

JAN 23 2025

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 boards of
2 registration were created to provide immediate resolution of
3 voter challenges ruled on by precinct officials. However, since
4 the State transitioned to a vote-by-mail model, the number of
5 incidents requiring immediate resolution have significantly
6 declined.

7 The legislature further finds that nearly every decision
8 rendered by a board of registration has been appealed to the
9 state appellate courts. Thus, the process for appealing
10 decisions by precinct officials would be streamlined by removing
11 boards of registration.

12 The legislature further notes, however, that the appellate
13 court may not be able to act in a timely fashion as it requires
14 multiple judges to convene. In this respect, it would be more
15 prudent for an on-call circuit judge to hear elections disputes.



1 The purpose of this Act is to replace the boards of
2 registration with an on-call circuit judge for purposes of
3 hearing elections disputes.

4 SECTION 2. Section 11-1, Hawaii Revised Statutes, is
5 amended by adding a new definition to be appropriately inserted
6 and to read as follows:

7 "On-call circuit judge" means a judge of the circuit court
8 who is on call in the respective judicial circuits."

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

11 **"§11-13 Rules for determining residency.** For the purpose
12 of this title, there can be only one residence for an
13 individual, but in determining residency, a person may treat
14 oneself separate from the person's spouse. The following rules
15 shall determine residency for election purposes only:

16 (1) The residence of a person is that place in which the
17 person's habitation is fixed, and to which, whenever
18 the person is absent, the person has the intention to
19 return;

20 (2) A person does not gain residence in any precinct into
21 which the person comes without the present intention



1 of establishing the person's permanent dwelling place
2 within such precinct;

3 (3) If a person resides with the person's family in one
4 place, and does business in another, the former is the
5 person's place of residence; but any person having a
6 family, who establishes the person's dwelling place
7 other than with the person's family, with the
8 intention of remaining there shall be considered a
9 resident where the person has established such
10 dwelling place;

11 (4) The mere intention to acquire a new residence without
12 physical presence at such place, does not establish
13 residency, neither does mere physical presence without
14 the concurrent present intention to establish such
15 place as the person's residence;

16 (5) A person does not gain or lose a residence solely by
17 reason of the person's presence or absence while
18 employed in the service of the United States or of
19 this State, or while a student of an institution of
20 learning, or while kept in an institution or asylum,
21 or while confined in a prison;



(6) No member of the armed forces of the United States, the member's spouse or the member's dependent is a resident of this State solely by reason of being stationed in the State; and

(7) A person loses the person's residence in this State if the person votes in an election held in another state by absentee ballot or in person.

In case of question, final determination of residence shall be made by the clerk, subject to appeal to the ~~[board of registration under part III of this chapter.]~~ on-call circuit judge."

SECTION 4. Section 11-20, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) A voter may contest the transfer on or before election day by presenting evidence that the voter actually resides at the old address which, if found valid by the clerk or the ~~[board of registration,]~~ on-call circuit judge, shall entitle the voter to be returned to the old voting list."

SECTION 5. Section 11-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:



1 "(b) In any case where the clerk refuses to correct the
2 register, the person may appeal to the [~~board of registration~~]
3 on-call circuit judge and the register shall be changed upon a
4 written order of the [~~board of registration,~~] on-call circuit
5 judge, setting forth the reasons for the change. The order
6 shall be directed to the clerk. The clerk, upon receipt of any
7 order from the [~~board of registration,~~] on-call circuit judge,
8 shall correct the register according to the terms of the order,
9 making on the register a reference to the order."

10 SECTION 6. Section 11-25, Hawaii Revised Statutes, is
11 amended as follows:

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

13 "(a) Any registered voter may challenge the right of a
14 person to be or to remain registered as a voter in any precinct
15 for any cause not previously decided by the [~~board of~~
16 ~~registration~~] on-call circuit judge or [~~the supreme court~~] an
17 appellate court in respect to the same person. The challenge
18 shall be in writing, setting forth the grounds upon which it is
19 based, and be signed by the person making the challenge. The
20 challenge shall be delivered to the clerk who shall immediately



1 serve notice thereof on the person challenged. The clerk shall,
2 as soon as possible, investigate and rule on the challenge."

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

4 "(c) If neither the challenger nor the challenged voter
5 appeals the ruling of the clerk, then the voter shall either be
6 allowed to vote or be prevented from voting in accordance with
7 the ruling. If an appeal is taken to the [~~board of~~
8 ~~registration,~~] on-call circuit judge, the challenged voter shall
9 be allowed to vote; provided that the ballot is placed in a
10 sealed envelope to be later counted or rejected in accordance
11 with the ruling on appeal. The chief election officer shall
12 adopt rules in accordance with chapter 91 to safeguard the
13 secrecy of the challenged voter's ballot."

