

ACT 138

A Bill for an Act Providing for Party Primary Elections, Amending Chapters 11 and 149 of the Revised Laws of Hawaii 1955, as Amended.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 11-90, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the definition of the word "Primary" and substituting therefor the following:

"'Primary', a preliminary election in which voters directly nominate the candidates of the parties for their respective offices."

SECTION 2. Section 11-94, Revised Laws of Hawaii 1955, as amended is hereby amended by deleting from the first sentence of the second principal paragraph the following:

" ; provided, that those filed for nonpartisan candidates may omit the words 'and members of the party,' and the certificate at the foot thereof." and by adding a period after the word "thereon" in line two thereof, and is further amended by adding the following paragraph after the last paragraph:

"Nomination papers shall not be filed in behalf of any person for more than one party."

SECTION 3. Section 11-95, Revised Laws of Hawaii 1955, is hereby amended by deleting the section in its entirety and section 11-94.5, Revised Laws of Hawaii 1955, as amended, is hereby further amended by renumbering said section to section 11-95.

SECTION 4. Section 11-96, Revised Laws of Hawaii 1955, is hereby amended by deleting the section in its entirety and substituting therefor the following:

"**Sec. 11-96. Party candidates.** Nomination papers for offices to be voted for at a primary election shall be accepted only from those candidates who have a party designation."

SECTION 5. Section 11-98, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the section in its entirety and substituting therefor the following:

"**Sec. 11-98. List of candidates.** At least fifteen days before any primary, the lieutenant governor shall transmit to each county clerk certified lists containing the names of all persons, with their party designation, for whom nomination papers have been duly filed in his office and who are entitled to be voted for in the county at the primary, also designating the office for which each is a candidate.

The county clerk shall, at least twelve days before any primary, prepare lists containing the names of all persons, with their party

designation, for whom nomination papers have been duly filed in his office, and who are entitled to be voted for in the county at the primary, also designating the office for which each is a candidate.

The clerk shall transmit without delay to each candidate named in the lists a true copy of such lists."

SECTION 6. Section 11-99, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the section in its entirety and substituting therefor the following:

"Sec. 11-99. Official party ballots. There shall be only one primary ballot for each party containing the names of all persons to be voted for, and the offices for which they are candidates, including United States Senators, members of the United States House of Representatives, governor, lieutenant governor, state senators, state representatives, and the appropriate county and city and county officers. The ballot shall be printed upon paper of uniform weight, shape and thickness, but the primary ballots of no two parties shall be of the same color or tint; provided that where voting machines are used, it shall be set up so that each machine shall contain only one party's candidates with an equal number of machines for each of the parties at each precinct which uses machines. Before being finally printed by the respective county clerks, sample ballots or proofs thereof shall be submitted to the lieutenant governor for his approval as to uniformity of size, weight, shape and thickness and differentiation of color or tint for the respective party ballots, which approval must be obtained and shall be final. In the case of voting machines, all candidates of one office shall be listed in a single row either vertically or horizontally as the case may be.

The names and only the names of all candidates shall be printed on their respective party ballots in alphabetical order, with their Hawaiian equivalents, if requested as hereinbefore provided. The ballots, shall be distributed by the county clerk within the intervals of the time and in the manner required by the general election and county election laws as to state and county ballots and shall conform in all other respects except as otherwise required by this part, to the requirements of law governing general elections.

At the top of the primary ballot shall be printed in large capital letters, words designating the ballot; if a Democratic ballot, the designating words shall be "DEMOCRATIC PRIMARY BALLOT", if a Republican ballot, the designating words shall be "REPUBLICAN PRIMARY BALLOT", and in the like manner for each party.

The primary ballots shall be in such form as may be prescribed by the lieutenant governor not inconsistent with the provisions of this part and other provisions of law, and shall conform to the requirements of the several districts and counties."

SECTION 7. Section 11-100, Revised Laws of Hawaii 1955, as amended, is hereby further amended as follows:

(a) The words "a specimen ballot" shall be deleted and the words "specimen ballots" shall be substituted therefor;

(b) The words "a copy" shall be deleted wherever they appear and the word "copies" shall be substituted therefor;

(c) The words "the official ballot" shall be deleted and the words "official party ballots" shall be substituted therefor.

SECTION 8. Section 11-101, Revised Laws of Hawaii 1955, is hereby amended by adding at the end thereof a new sentence to read as follows:

“In all primary elections held in 1970 and subsequently the clerk shall include on the list of duly qualified electors information to show the party ballot selected by each of such electors at the next preceding primary election or the registered change of party ballot selection by any such elector.”

