

JAN 21 2022

A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. The purpose of this Act is to expand the
2 information provided to registered voters in Hawaii to assist
3 them in making an informed decision when casting their ballots
4 by:

5 (1) Requiring the chief election officer to publish and
6 distribute to every registered voter, a voters'
7 pamphlet for each election; and

8 (2) Appropriating funds to allow the chief election
9 officer to publish and distribute a voters' pamphlet
10 for each election.

11 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
12 by adding a new part to be appropriately designated and to read
13 as follows:

14 "PART . VOTERS' PAMPHLET

15 §11-A Definitions. As used in this part:

16 "Ballot issue" means questions concerning a proposed
17 constitutional amendment, county charter amendment, or



1 initiative or referendum issue listed on a ballot at the next
2 applicable election.

3 §11-B Voters' pamphlet; content; format. (a) The chief
4 election officer, with assistance from the clerk for elections
5 that involve county offices and countywide ballot issues, shall
6 prepare and publish a voters' pamphlet for each election.

7 (b) The voters' pamphlet shall contain:

8 (1) Name of each candidate whose name is listed on the
9 ballot and photograph if available;

10 (2) Campaign statement submitted by each candidate in
11 accordance with section 11-G;

12 (3) Information regarding each ballot issue listed on the
13 ballot shall include:

14 (A) The number and title of the ballot issue;

15 (B) An explanatory statement prepared in accordance
16 with section 11-D, by the attorney general for a
17 statewide ballot issue or corporation counsel or
18 county attorney for a countywide ballot issue;

19 (C) A fiscal impact statement prepared by the
20 attorney general for a statewide ballot issue or
21 corporation counsel or county attorney for a



- 1 countywide ballot issue in accordance with
- 2 section 11-E;
- 3 (D) The total number of votes cast for and against
- 4 the ballot issue on the last reading of the
- 5 ballot issue in the senate and house of
- 6 representatives for a statewide ballot issue, or
- 7 county council or charter commission for a
- 8 countywide ballot issue, as applicable;
- 9 (E) An argument advocating the voters' approval of
- 10 the ballot issue together with any statement in
- 11 rebuttal of the opposing argument in accordance
- 12 with section 11-F;
- 13 (F) An argument advocating the voters' rejection of
- 14 the ballot issue together with any statement in
- 15 rebuttal of the opposing argument in accordance
- 16 with section 11-F;
- 17 (G) The names of the committee members established
- 18 under section 11-F(b) for each argument or
- 19 rebuttal statement; and
- 20 (H) The full text of the ballot issue;



(4) Contact information for the campaign spending
commission;

(5) Contact information for the political parties that are
subject to part V of this chapter; and

(6) Additional information, including voter registration
information, voting instructions, and voter education,
as deemed necessary by the chief election officer.

(c) The chief election officer shall determine the format
and layout of the voters' pamphlet; provided that the voters'
pamphlet shall include a table of contents, and be printed in
clear and readable type on a paper of size, quality, and weight
that best serves the voters, as determined by the chief election
officer. The chief election office shall also produce the
voters' pamphlet in braille, large print, audio recordings, or
other media for access and use by individuals who are unable to
review the voters' pamphlet in conventional print and form.

§11-C Voters' pamphlet; distribution; public access. (a)

No later than days before each election, the chief
election officer, with assistance from the clerk for elections
that involve county offices and countywide ballot issues, shall
mail to every registered voter one copy of the voters' pamphlet.



(b) The chief election officer shall also make the voters' pamphlets available for public review in various media through:

(1) Placement of copies at public libraries, polling places, and absentee polling places;

(2) Publication in a daily or weekly publication of statewide circulation or countywide circulation in the affected county for elections that involve county offices and countywide ballot issues; and

(3) Posting electronic copies on the public website of the office of elections.

§11-D Ballot issue; explanatory statement. (a) An explanatory statement shall be prepared by the attorney general for each statewide ballot issue or corporation counsel or county attorney for each countywide ballot issue listed on the ballot. The attorney general, corporation counsel, or county attorney shall write the explanatory statements in clear and concise language and avoid the use of legal and technical terms whenever possible. The chief election officer shall prescribe the content and maximum length of these statements.

(b) The chief election officer shall receive all explanatory statements prepared by the attorney general for



1 statewide ballot issues or corporation counsel or county
2 attorney for countywide ballot issues by a date determined by
3 the chief election officer for each election. The chief
4 election officer may authorize the clerk to receive explanatory
5 statements for countywide ballot issues for each respective
6 county, as applicable; provided that these explanatory
7 statements are received by the chief election officer by the
8 date determined by the chief election officer for each election.