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

16 **"§11-26 Appeal from ruling on challenge; or failure of**
17 **clerk to act.** (a) In cases where the clerk, or voter service
18 center officials, rules on a challenge on election day, the
19 person ruled against may appeal from the ruling to the [~~board of~~
20 ~~registration of the person's county~~] on-call circuit judge for
21 review [~~under part III~~]. The appeal shall be brought before the



1 challenger and challenged party leave the voter service center.
2 If an appeal is brought, both the challenger and the challenged
3 voter may be parties to the appeal.

4 (b) In cases where the clerk rules on a challenge, prior
5 to election day, or refuses to register an applicant, or refuses
6 to change the register under section 11-22, the person ruled
7 against may appeal from the ruling to the ~~[board of registration~~
8 ~~of the person's county.]~~ on-call circuit judge. The appeal
9 shall be brought within ten days of service of the adverse
10 decision. Service of the decision shall be made personally or
11 by registered mail, which shall be deemed complete upon deposit
12 in the mails, postage prepaid, and addressed to the aggrieved
13 person's last known address. If an appeal from a decision on a
14 challenge prior to election day is brought, both the challenger
15 and the challenged voter may be parties to the appeal.

16 (c) The on-call circuit judge shall hear and determine the
17 appeal as expeditiously as practicable. If the appeal is
18 sustained, the ~~[board]~~ on-call circuit judge shall immediately
19 certify that finding to the clerk, who shall thereupon alter the
20 register to correspond to the findings of the ~~[board]~~ on-call



1 circuit judge, and when necessary, the clerk shall notify the
2 voter service center officials of the change in the register."

3 SECTION 8. Chapter 11, Hawaii Revised Statutes, is amended
4 by the title of part IV to read as follows:

5 "PART IV. APPEAL FROM [~~BOARD OF REGISTRATION~~] ON-CALL
6 CIRCUIT JUDGE"

7 SECTION 9. Section 11-51, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "\$11-51 Appeal from [~~board~~] on-call circuit judge. Any
10 affected person, political party, or any of the county clerks,
11 may appeal to the intermediate appellate court[, ~~subject to~~
12 ~~chapter 602, in the manner provided for civil appeals from the~~
13 ~~circuit court~~]; provided that the appeal is brought no later
14 than 4:30 p.m. on the tenth day after the [~~board~~] on-call
15 circuit judge serves its written decision, including findings of
16 fact and conclusions of law, upon the appellant. This written
17 decision of the [~~board~~] on-call circuit judge shall be a final
18 appealable order. The [~~board~~] on-call circuit judge shall not
19 consider motions for reconsideration. Service upon the
20 appellant shall be made personally or by registered mail, which



1 shall be deemed complete upon deposit in the mails, postage
2 prepaid, and addressed to the appellant's last known address."

3 SECTION 10. Section 11-53, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§11-53 Decision, notice; action on.** Immediately upon
6 rendering a final decision upon any appeal, the court shall
7 notify the [~~board of registration~~] on-call circuit judge from
8 which the appeal was taken; and if the decision reverses the
9 decision of the [~~board~~] on-call circuit judge the [~~board~~] on-
10 call circuit judge shall immediately order the register to be
11 corrected to conform with the decision."

12 SECTION 11. Section 11-54, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§11-54 Status pending appeal.** In case of an appeal from
15 a decision of any [~~board of registration~~] on-call circuit judge,
16 the name of the person shall be placed or remain upon the
17 register pending the decision of the appellate courts concerning
18 the same. If the person so registered votes at any election
19 before the appeal is decided and acted upon, the ballot of such
20 voter shall be handled in accordance with section 11-25(c)."



1 SECTION 12. Section 11-96, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§11-96 Records prima facie evidence.** Every record made
4 pursuant to law by [~~a board of registration of voters, or~~] the
5 precinct officials, shall be a prima facie evidence of the facts
6 therein set forth, and shall be received as such in any court or
7 tribunal in which the same is offered in evidence."

8 SECTION 13. Section 14-22, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§14-22 Contested nominations of presidential electors and**
11 **alternates.** (a) If more than one certificate of choice and
12 selection of presidential electors and alternate electors of the
13 same political party or group is filed with the chief election
14 officer, as chairperson of the contested presidential electors'
15 committee hereby constituted, the chief election officer shall
16 notify the state comptroller and attorney general, who are the
17 remaining members of the committee, of the date, time, and place
18 of the hearing to be held for the purposes of making a
19 determination of which set of electors and alternative electors
20 were lawfully chosen and selected by the political party or
21 group. Notice of the hearing shall be given to the chairperson



1 of the state central committee of each political party and the
2 chairperson of each party or group qualified under section 11-
3 113, contestants for the positions of electors and alternate
4 electors by written notice, and to all other interested parties
5 by public notice at least once. A determination shall be made
6 by the committee by majority vote not later than 4:30 p.m. on
7 October 30 of the same year and the determination shall be
8 final. Notice of the results shall be given to the nominees
9 duly determined to have been chosen.