SECTION 9. Section 11-102, Revised Laws of Hawaii 1955, is hereby amended by deleting the second paragraph thereof and substituting the following:

“Any person desiring to vote at a primary shall state his name, residence and party preference to the inspectors of election. If the person desiring to vote is not challenged, one of the inspectors shall give to him one and only one official primary ballot of the party designated folded in a uniform manner so that the contents thereof shall be concealed, or direct him to the appropriately marked machine of the party of his choice. The voter shall proceed into one of the compartments provided for the purpose and therein mark the ballot. In the instance of a paper ballot, he shall then refold the ballot in the same folds as it was handed to him and return it to an inspector. The marked ballot shall immediately be placed in the ballot box provided for the purpose.”

SECTION 10. Chapter 11, part II, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new section to be designated and to read as follows:

“**Sec. 11-102.5. Primary voting regulation.** No person shall be entitled to vote at a primary election who shall refuse to state his party preference as required by this part.

In any primary election in the year 1970 and thereafter, no person shall be entitled to select a party ballot other than the one he selected at the next preceding primary election in which he voted, unless, prior to three months preceding the primary election in which such ballot is to be selected, he has registered with the county clerk to change his selection of party ballot to that party ballot which he now chooses to select. If a person did not vote in the next preceding primary election he shall be entitled to select any one party ballot.

Any provision in this Act to the contrary notwithstanding, at all primary elections to be held prior to the year 1970, all duly registered voters shall be entitled to select any one party primary ballot without being restricted by a selection of ballot at any previous primary election.

The several boards of inspectors shall transmit to the county clerks, immediately after every primary election, the list of voters furnished by the county clerk and a list showing the names of all who voted in the primary; provided, however, that after each primary election held in the year 1968 and thereafter, said lists of all who voted shall also show the party ballot selected by each voter.”

SECTION 11. Section 11-103, Revised Laws of Hawaii 1955, is hereby amended by deleting the second sentence thereof and substituting the following:

“The challenge shall be on the grounds that the elector is not the person he alleges himself to be, that the elector is not entitled to vote in that precinct, or that the elector is not entitled to vote on the grounds specified in section 11-102.5.”

SECTION 12. The first sentence of section 11-104, Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting the sentence in its entirety and substituting therefor the following:

“Immediately upon the closing of the polls at the primary the inspectors shall count the votes cast, in the same manner as provided by law for the counting of votes at an election.”

SECTION 13. Section 11-105, Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting the first paragraph therefor and substituting the following:

“The person receiving the greatest number of votes at a primary as a candidate of a party for an office shall be the candidate of the party at the following election; provided, that any candidate for any county office who is the sole candidate for such office at the primary election, or who is only opposed by a candidate or candidates running on his own party ticket and is not opposed by any candidate running on any other ticket and is nominated at such primary as his party’s candidate for such office, shall, after such primary, be deemed and declared to be duly and legally elected to the office for which he is a candidate at such primary, regardless of the number of votes received by him.”

SECTION 14. Section 149-33, Revised Laws of Hawaii 1955, is hereby amended by deleting the third sentence thereof and substituting the following:

“The primary ballot of each party shall be separately printed upon paper of uniform weight, shape and thickness, but the primary ballots of no two parties shall be of the same color or tint; provided that when voting machines are used, they shall be set up so that each machine shall contain only one party’s candidates with an equal number of machines for each of the parties at each precinct which uses machines. Primary ballots shall conform in all other respects, except as otherwise required by chapter 11, part II, Revised Laws of Hawaii 1955, as amended by this Act, to the requirements of law governing general elections. The primary ballot of each party shall be arranged and printed so as to display conspicuously designating words. At the top of the ballot shall be printed in large capital letters, words designating the ballot; if a Democratic ballot, the designating words shall be “DEMOCRATIC PRIMARY BALLOT”, if a Republican ballot, the designating words shall be “REPUBLICAN PRIMARY BALLOT”, and in like manner for each party.”

SECTION 15. Section 11-51, Revised Laws of Hawaii 1955, is hereby amended by deleting said section in its entirety and substituting therefor the following:

“**Sec. 11-51. Method of folding ballot.** Before delivering a ballot to a voter, the inspector shall fold it in such manner as prescribed by the clerk of the several counties, so as to conceal the contents thereof.”

SECTION 16. This Act shall not apply to the election of non-partisan

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officers nor shall it apply to any matter not involving party candidates.

SECTION 17. This Act shall take effect upon its approval.

(Approved June 3, 1963.) **H.B. 12.**
