

JAN 21 2022

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# 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 the current  
2       plurality voting method allows a candidate to win an election  
3       with less than a majority of votes when there are more than two  
4       candidates for the office. In elections with many candidates,  
5       the plurality method may result in winners who received small  
6       percentages of votes and who are not widely supported by voters.  
7       For these winners, this may raise concerns about a lack of  
8       public support and confidence and may therefore undermine the  
9       ability of those elected to govern effectively.

10       Ranked choice voting is an election method that allows  
11       voters the option to rank candidates as the voter's first,  
12       second, and subsequent choices. Tabulation begins with each  
13       voter's first choice vote. If no candidate receives a majority  
14       of votes, the candidate with the fewest votes is eliminated and  
15       the tabulation is repeated by using the second choice of voters  
16       whose first choice was eliminated and the first place vote of  
17       all other voters. If no candidate receives a majority in the



1 second tabulation, the process is repeated by eliminating the  
2 candidate with the fewest votes and performing the tabulation  
3 using the next highest choice of voters who had chosen that  
4 candidate.

5       Ranked choice voting assures that elected officials have  
6 the support of a majority or near majority of voters because it  
7 allows voters to indicate their preferences among more than one  
8 candidate. Ranked choice voting allows all voters to vote for  
9 their favorite candidate without fear of helping to elect their  
10 least favorite candidate.

11       The legislature further finds that ranked choice voting has  
12 been used effectively around the world, including in Ireland for  
13 presidential elections, Australia for parliamentary elections,  
14 and London for mayoral elections. Ranked choice voting has been  
15 used by numerous state and local governments in the United  
16 States. In 2010, North Carolina used ranked choice voting for a  
17 statewide judicial election as well as three county-level  
18 judicial elections. Additionally, Berkeley, Oakland, and San  
19 Francisco, California; Telluride, Colorado; Springfield,  
20 Illinois (for overseas voting only); Portland, Maine;



1 Minneapolis and St. Paul, Minnesota; and Memphis, Tennessee have  
2 adopted ranked choice voting.

3 Finally, the legislature finds that Hawaii's voting  
4 systems, including optical scanners, can process ranked choice  
5 voting with little or no difficulty.

6 The purpose of this Act is to authorize the use of the  
7 ranked choice method of voting for all partisan primary  
8 elections, special elections, and nonpartisan general elections  
9 held in this State.

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

13 "§11-A Ranked choice method; applicability. (a) The  
14 ranked choice method shall be used in all of the following state  
15 or county election contests held in the State:

16 (1) Partisan primary elections;

17 (2) Special elections; and

18 (3) Nonpartisan general elections.

19 (b) The chief election officer shall adopt rules pursuant  
20 to chapter 91 to implement the use of mechanical, electronic, or  
21 other means devised for marking, sorting, and counting the



1 ballots and tabulating and transferring the votes in an election  
2 using the ranked choice method; provided that these rules shall  
3 be consistent with the intent and purpose of the ranked choice  
4 method.

5 §11-B Ranked choice method; ballots. (a) In addition to  
6 the requirements under sections 11-111 and 11-119, the ballots  
7 for an election using the ranked choice method shall allow a  
8 voter to rank no more than four candidates for an office in  
9 order of preference. If more than one seat is to be filled by  
10 the same ballot, the voter may be limited to voting for no more  
11 than twice the number of candidates as seats to be filled.  
12 Instructions on the ballot shall include the following  
13 statement: "You may mark up to three alternate choices in order  
14 of preference. Marking a second choice cannot help defeat your  
15 first choice. Marking a subsequent choice cannot help defeat  
16 your higher-ranked choices."

17 (b) The chief election officer or county clerk in the case  
18 of a county election shall print informational materials  
19 containing a facsimile ballot that depicts the official ballot  
20 to be used in the election and voting instructions and



1 procedures for the election using the ranked choice method. The  
2 informational materials shall be:

3 (1) Posted near the entrance to the polling place where  
4 the information can be easily seen by voters prior to  
5 voting;

6 (2) Posted in or near a voting booth;

7 (3) Included in the instruction materials for absentee  
8 ballots;

9 (4) Posted on the website of the office of elections or  
10 county clerk, as applicable; and

11 (5) Included in any voter education materials distributed  
12 by the office of elections or county clerk in the case  
13 of a county election prior to the election using the  
14 ranked choice method.

15 (c) Prior to the printing of ballots for an election using  
16 the ranked choice method, the chief election officer or county  
17 clerk in the case of a county election shall make a sample  
18 ballot available on the website of the office of elections or  
19 county clerk, as applicable. The sample ballot shall be  
20 accessible on the applicable website for no less than fifteen  
21 calendar days prior to printing for public review and comment.



