  
14 counting pursuant to section 15-10; provided that if the voter  
15 returns multiple voted absentee ballots for the same election,  
16 the clerk shall, for purposes of counting ballots, prepare only  
17 the first absentee ballot returned that is not spoiled."

18        SECTION 6. Section 15-9, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20        "(a) The return envelope shall be:



1       (1) Mailed [~~and must be received by~~] to the clerk issuing  
2       the absentee ballot [~~no later than the closing hour on~~  
3       ~~election day in accordance with section 11-131;~~] and  
4       postmarked on or before election day; provided that if  
5       a ballot is received by mail no later than 5:00 p.m.  
6       on the third day following the election and the date  
7       of the postmark cannot be determined, the ballot shall  
8       be deemed to have been postmarked on or before  
9       election day; 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       SECTION 7. Section 15-12, Hawaii Revised Statutes, is  
15       amended to read as follows:

16       **"§15-12 Receipt and disposition of late absentee ballots.**

17       For any election all return envelopes containing absentee  
18       ballots postmarked after election day or received by the clerk  
19       after the deadline for receipt stated in section 15-9 shall be  
20       kept unopened and disposed of pursuant to section 11-154."





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

3           "[+] \$15D-10[+]   **Receipt of voted ballot.**   A valid military-  
4   overseas ballot shall be counted if it ~~[is received by the close~~  
5   ~~of the polls on the day of the election and]~~ meets the  
6   requirements prescribed under section 15-9."

## 7 PART II

SECTION 9. The legislature finds that every post office in the State should have official drop boxes for voters to personally deliver marked ballots. However, if establishing official drop boxes at every post office is not financially feasible, then post offices should at least separate return identification envelopes from regular mail for collection by elections officials.

15       The purpose of this part is to require county clerks to  
16       coordinate with the United States Postal Service to establish  
17       places of deposit at each post office in the State or, if the  
18       counties do not have the necessary funding, to enable election  
19       officials to collect return identification envelopes from each  
20       post office at the same frequency that it collects return  
21       identification envelopes from places of deposit.



1       SECTION 10. Section 11-109, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "~~§~~11-109~~§~~ **Voter service centers; places of deposit.**

4       (a) Voter service centers shall be established at the office of  
5 the clerk, and may be established at additional locations within  
6 a county as may be designated by a clerk to service the  
7 particular needs of a county's voters.

8       (b) Voter service centers shall be open from the tenth  
9 business day preceding the day of the election during regular  
10 business hours until the time provided in section 11-131 on the  
11 date of the election and at the same times statewide.

12       (c) Each voter service center shall provide the services  
13 specified in section 11-1 under the definition of "voter service  
14 center".

15       (d) The clerks may designate and provide for places of  
16 deposit to be open five business days before the election until  
17 7:00 p.m. on the day of the election; provided that the  
18 locations and apparatus for receiving voted ballots can be  
19 securely maintained during the period of use for each election,  
20 and as may be permitted by the operational hours.



PART III

The purpose of this part is to require candidates, candidate committees, and noncandidate committees to file preliminary campaign spending reports on June 30 of a general election year.



1       SECTION 12. Section 11-334, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3       "(a) The candidate and treasurer of the candidate  
4 committee of each candidate whose name will appear on the ballot  
5 shall file preliminary, final, and supplemental reports as  
6 follows:

7       (1) The filing dates for preliminary reports are:

8           (A) April 30 of the year of a general election;

9           (B) June 30 of the year of a general election;

10          ~~[(B)]~~ (C) Thirty calendar days before a primary, initial  
11 special, or initial nonpartisan election;

12          ~~[(C)]~~ (D) Ten calendar days before a primary, initial  
13 special, or initial nonpartisan election;

14          ~~[(D)]~~ (E) October 1 of the year of a general election; and

15          ~~[(E)]~~ (F) Ten calendar days before a general, subsequent  
16 special, or subsequent nonpartisan election;

17 provided that this preliminary report does not

18 need to be filed by a candidate who is

19 unsuccessful in a primary, initial special, or

20 initial nonpartisan election, or a candidate who



1 is elected to office in the primary, initial  
2 special, or initial nonpartisan election.

3 ~~[The] Each preliminary report [filed by the date~~  
4 ~~required under subparagraph (B) shall be current~~  
5 ~~through June 30, and all other preliminary reports]~~  
6 shall be current through the fifth calendar day before  
7 the filing deadline of ~~[those other preliminary~~  
8 ~~reports;]~~ the report;

9 (2) The filing date for the final primary report is twenty  
10 calendar days after a primary, initial special, or  
11 initial nonpartisan election. The report shall be  
12 current through the day of the applicable election;

13 (3) The filing date for the final election period report  
14 is thirty calendar days after a general, subsequent,  
15 subsequent special, or subsequent nonpartisan  
16 election. The report shall be current through the day  
17 of the applicable election. The final election period  
18 report shall be filed by a candidate who is  
19 unsuccessful in a primary, initial special, or initial  
20 nonpartisan election or a candidate who is elected to  
21 office in the primary, initial special, or initial



1 nonpartisan election; provided that a candidate who is  
2 elected and is to be sworn into office [~~prior to~~]  
3 before thirty calendar days after a general,  
4 subsequent, subsequent special, or subsequent  
5 nonpartisan election in which the candidate was  
6 elected, shall file the final election period report  
7 three business days before the date the candidate is  
8 to be sworn into office; and

9 (4) The filing dates for supplemental reports are:

10 (A) January 31 annually; and

11 (B) July 31 after an election year.

