ACT 239   H.B. NO. 3596

A Bill for an Act Relating to the Disposition of an Election Tie.

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

SECTION 1. Section 11-1, Hawaii Revised Statutes, is being amended to add a definition to be appropriately inserted and to read as follows:

""Voter turnout," means the total number of voters at an election as determined by the number of ballot cards tabulated by the computer or of paper ballots counted by the precinct officials. When there is more than one ballot card issued to each voter, "voter turnout" means the total count of the alpha ballot card with the highest number of cards tabulated by the computer. Ballots that are blank or ballots that are rejected for any reason shall be included in the count of the total number of voters."

SECTION 2. Section 11-157, Hawaii Revised Statutes, is amended to read as follows:

"**§11-157 In case of tie.** In case of the failure of an election by reason of the equality of vote between two or more candidates, the tie shall be decided by the chief election officer or county clerk in the case of county elections in accordance with the following procedure:

(1) In the case of an election involving a seat for the senate, house of representatives, board of education, or county council where only voters within a specified district are allowed to cast a vote, the winner shall be declared as follows:

(A) For each precinct in the affected district, an election rate point shall be calculated by dividing the total [number of registered voters] voter turnout in that precinct by the total [number of registered voters] voter turnout in the district. For the purpose of this subparagraph, the absentee votes cast for the affected district

shall be treated as a precinct. The election rate point shall be calculated by dividing the total absentee votes cast for the affected district by the total [number of registered voters] <u>voter turnout</u> in that district. All election rate points shall be expressed as decimal fractions rounded to the nearest hundred thousandth.

(B)   The candidate with the highest number of votes in a precinct shall be allocated the election rate point calculated under subparagraph (A) for that precinct. In the event that two or more persons are tied in receiving the highest number of votes for that precinct, the election rate point shall be equally apportioned among those candidates involved in that precinct tie.

(C)   After the election rate points calculated under subparagraph (A) for all the precincts have been allocated as provided under subparagraph (B), the election rate points allocated to each candidate shall be tallied and the candidate with the highest election rate point total shall be declared the winner.

(D)   If there is a tie between two or more candidates in the election rate point total, the candidate who is allocated the highest election rate points from [the greatest number of precincts] <u>the precinct with the largest voter turnout</u> shall be declared the winner.

(2)   In the case of an election involving a federal office or an elective office where the voters in the entire State or in an entire county are allowed to cast a vote, the winner shall be declared as follows:

(A)   For each representative district in the State or county, as the case may be, an election rate point shall be calculated by dividing the total [number of registered voters] <u>voter turnout</u> in that representative district by the total [number of registered voters] <u>voter turnout</u> in the state, county, or federal office district, as the case may be; provided that for purposes of this subparagraph:

(i)   The absentee votes cast for a statewide, countywide, or federal office shall be treated as a separate representative district and the election rate point shall be calculated by dividing the total absentee votes cast for the statewide, countywide, or federal office by the total [number of registered voters] <u>voter turnout</u> in the state, county, or federal office district, as the case may be.

(ii)   The overseas votes cast for any election in the State for a federal office shall be treated as a separate representative district and the election rate point shall be calculated by dividing the total number of overseas votes cast for the affected federal office by the total [number of registered voters] <u>voter turnout</u> in the affected federal office district. The term ''overseas votes'' means those votes cast by absentee ballots for a presidential election as provided in section 15-3.

All election rate points shall be expressed as decimal fractions rounded to the nearest hundred thousandth.

(B)   The candidate with the highest number of votes in a representative district shall be allocated the election rate point calculated under subparagraph (A) for that district. In the event that two or more persons are tied in receiving the highest number of votes for that district, the election rate point shall be equally apportioned among those candidates involved in that district tie.

    (C)   After the election rate points calculated under subparagraph (A) for all the precincts have been allocated as prescribed under subparagraph (B), the election rate points allocated to each candidate shall be tallied and the candidate with the election rate point total shall be declared the winner.

    (D)   If there is a tie between two or more candidates in the election rate point total, the candidate who is allocated the highest election rate points from the [greatest number of representative districts] representative district with the largest voter turnout shall be declared the winner.''

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 18, 1996.)