1       §11-C Ranked choice method; method of counting. (a) To  
2 determine the winners in an election using the ranked choice  
3 method, election officials shall initially count the ballots  
4 according to the first choice marked on each ballot. If at the  
5 end of the initial count, one candidate receives a majority of  
6 the first-choice votes cast, then that candidate shall be  
7 declared the winner for the office for which the candidate seeks  
8 election.

9       (b) If at the end of the initial count, no candidate  
10 receives a majority of the first-choice votes cast, the chief  
11 election officer or county clerk, as applicable, shall declare  
12 that no candidate has received a majority of first-choice votes  
13 and that the candidate with the fewest first-choice votes is  
14 defeated. The chief election officer or county clerk, as  
15 applicable, shall recalculate the votes using the continuing  
16 candidate with the next highest ranking on each of the ballots  
17 for each voter who had selected a defeated candidate. If after  
18 the first round of recalculating votes, no candidate has  
19 received a majority of votes cast for the office, the process of  
20 eliminating candidates; recalculating the eliminated candidates'  
21 votes, including any previously recalculated votes, to



1 candidates who remain in the race; and tabulating results shall  
2 continue until one candidate receives a majority of the votes  
3 cast or the majority of the votes cast for the two remaining  
4 candidates. Blank and spoiled votes shall not be tabulated.

5 (c) The ranked choice method may be accelerated, at the  
6 discretion of the chief election officer or county clerk, by  
7 eliminating all candidates with fewer than one per cent of the  
8 first-choice votes cast. In an accelerated process pursuant to  
9 this subsection, the first-choice votes on ballots cast for  
10 eliminated candidates shall be recalculated to the candidates  
11 who remain in the race and received the voters' next highest  
12 ranking on those ballots.

13 (d) Once a winner has been declared by using the ranked  
14 choice method, a certificate of election declaring the results  
15 shall be issued pursuant to section 11-156.

16 §11-D Ranked choice method; vote count. (a) Each voter's  
17 ballot shall count for no more than one candidate per seat in  
18 each round of tabulation. Once a ballot in an election using  
19 the ranked choice method has no more available choices ranked on  
20 it, the ballot shall be deemed exhausted.



1        (b) If a ballot in an election using the ranked choice  
2 method skips a ranking by leaving a ranking blank and then  
3 ranking a candidate at a subsequent ranking, the ballot shall be  
4 deemed exhausted. A ballot that gives two or more candidates  
5 the same ranking shall be deemed exhausted when that ranking is  
6 reached unless only one of the candidates so ranked is still in  
7 the race when the vote is due to be transferred pursuant to  
8 section 11-C(b).

9        (c) If a tie between candidates for last place, and thus  
10 elimination, occurs during any round of tabulation, the tie  
11 shall be resolved by eliminating the candidate who received the  
12 lowest number of combined first-choice votes and recalculated  
13 votes at the previous round of tabulation. In the case of a tie  
14 to which a previous round of tabulation does not apply, or where  
15 the previous round of tabulation was also a tie, the tie shall  
16 be resolved by drawing lots. However, if a tie occurs when  
17 there are only two candidates remaining, the tie shall be  
18 resolved as set forth in section 11-157."

19        SECTION 3. Section 11-1, Hawaii Revised Statutes, is  
20 amended by adding four new definitions to be appropriately  
21 inserted and to read as follows:





1       "Exhausted" means an occurrence during an election using  
2       the ranked choice method when a voter does not rank on the  
3       ballot any candidate that remains in the subsequent rounds, a  
4       ballot contains an overvote at the highest continuing ranking,  
5       or a ballot contains a skipped ranking before its highest  
6       continuing ranking.

7       "Ranked choice method" means a method of casting and  
8       tabulating votes that tabulates a single vote for each voter but  
9       simulates the ballot counts that would occur if all voters  
10      participated in a series of runoff elections, whereby voters are  
11      allowed to rank candidates according to the voter's preference  
12      and, if no candidate obtains a majority of first-choice votes,  
13      votes are transferred in sequential tabulations according to  
14      voters' preferences.

15      "Ranking" means the number assigned on a ballot by a voter  
16      to a candidate in an election using the ranked choice method to  
17      express the voter's preference for that candidate with the  
18      ranking of number one as the highest rank.

19      "Round" means an instance of the sequence of voting  
20      tabulation steps in an election using the ranked choice method."



SECTION 4. Section 11-112, Hawaii Revised Statutes, is amended to read as follows:

"§11-112 Contents of ballot. (a) The ballot shall contain the names of the candidates, their party affiliation or nonpartisanship in partisan election contests, the offices for which they are running, and the district in which the election is being held. ~~[In multimember races the ballot shall state that the voter shall not vote for more than the number of seats available or the number of candidates listed where such number is less than the seats available.]~~

(b) The ballot may include questions concerning proposed state constitutional amendments, proposed county charter amendments, or proposed initiative or referendum issues.

(c) At the chief election officer's discretion, the ballot may have a background design imprinted onto it.

