

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended as follows:

(a) Section 11-15, Hawaii Revised Statutes, is amended to read:

**“Sec. 11-15 Application to register.** Any person qualified to and desiring to register as a voter in any county, may present himself at any time during business hours to the clerk of the county, then and there to be examined under oath as to his qualifications as a voter. Each applicant shall make and subscribe to an application in the form of an affidavit.

The affidavit shall contain the following information:

- (1) Name;
- (2) Social security number;
- (3) Date of birth;
- (4) Age;
- (5) Residence;
- (6) Place of current employment, if any;
- (7) That the residence stated in the affidavit is not simply because of the person’s presence in the State but that the residence was acquired with the intent to make Hawaii the person’s legal residence with all the accompanying obligations therein;

(8) That the person is a citizen.

The applicant shall swear to the truth of the allegations in his application before the clerk, who is authorized to administer oaths. Unless contested by a qualified voter, the clerk may accept, as prima facie evidence, the allegation of the applicant in information required in the affidavit in item 7. In any other case where the clerk shall so desire or believe the same to be expedient, he may demand that the applicant furnish substantiating evidence to the allegations of his application.

If the clerk is satisfied that the applicant is entitled to be registered as a voter, the applicant shall then affix his signature to the affidavit and the clerk shall affix his signature; or the clerk shall enter 'Unable to sign' and the reason in the space for the applicant's signature. A voter having once been registered shall not be required to register again for any succeeding election, except as hereinafter provided. The affidavits so approved or accepted by the clerk shall thereupon be numbered appropriately, filed by the clerk and kept in some convenient place so as to be open to public inspection and examination.

The clerk may designate a subordinate or subordinates to act in his place and stead in all matters covered by this section, provided that no parent, spouse, sibling, or offspring of a candidate, nor the candidate, shall be eligible to serve as a subordinate."

(b) Section 11-92, Hawaii Revised Statutes, is amended to read:

**"Sec. 11-92 Precincts; polling places; central polling areas; special, special primary and special general election precincts.** The chief election officer shall issue a proclamation establishing one or more precincts in each representative district. No earlier than thirty days prior to the issuance of the proclamation, the chief election officer shall notify the political parties and publish a notice of his intent once in a newspaper of general circulation. The chief election officer shall provide a suitable polling place for each precinct. Schools, police stations, fire stations, and other publicly owned or controlled buildings shall, whenever possible and convenient, be used as polling places. The chief election officer shall make arrangements for the rental or erection of suitable shelters for this purpose whenever public buildings are not available and shall cause such polling places to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for elections on any island. It shall be lawful for the chief election officer to establish a central polling area for contiguous precincts, notwithstanding district boundaries, when it is convenient and readily accessible for the voters of the precinct involved.

Before the establishment of any central polling area the chief election officer shall notify the political parties and publish a notice once in a newspaper of general circulation. The notice shall state the time and place of a hearing pursuant to chapter 91. After the hearing a regulation shall be issued establishing the central polling place.

No change shall be made in the boundaries of any precinct nor shall a central polling area be established later than 4:30 p.m. on the ninetieth day prior to an election.

Notwithstanding the last paragraph if the chief election officer or the county clerk in county election determines that the number of candidates or issues on the ballot in a special, special primary or special general election

does not require the full number of established precincts, such precincts may be consolidated for the purposes of the special, special primary or special general election into a small number of special, special primary or special general election precincts. A special, special primary or special general election precinct shall be considered the same as an established precinct for all purposes, including precinct official requirements provided in section 11-71. Not later than 4:30 p.m. on the tenth day prior to the special, special primary or special general election the chief election officer or the county clerk shall give public notice in a newspaper of general circulation in the area in which the special, special primary or special general election is to be held of the special, special primary or special general election precincts and their polling places. Notices of such consolidation shall also be posted on election day at the established precinct polling place giving the location of the special, special primary or special general election precinct polling place.”

(c) Section 11-173.5, Hawaii Revised Statutes, is amended to read:

**“Sec. 11-173.5 Contests for cause in primary and special primary elections.** (a) In primary and special primary election contests, the complaint shall be filed in the office of the clerk of the supreme court not later than 4:30 p.m. on the sixth day after a primary or special primary election and shall be accompanied by a deposit of \$25 for costs of court. The clerk shall issue to the defendants named in the complaint a summons to appear before the supreme court not later than 4:30 p.m. on the fifth day after service thereof.