12 The report shall be current through December 31 for  
13 the report filed on January 31 and current through  
14 June 30 for the report filed on July 31."

15 SECTION 13. Section 11-336, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) The filing dates for preliminary reports are:

18 (1) June 30 of the year of a general election;

19 [~~(1)~~] (2) Ten calendar days [~~prior to~~] before a primary,  
20 special, or nonpartisan election;



[(2)] (3) Ten calendar days [~~prior to~~] before a general election; and

~~[(3)]~~ (4) October 1 of the year of a general election.

Each preliminary report shall be current through the fifth calendar day ~~[prior to]~~ before the filing of the report."

## PART IV

SECTION 14. The legislature finds that the structure for fines for violations of Hawaii's campaign finance laws is the same for standard noncandidate committees as it is for noncandidate committees making only independent expenditures. This creates an unequal playing field for standard noncandidate committees who are usually run by inexperienced volunteers and often only raise \$30,000 per election period from grassroots, small-dollar donations. If one of these standard noncandidate committees make a mistake, the fines are considered significant. This disincentivizes smaller grassroots noncandidate committees from forming. In contrast, noncandidate committees making only independent expenditures can afford all kinds of compliance review and legal assistance so they are less likely to make mistakes in the first place, and if they do make a mistake, the current fine structure hardly impacts their campaign funds.



1       The purpose of this part is to establish a more reasonable  
2 fine structure for smaller grassroots noncandidate committees  
3 whose aggregate contributions per election period total \$30,000  
4 or less.

5       SECTION 15. Section 11-340, Hawaii Revised Statutes, is  
6 amended to read as follows:

7       **"§11-340 Failure to file report; filing a substantially**  
8 **defective or deficient report.** (a) True and accurate reports  
9 shall be filed with the commission on or before the due dates  
10 specified in this part. The commission may assess a fine  
11 against a person that is required to file a report under this  
12 part if the report is not filed by the due date or if the report  
13 is substantially defective or deficient, as determined by the  
14 commission.

15       (b) The fine for not filing a report by the due date, if  
16 assessed, shall not exceed \$50 per day for the first seven days,  
17 beginning with the day after the due date of the report, and  
18 shall not exceed \$200 per day thereafter; provided that:

19       (1) In aggregate, the fine shall not exceed twenty-five  
20 per cent of the total amount of contributions or





expenditures, whichever is greater, for the period covered by the report; and

(2) The minimum fine for a report filed more than four days after the due date, if assessed, shall be \$200.

(c) Subsection (b) notwithstanding, if a candidate committee does not file the second preliminary primary report or the preliminary general report, or if a noncandidate committee does not file the preliminary primary report or the second preliminary general report by the due date, the fine, if assessed, shall not exceed \$300 per day; provided that, in aggregate:

(1) The fine shall not exceed twenty-five per cent of the total amount of contributions or expenditures, whichever is greater, for the period covered by the report; and

(2) The minimum fine, if assessed, shall be \$300.

(d) If the commission determines that a report is substantially defective or deficient, the commission shall notify the candidate committee by first class mail that:

(1) The report is substantially defective or deficient; and



1 (2) A fine may be assessed.

2 (e) If the corrected report is not filed with the  
3 commission's electronic filing system on or before the  
4 fourteenth day after the notice of defect or deficiency has been  
5 mailed, the fine, if assessed, for a substantially defective or  
6 deficient report shall not exceed \$50 per day for the first  
7 seven days, beginning with the fifteenth day after the notice  
8 was sent, and shall not exceed \$200 per day thereafter; provided  
9 that:

10 (1) In aggregate, the fine shall not exceed twenty-five  
11 per cent of the total amount of contributions or  
12 expenditures, whichever is greater, for the period  
13 covered by the report; and

14 (2) The minimum fine for not filing a corrected report  
15 more than eighteen days after the notice, if assessed,  
16 shall be \$200.