10 (b) The committee shall have ~~[all]~~ the following powers
11 ~~[enumerated in section 11-43.]~~ and authority for:

- 12 (1) The summoning and examining of witnesses and the
13 maintenance of order, including the power to punish
14 for contempt and award witness fees in accordance with
15 section 621-7, by law given to circuit courts; and
16 (2) The administering of oaths in all cases in which oaths
17 are by law authorized."

18 SECTION 14. Section 19-6, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§19-6 **Misdemeanors.** The following persons shall be
21 guilty of a misdemeanor:



1 (1) Any person who offers any bribe or makes any promise
2 of gain, or with knowledge of the same, permits any
3 person to offer any bribe or make any promise of gain
4 for the person's benefit to any voter to induce the
5 voter to sign a nomination paper, and any person who
6 accepts any bribe or promise of gain of any kind as
7 consideration for signing the same, whether the bribe
8 or promise of gain be offered or accepted before or
9 after the signing;

10 (2) Any person who wilfully tears down, destroys, or
11 defaces any election proclamation, poster, notice,
12 facsimile ballot, or election signage issued or posted
13 by authority of law;

14 (3) Any person printing or duplicating or causing to be
15 printed or duplicated any ballot, conforming as to the
16 size, weight, shape, thickness, or color to the
17 official ballot so that it could be cast or counted as
18 an official ballot in an election;

19 (4) Every person who is disorderly or creates a
20 disturbance [~~whereby any meeting of the board of~~
21 ~~registration of voters during an election is disturbed~~



1 ~~or interfered with; or]~~ whereby any person who intends
2 to be lawfully present at any ~~[meeting or]~~ election is
3 prevented from attending; or who causes any
4 disturbance at any election; and every person
5 assisting or aiding or abetting any disturbance;

6 (5) Every person who, either in person or through another,
7 ~~[in any manner breaks up or prevents, or endeavors to~~
8 ~~break up or prevent, the holding of any meeting of the~~
9 ~~board of registration of voters, or]~~ in any manner
10 breaks up or prevents, or endeavors to break up or
11 prevent, the holding of any election;

12 (6) Any person, other than those designated by section 11-
13 132, who remains or loiters within the area set aside
14 for voting as set forth in section 11-132 during the
15 time appointed for voting;

16 (7) Any person, including candidates carrying on any
17 campaign activities within the area described in
18 section 11-132 during the period of time starting one
19 hour before voting opens and ending when voting closes
20 for the purpose of influencing votes. Campaign
21 activities shall include the following:



- 1 (A) Any distribution, circulation, carrying, holding,
2 posting, or staking of campaign cards, pamphlets,
3 posters, and other literature;
4 (B) The use of public address systems and other
5 public communication media;
6 (C) The use of motor caravans or parades; and
7 (D) The use of entertainment troupes or the free
8 distribution of goods and services;
9 (8) Any person who opens a return envelope containing:
10 (A) An absentee ballot voted under chapter 15 other
11 than those persons authorized to do so under
12 chapter 15; or
13 (B) A ballot voted by mail under part VIIA of chapter
14 11 other than those persons authorized to do so
15 under part VIIA of chapter 11;
16 (9) Any unauthorized person found in possession of any
17 voting machine or keys thereof;
18 (10) Any person other than the postal service or the clerk
19 as authorized in section 11-109, who sponsors,
20 establishes, or displays a collection receptacle for



1 the purpose of receiving voted mail ballots or ballot
2 return envelopes in an election; and

3 (11) Every person who wilfully violates or fails to obey
4 any of the provisions of law, punishment for which is
5 not otherwise specified in this chapter."

6 SECTION 15. Chapter 11, part III, Hawaii Revised Statutes,
7 is repealed.

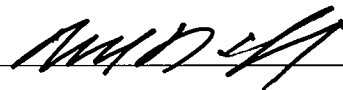
8 SECTION 16. This Act does not affect rights and duties
9 that matured, penalties that were incurred, and proceedings that
10 were begun before its effective date.

11 SECTION 17. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 18. This Act shall take effect on July 1, 2025.

14

INTRODUCED BY:



By Request



S.B. NO. 1515

Report Title:

Elections; Boards of Registration; On-Call Circuit Judge

Description:

Replaces the boards of registration with on-call circuit judges to hear elections disputes.

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