9 **§11-E Ballot issue; fiscal impact statement.** (a) A
10 fiscal impact statement shall be prepared by the department of
11 budget and finance for each statewide ballot issue or by the
12 respective county counterpart agency for each countywide ballot
13 issue listed on the ballot. The department of budget and
14 finance or its county counterpart agency, as applicable, shall
15 consult with appropriate fiscal state or county agencies in
16 preparing the fiscal impact statements. The fiscal impact
17 statements shall be written in clear and concise language and
18 avoid the use of legal and technical terms whenever possible.
19 Fiscal impact statements may include easily understood graphics.
20 The chief election officer shall prescribe the content and
21 maximum length of the fiscal impact statements.



(b) The chief election officer shall receive all fiscal impact statements prepared for ballot issues by a date determined by the chief election officer for each election.

§11-F Ballot issue; argument statements in support or opposition; rebuttals; committees. (a) The chief election officer, in consultation with state and county legislative bodies and clerks, shall appoint the initial two members of each argument statement committee. In making these committee appointments, the chief election officer shall consider legislators and stakeholders known to advocate for or oppose the ballot issue. The initial two members may select up to four additional members, and the committee shall elect a chairperson.

(b) Each committee shall write and submit argument statements advocating the approval or rejection of each statewide or countywide ballot issue and rebuttals of those argument statements. Each committee shall obtain the explanatory and fiscal impact statements prepared in accordance with sections 11-E and 11-F, respectively, before preparing their argument statements. Each committee shall write the argument statements in clear and concise language and avoid the use of legal and technical terms whenever possible. The content



1 and maximum length of these argument statements shall be
2 prescribed by the chief election officer.

3 (c) After a committee submits its initial argument
4 statement to the chief election officer, the chief election
5 officer shall transmit the statement to the opposite committee.
6 The opposite committee may then prepare a rebuttal statement.
7 Rebuttal statements may not interject new points. All argument
8 and rebuttal statements shall be submitted to the chief election
9 officer by dates determined by the chief election officer for
10 each election.

11 (d) The 'voters' pamphlet shall only contain argument and
12 rebuttal statements prepared in accordance with this section.
13 Argument and rebuttal statements may contain graphs and charts
14 supported by factual statistical data and pictures or other
15 illustrations; provided that the chief elections officer may
16 disapprove any picture or illustration determined, in the
17 discretion of the chief elections officer, to be inappropriate.

18 **§11-G Candidate statements.** (a) Candidates whose names
19 are listed on the ballot, may write and submit a statement and
20 photograph of themselves advocating their candidacy. The content



1 and maximum length of the candidate statement shall be
2 prescribed by the chief election officer.

3 (b) A candidate statement shall not contain false or
4 misleading statements about the candidate or the candidate's
5 opponent. A candidate who believes that the candidate has been
6 defamed or libeled under an opponent's statement may commence an
7 action under section 11-H.

8 (c) All candidate statements shall be submitted to the
9 chief election officer by a date determined by the chief
10 election officer for each election.

11 **§11-H Rejection or dispute of arguments or statements.**

12 (a) In the opinion of the chief election officer, if any
13 argument, rebuttal, or candidate statement submitted pursuant to
14 this part for inclusion in the voters' pamphlet contains obscene
15 matter or matter that is otherwise prohibited by law for
16 distribution through postal, electronic, or audio or visual
17 means, the chief election officer may petition the circuit court
18 of competent jurisdiction for a judicial determination that the
19 argument, rebuttal, or candidate statement may be rejected for
20 publication or edited to delete the matter. The court shall not



1 enter an order unless it concludes that the matter is obscene or
2 otherwise prohibited for distribution.

3 (b) A candidate may petition the circuit court of
4 competent jurisdiction for a judicial determination if the
5 candidate believes an argument, rebuttal, or candidate statement
6 submitted for inclusion in the voters' pamphlet contains false
7 or defamatory information. The court shall not enter an order
8 unless it concludes that the statement is false or the
9 petitioner has a very substantial likelihood of prevailing in a
10 defamation action. A petition pursuant to this subsection shall
11 be filed and served no later than days after the deadline
12 for the submission of the argument, rebuttal, or candidate
13 statement to the chief election officer. The State shall not be
14 liable for damages resulting from the publication of the
15 argument, rebuttal, or candidate statement unless the chief
16 election officer publishes the statement in violation of the
17 order entered under this subsection.