(b) In primary and special primary election contests the court shall hear the contest in a summary manner and at the hearing the court shall cause the evidence to be reduced to writing and shall not later than 4:30 p.m. on the fourth day after the return give judgment fully stating all findings of fact and of law. The judgment shall decide what candidate was nominated or elected, as the case may be, in the manner presented by the petition, and a certified copy of the judgment shall forthwith be served on the chief election officer or the county clerk, as the case may be, who shall place the name of the candidate declared to be nominated on the ballot for the forthcoming general or special general election. The judgment shall be conclusive of the right of the candidate so declared to be nominated; provided, that this subsection shall not operate to amend or repeal section 12-41.”

SECTION 2. Chapter 12, Hawaii Revised Statutes, is amended to read:

(a) Section 12-4, Hawaii Revised Statutes, is amended to read:

**“Sec. 12-4 Nomination papers: qualifications of signers.** No person shall sign the nomination papers of more than one candidate, partisan or nonpartisan, for the same office, unless there is more than one office in a class in which case no person shall sign papers for more than the actual number of offices in a class. Nomination papers shall be construed in this regard according to priority of filing, and the name of any person appearing thereon shall be counted only so long as this provision is not violated, and not thereafter.

No name on nomination papers shall be counted, unless the signer is a registered voter, eligible to vote for the candidate at the next election. To determine if the signers are eligible to vote for the candidate, the chief elec-

tion officer or clerk may use lists prepared in accordance with section 11-24.”

(b) Section 12-6, Hawaii Revised Statutes, is amended to read:

“**Sec. 12-6 Nomination papers: time for filing; fees.** Nomination papers shall be filed as follows:

- (1) For members of Congress, state, and county offices, with the chief election officer or county clerk in case of county offices not later than 4:30 p.m. on the forty-fifth day prior to the primary, special primary or special election (but if such a day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding); provided that any state candidate from the counties of Hawaii, Maui, and Kauai may file his declaration of candidacy with his respective county clerk. The clerk shall transmit to the office of the chief election officer the state candidate’s declaration of candidacy without delay. However, if a special primary or special election is to be held by a county and the county charter requires that the council shall issue a proclamation calling for the election to be held within a specified period of time, and if that requirement would not allow the filing of nomination papers with the appropriate office by the sixtieth day prior to the day for holding such primary or special election, the council shall establish the deadline for the filing of nomination papers in the proclamation calling for the election.
  - (2) There shall be deposited with each nomination a fee on account of the expenses attending the holding of the primary, special primary or special election which shall be paid into the treasury of the State, or the county, as the case may be, as a realization:
    - (A) For governor, lieutenant governor, United States senators, and United States representatives—\$75;
    - (B) For mayor—\$50; and
    - (C) For all other offices—\$25.
  - (3) Upon the receipt by the chief election officer or the county clerk of the nomination papers of a candidate, the day, hour, and minute when it was received shall be endorsed thereon.”
- (c) Section 12-31, Hawaii Revised Statutes, is amended to read:

“**Sec. 12-31 Selection of party ballot.** No person shall be entitled to vote at a primary or special primary election who shall refuse to state his party preference or nonpartisanship to the precinct officials, unless he wishes to vote only for the board of education. If the person desiring to vote is not challenged, one of the precinct officials shall give him one and only one official primary or special primary ballot of the party designated, or the official non-partisan primary or special primary ballot, or the official board of education ballot, if so designated.

In any primary or special primary election in the year 1970 and thereafter, no person shall be entitled to select a primary or special primary ballot of a type other than that which he had selected at the next preceding primary or special primary election in which he voted, unless, not later than 4:30 p.m. on the ninetieth day preceding the primary or special election (but if such

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day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding) in which such ballot is to be selected, he has registered with the county clerk to change his party to another party or to a nonpartisan designation. A voter shall be entitled to select any one primary or special primary ballot if:

- (1) He did not vote in any preceding primary or special primary election;  
or
- (2) His party is disqualified under section 11-61; or
- (3) He voted in a board of education race only; or
- (4) He is a newly registered voter; or
- (5) He reregisters after having his name removed from the general county register.

In all primary or special primary elections the precinct officials shall note the voter's party selection where the voters list indicates no previous party selection. This information shall be forwarded to the county clerk."

(d) Chapter 12, Part IV, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 12-42 Unopposed candidates declared elected.** (a) Any candidate running for any office in the State of Hawaii in a special election or special primary election who is the sole candidate for that office shall, after the close of filing of nomination papers, be deemed and declared to be duly and legally elected to the office for which he is a candidate.