(d) When the electronic voting system is used, the ballot may have pre-punched codes and printed information which identify the voting districts, precincts, and ballot sets to facilitate the electronic data processing of these ballots.

(e) The name of the candidate may be printed with the Hawaiian or English equivalent or nickname, if the candidate so



1 requests in writing at the time the candidate's nomination  
2 papers are filed. Candidates' names, including the Hawaiian or  
3 English equivalent or nickname, shall be set on one line.

4 (f) The ballot shall bear no word, motto, device, sign, or  
5 symbol other than as allowed in this title.

6 (g) The ballot may include language necessary to use the  
7 ranked choice method pursuant to sections 11-A to 11-D."

8 SECTION 5. Section 11-151, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "~~§11-151~~ **Vote count.** [~~Each~~] Except for contests in which  
11 the ranked choice method pursuant to sections 11-A to 11-D are  
12 used, each contest or question on a ballot shall be counted  
13 independently as follows:

14 (1) If the votes cast in a contest or question are equal  
15 to or less than the number to be elected or chosen for  
16 that contest or question, the votes for that contest  
17 or question shall be counted;

18 (2) If the votes cast in a contest or question exceed the  
19 number to be elected or chosen for that contest or  
20 question, the votes for that contest or question shall  
21 not be counted; and



1           (3) If a contest or question requires a majority of the  
2           votes for passage, any blank, spoiled, or invalid  
3           ballot shall not be tallied for passage or as votes  
4           cast except that such ballots shall be counted as  
5           votes cast in ratification of a constitutional  
6           amendment or a question for a constitutional  
7           convention."

8           SECTION 6. Section 11-152, Hawaii Revised Statutes, is  
9           amended to read as follows:

10           "**§11-152 Method of counting.** (a) For votes cast using the  
11           electronic voting system, the ballots shall be taken in the  
12           sealed ballot containers to the counting center according to the  
13           procedure and schedule adopted by the chief election officer to  
14           promote the security of the ballots. For all votes cast in an  
15           election, in the presence of official observers, counting center  
16           employees may start to count the ballots before election day, as  
17           specified in section 11-108.

18           (b) In an election using the ranked choice method of  
19           voting pursuant to sections 11-A to 11-D, votes shall be counted  
20           as provided in section 11-C."



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

"§11-155 Certification of results of election. On receipt of certified tabulations from the election officials concerned, the chief election officer~~[7]~~ in state elections or county clerk in a county election, shall compile, certify, and release the election results by district and precinct after the expiration of the time for bringing an election contest. The certification shall be based on a comparison and reconciliation of the following:

- (1) The results of the canvass of ballots conducted pursuant to chapter 16;
- (2) The audit of records and resultant overage and underage ~~[report,]~~ reports;
- (3) The audit results of the manual audit team;
- (4) The results of any mandatory recount of votes conducted pursuant to section 11-158; and
- (5) All logs, tally sheets, and other documents generated during the election and in the canvass of the election results.



1 A certificate of election or a certificate of results declaring  
2 the results of the election as of election day shall be issued  
3 pursuant to section 11-156; provided that in the event of an  
4 overage or underage, a list of all precincts in which an overage  
5 or underage occurred shall be attached to the certificate. The  
6 number of candidates to be elected receiving the highest number  
7 of votes in any election district shall be declared to be  
8 elected[-]; provided that candidates in contests subject to the  
9 ranked choice method pursuant to sections 11-A to 11-D shall be  
10 declared to be elected pursuant to section 11-C. Unless  
11 otherwise provided, the term of office shall begin or end as of  
12 the close of voter service centers on election day. The  
13 position on the question receiving the appropriate majority of  
14 the votes cast shall be reflected in a certificate of results  
15 issued pursuant to section 11-156."

16 SECTION 8. In codifying the new sections added by section  
17 2 of this Act, the revisor of statutes shall substitute  
18 appropriate section numbers for the letters used in designating  
19 the new sections in this Act.

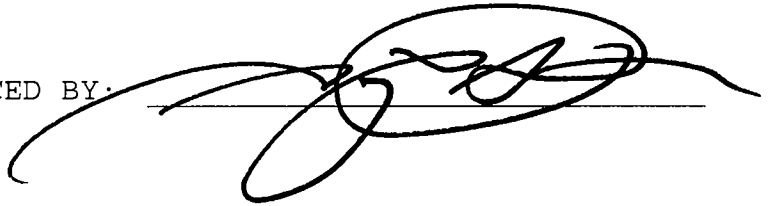
20 SECTION 9. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1       SECTION 10. This Act shall take effect upon its approval.

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

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and loops around itself.

# S.B. NO. 2859

**Report Title:**

Elections; Ranked Choice Method

**Description:**

Authorizes the use of the ranked choice method of voting for all partisan primary elections, special elections, and nonpartisan general elections held in this State.

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