18 (c) Parties to a dispute under this section may agree to
19 resolve the dispute by rephrasing the argument, rebuttal, or
20 candidate statement, even if the deadline for submission to the
21 chief election officer has lapsed, unless the chief election



1 officer determines that the process of publication is too far
2 advanced to permit the change. The chief election officer shall
3 promptly provide any revision to any committee entitled to
4 submit a rebuttal statement. If that committee has not yet
5 submitted its rebuttal statement, its deadline to submit a
6 rebuttal statement is extended by days. If it has
7 submitted a rebuttal statement, the committee may revise the
8 rebuttal statement to address the change within days of
9 the filing of the revised argument with the chief election
10 officer.

11 (d) In any action under this section, the committee or
12 candidate shall be named as a respondent and may be served with
13 process by certified mail directed to the address contained in
14 the chief election officer's records for that committee or
15 candidate. The chief election officer shall be a nominal party
16 to an action brought under subsection (b) solely for the purpose
17 of determining the content of the voters' pamphlet. The circuit
18 court shall give these actions priority on its calendar.

19 **§11-I Deceptively similar campaign materials prohibited.**

20 (a) No person or entity may publish or distribute any campaign
21 material that is deceptively similar in design or appearance to



1 a voters' pamphlet that is published by the chief election
2 officer.

3 (b) The chief election officer shall take reasonable
4 measures to prevent or stop violations of this section,
5 including petitioning the court for a temporary restraining
6 order or other appropriate injunctive relief.

7 **§11-J Public inspection; arguments and statements. (a)**

8 An argument, rebuttal, or candidate statement submitted to the
9 chief election officer for publication in the voters' pamphlet
10 shall not be available for public inspection or copying until:

11 (1) In the case of candidate statements:

12 (A) All statements by all candidates who have filed
13 for a particular office have been received,
14 except those who informed the chief election
15 officer that they will not submit statements; or

16 (B) The deadline for submission has passed;

17 (2) In the case of argument statements supporting or
18 opposing a ballot issue:

19 (A) The argument statements on both sides have been
20 received, unless a committee was not appointed
21 for one side; or



(B) The deadline for submission of argument
statements has passed; and

(3) In the case of rebuttal statements:

(A) The rebuttal statements on both sides have been
received, unless a committee was not appointed
for one side; or

(B) The deadline for submission of rebuttal
statements has passed.

(b) Nothing in this section shall prohibit the chief
election officer from releasing information in accordance with
chapter 92F.

§11-K Rules. The chief election officer shall adopt rules
in accordance with chapter 91 to implement this part."

SECTION 3. Section 11-2, Hawaii Revised Statutes, is
amended by amending subsection (d) to read as follows:

"(d) The chief election officer shall be responsible for
public education with respect to voter registration and
information[-] and the publication and distribution of a voters'
pamphlet in accordance with part ."

SECTION 4. There is appropriated out of the general
revenues of the State of Hawaii the sum of \$ or so



1 much thereof as may be necessary for fiscal year 2022-2023 for
2 the chief election officer to publish and distribute a voters'
3 pamphlet for each election starting with the 2024 general
4 election.

5 The sum appropriated shall be expended by the office of
6 elections for the purposes of this Act.

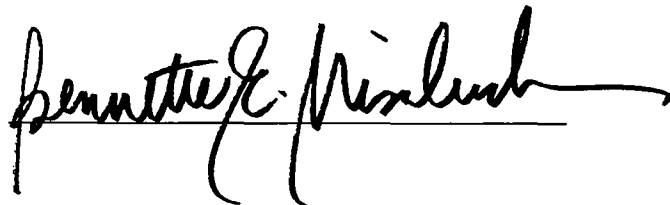
7 SECTION 5. If any provision of this Act, or the
8 application thereof to any person or circumstance, is held
9 invalid, the invalidity does not affect other provisions or
10 applications of the Act that can be given effect without the
11 invalid provision or application, and to this end the provisions
12 of this Act are severable.

13 SECTION 6. In codifying the new sections added by
14 section 2 of this Act, the revisor of statutes shall substitute
15 appropriate section numbers for the letters used in designating
16 the new sections in this Act.

17 SECTION 7. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect on July 1, 2022.

20
INTRODUCED BY:



S.B. NO. 2210

Report Title:

Elections; Voters' Pamphlet; Office of Elections; Chief Election Officer; Appropriation

Description:

Requires the Chief Election Officer, with assistance from the county clerks for elections that involve county offices and countywide ballot issues, to publish and distribute a voters' pamphlet. Appropriates moneys to allow the Chief Election Officer to publish and distribute a voters' pamphlet for each election.

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