(b) Any candidate running for any office in the State of Hawaii in a special general election who was only opposed by a candidate or candidates running on his own ticket in the special primary election and is not opposed by any candidate running on any other ticket, nonpartisan or otherwise, and is nominated at the special primary election shall, after the special primary, be deemed and declared to be duly and legally elected to the office for which he is a candidate at the special primary election regardless of the number of votes received by him."

SECTION 3. Chapter 15, Hawaii Revised Statutes, is amended as follows:

(a) Section 15-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 15-1 Who may vote by absentee ballot.** (a) Any voter who will be unable to appear at his polling place during the hours of voting at any election because of absence from the island, county, or district in which he is registered may cause his vote to be cast by absentee ballot subject to this chapter.

(b) Any voter who will be unable to appear at the polls on election day for medical, physical, or religious reasons shall be entitled and enabled to vote an absentee ballot as may be prescribed by the rules and regulations promulgated by the chief election officer; provided that any voter who by reason of physical disability is unable to mark his ballot shall be authorized to receive assistance in marking thereof.

(1) Any voter competent to vote at any election shall be allowed to vote under this section if he falls into the following categories:

- (A) Confined in any hospital;
  - (B) Confined in any public institution for the care of indigents or aged persons;
  - (C) Confined in any leprosy institution or settlement located on the same island in which the person is registered to vote, or if the person is registered to vote in the county of Kalawao, and due to physical ailments or infirmities is unable to attend the polls; or
  - (D) Confined in any penal institution for a misdemeanor or as a pre-trial detainee and is unable to attend the polls.
- (2) Any voter who is confined to his home by reason of illness or physical disability which will prevent him from attending the polls or who by reason of any religious belief, ruling, doctrine or standard will be prevented from attending the polls.
- (c) Any other voter unable to appear at the polls on election day for causes determined by the chief election officer by rule to be good and sufficient, shall be entitled to vote as provided by this chapter and the rules and regulations promulgated thereunder.”

(b) Section 15-7, Hawaii Revised Statutes, is amended to read:

“**Sec. 15-7 Absentee voter precinct.** An absentee precinct shall be established at the office of the respective county clerks or a place designated by the clerk in the county seat. The absentee precinct shall be established under the precinct requirements of chapter 11; provided section 11-72 shall be applied to the absentee precinct instead of to the representative district. The absentee precinct shall meet before election day to handle the absentee voters who are voting in person, and the county clerk shall determine if there should be more than one such precinct in the county. The county clerk shall also determine the number of precinct officials needed to man the precinct. All absentee precincts established to handle absentee voters who are voting in person shall be closed at 4:30 p.m. the day before the election.

The absentee precinct shall be reopened on election day for the purpose of counting all absentee ballots received in the mail or delivered to the county clerk. In no case shall the reply envelope be opened prior to election day.

The county clerk may appoint deputy county clerks to handle absentee voting in person in remote areas where there is no county clerk’s office. Deputy county clerks shall also be appointed in those areas where past experience has indicated that it would be a hardship on the voters to require them to appear at the clerk’s office.”

(c) Section 15-8, Hawaii Revised Statutes, is amended to read:

“**Sec. 15-8 Receipt and disposition of absentee ballots.** Upon receipt of the envelope marked ‘Absentee Ballot Enclosed’ from any person voting under this chapter, the county clerk or the precinct officials of the absentee precinct shall time stamp the reply envelope and deposit it in the correct absentee ballot container. On election day the container shall be opened by the precinct officials of the absentee precinct. Prior to opening the envelopes and counting the ballots, the envelopes shall be checked for the following:

- (1) Sufficiency of statement;
- (2) If the signature corresponds with the absentee request or register;

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(3) If the voter is a registered voter and has complied with the requirements of section 11-15 or 11-16; and

(4) If the envelope appears to be tampered with.

If an absentee precinct is established at the county clerk's office prior to election day, the precinct officials of the precinct shall check the envelopes for the above requirements prior to depositing them in the container. All envelopes that have been marked as invalid prior to election day shall be rechecked on election day.

If any of the above requirements is not met, the precinct official shall mark across the face of the envelope 'Invalid,' kept in the custody of the county clerk and disposed of as prescribed for ballots in section 11-154. If the above requirements are met, the envelope may be opened and the ballot counted as prescribed by law for the voting system in use.