17 (f) Notwithstanding subsections (b), (c), and (e) to the  
18 contrary, the fine for not filing a report by the due date or  
19 for a substantially defective or deficient report, if assessed,  
20 for a noncandidate committee, other than a noncandidate  
21 committee making only independent expenditures, whose aggregate



1 contributions per election period total \$30,000 or less shall  
2 not exceed three per cent of the noncandidate committee's  
3 aggregate contributions from that election period through the  
4 most recent reporting period; provided that:

5 (1) For the first offense, the commission may enter into a  
6 conciliation agreement with the noncandidate committee  
7 to reduce the fine to \$0 with a written warning and  
8 guidance if the commission sees a good faith effort by  
9 the noncandidate committee to resolve the issues;

10 (2) For the second offense, the commission may enter into  
11 a conciliation agreement with the noncandidate  
12 committee to reduce the fine to 1.5 per cent of the  
13 noncandidate committee's aggregate contributions from  
14 that election period through the most recent reporting  
15 period; and

16 (3) For the third offense, the commission may reduce the  
17 fine as the commission sees fit;

18 ~~[(+f)]~~ (g) The commission shall publish on its website the  
19 names of all candidate and noncandidate committees that have  
20 failed to:

21 (1) File a report; or



(2) Correct a report within two weeks from the notice to correct provided by the commission.

~~[(g)]~~ (h) All fines collected under this section shall be deposited into the general fund."

SECTION 16. Section 11-410, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The commission may make a decision or issue an order affecting any person violating any provision of this part or section 281-22 that may provide for the assessment of an administrative fine as follows:

(1) If an individual, other than a noncandidate committee described in paragraph (3), an amount not to exceed \$1,000 for each occurrence or an amount equivalent to three times the amount of an unlawful contribution or expenditure; ~~or~~

(2) If a corporation, organization, association, or labor union, other than a noncandidate committee described in paragraph (3), an amount not to exceed \$1,000 for each occurrence; or

(3) If a noncandidate committee, other than a noncandidate committee making only independent expenditures, whose



1 aggregate contributions per election period total  
2 \$30,000 or less, an amount not to exceed three per  
3 cent of the noncandidate committee's aggregate  
4 contributions from that election period through the  
5 most recent reporting period; provided that:

6 (A) For the first offense, the commission may enter  
7 into a conciliation agreement with the  
8 noncandidate committee to reduce the fine to \$0  
9 with a written warning and guidance if the  
10 commission sees a good faith effort by the  
11 noncandidate committee to resolve the issues;

12 (B) For the second offense, the commission may enter  
13 into a conciliation agreement with the  
14 noncandidate committee to reduce the fine to 1.5  
15 per cent of the noncandidate committee's  
16 aggregate contributions from that election period  
17 through the most recent reporting period; and

18 (C) For the third offense, the commission may reduce  
19 the fine as the commission sees fit;

20 provided that whenever a corporation, organization, association,  
21 or labor union violates this part, the violation may be deemed



1 to be also that of the individual directors, officers, or agents  
2 of the corporation, organization, association, or labor union,  
3 who have knowingly authorized, ordered, or done any of the acts  
4 constituting the violation."

5 PART V

6 SECTION 17. The legislature finds that multi-page and  
7 multi-section campaign advertisements that do not disclose who  
8 paid for the advertisement on every page or section can be  
9 deceptive or misleading to the public who may think that the  
10 advertisement is a news report or endorsement.

11 The purpose of this part is to require multi-page and  
12 multi-section campaign advertisements to include disclosure  
13 notices on every page or section of the advertisement.

14 SECTION 18. Section 11-391, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) Any advertisement that is broadcast, televised,  
17 circulated, published, distributed, or otherwise communicated,  
18 including by electronic means, shall:

- 19 (1) Contain the name and address of the candidate,  
20 candidate committee, noncandidate committee, or other  
21 person paying for the advertisement;



(2) Contain a notice in a prominent location stating  
either that:

(A) The advertisement has the approval and authority  
of the candidate; provided that an advertisement  
paid for by a candidate, candidate committee, or  
ballot issue committee does not need to include  
the notice; or

(B) The advertisement has not been approved by the  
candidate; ~~and~~

(3) Not contain false information about the time, date,  
place, or means of voting~~[-]~~; and

(4) In the case of a multi-page or multi-section  
advertisement, include the notices required under this  
subsection on every page or section of the  
advertisement."

#### PART VI

SECTION 19. This Act does not affect rights and duties  
that matured, penalties that were incurred, and proceedings that  
were begun before its effective date.

SECTION 20. Statutory material to be repealed is bracketed  
and stricken. New statutory material is underscored.



1 SECTION 21. This Act shall take effect upon its approval.

2

INTRODUCED BY: J. C. Nix

JAN 22 2021





# H.B. NO. 430

**Report Title:**

Elections; Voting by Mail; Places of Deposit; Campaign Finance; Preliminary Reports; Fines; Advertisements

**Description:**

Requires ballots returned by mail to be postmarked on or before election day. Deems ballots with illegible postmarks to have been timely postmarked if received by a certain time. Requires the county clerks to coordinate with the United States Postal Service to establish places of deposit at each post office or for the collection of ballots. Requires an additional preliminary campaign spending report to be filed on June 30 of a general election year. Establishes a flexible fine structure for violations of campaign finance laws by certain noncandidate committees. Requires campaign advertisements to include disclosure notices on every page or section of the advertisement.

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