In those absentee precincts using paper ballots, counting of absentee votes may begin after noon of election day. In those absentee precincts using electronic ballot cards the absentee ballots shall be transported in sealed containers and under security to the counting center for counting. In no case, however, shall the results of the absentee count become publicly known before the polls have officially closed. In absentee precincts using voting machines, the machine shall not be read until the polls have officially closed.

Any person violating this section shall be guilty of an election offense under section 19-6."

SECTION 4. Chapter 17, Hawaii Revised Statutes, is amended as follows:

(a) Section 17-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 17-2 United States Representative.** When a vacancy occurs in the representation of this State in the United States House of Representatives, the chief election officer shall issue a proclamation for an election to fill the vacancy unless the unexpired term is for less than one hundred eighty days. If the unexpired term is less than one hundred eighty days, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party as the person he succeeds. The proclamation shall be issued not later than on the sixtieth day prior to the election to fill the vacancy and shall contain the date, time, and places where the special election is to be held, the time within which nomination papers shall be filed, the time for transmitting to county clerks the notice designating the offices for which candidates are to be elected, the time for transmitting to county clerks lists of candidates to be voted for at the special election and such other matters as provided for in section 11-91 and which are not inconsistent with this section. The special election shall be conducted and the results ascertained so far as practicable, in accordance with this title. Pending the election, the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election and qualification of the person duly elected to fill the vacancy and shall be a registered member of the same political party as the representative causing the vacancy."

SECTION 5. Chapter 19, Hawaii Revised Statutes, is amended as follows:

- (a) Section 19-2, Hawaii Revised Statutes, is repealed in entirety.  
 (b) Section 19-6, Hawaii Revised Statutes, is amended to read:

**“Sec. 19-6 Misdemeanors.** The following persons shall be guilty of a misdemeanor:

- (1) Any person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for his benefit, to any voter to induce him to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing.
- (2) Any person who wilfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or card of instructions or specimen ballot, issued or posted by authority of law.
- (3) Any person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness, or color, to the official ballot so that it could be cast or counted as an official ballot in an election.
- (4) Every person who is disorderly or creates a disturbance whereby any meeting of the precinct officials or the board of registration of voters during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at any election; and every person assisting or aiding or abetting any disturbance.
- (5) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any meeting of the board of registration of voters, or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election.
- (6) Any person, other than those designated by section 11-132, who remains or loiters within the area set aside for voting as set forth in section 11-132 during the time appointed for voting.
- (7) Any person, including candidates carrying on any campaign activities within the area described in section 11-132 on the day on which an election is being held for the purpose of influencing votes. Campaign activities shall include but not be restricted to the following:
  - (A) The distribution, circulation, posting, or staking of campaign cards, pamphlets, and other literature;
  - (B) The use of public address systems and other public communication media;
  - (C) The use of motor caravans or parades;
  - (D) The use of entertainment troupes or the free distribution of goods and services.

The “day of election” as used in this paragraph shall commence at midnight of the day before the polls are opened and shall end with the closing of the polls.



- (8) Any person who opens a reply envelope containing an absentee ballot voted under chapter 15 or a mailing ballot voted under chapter 15A other than those authorized to do so under chapters 15 and 15A.
  - (9) Any voter who makes any false statement in any affidavit required for absentee voting under chapter 15 or for voting by mailing ballots under chapter 15A.
  - (10) Every person who, being a candidate for election, or an agent of any candidate, or a member of any committee acting for or on behalf of any candidate, or in charge of any committee or political party to which money is contributed during an election or which spends money in any election, fails to file the statement of expenses or of lack of expenses, as required by law.
  - (11) Any person making any anonymous contribution to any candidate, party, or committee as defined in section 11-191, or any candidate, party, or committee receiving any such contribution or entering any contribution falsely in his accounts.
  - (12) Any unauthorized person found in possession of any voting machine or keys thereof.
  - (13) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for.
  - (14) Any person who, knowing that he is not entitled to register or to vote, registers or votes; and any person taking any oath in this title prescribed or authorized to be administered and wilfully making oath to any false statement of fact, or wilfully making a false answer to any question put to him thereunder.”
- (c) Section 19-7, Hawaii Revised Statutes, is amended to read:

“**Sec. 19-7 Penalty.** Any person convicted of a misdemeanor under this chapter shall be fined not more than \$1000 or imprisoned not more than one year, or both.”

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 7. This Act shall take effect upon its approval.  
(Approved May 24, 1974.)

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\*Edited accordingly.