

ACT 135

S.B. NO. 216

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 by adding a new section to part X to be appropriately designated and to read as follows:

“§11- Mandatory recount of votes. (a) The chief election officer, or the clerk in the case of a county election, shall conduct a recount of all votes cast for any office or ballot question in any election if the official tabulation of all of the returns for that office or question reveals that the difference in:

- (1) The number of votes cast for a candidate apparently qualified for the general election ballot or elected to office and the number of votes cast for the closest apparently defeated opponent; or
- (2) The number of votes cast in the affirmative for the ballot question and the number of votes cast in the negative for the ballot question, including when applicable, the tabulation of blank votes,

is equal to or less than one hundred votes or one-quarter of one per cent of the total number of votes cast for the contest, whichever is greater.

(b) No candidate shall be charged for the cost of a mandatory recount under this section.

(c) All mandatory recounts of votes under this section shall be completed and the results publicly announced no later than seventy-two hours after the closing of polls on election day.

(d) The chief election officer may adopt rules pursuant to chapter 91 for the mandatory recount of votes under this section, including:

- (1) Authorizing candidates affected by the recount, or their designated representatives, to attend and witness the recount; and
- (2) Notifying the parties described in paragraph (1) of the time and place of the recount no later than one day prior to the date of the recount.

(e) This section shall apply to votes counted pursuant to section 11-151.

(f) A recount conducted pursuant to this section shall not be considered a contest for cause subject to section 11-172.”

SECTION 2. 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, or county clerk in a county ~~[elections]~~ election, shall compile, certify, and release the election results 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 pollbooks (and related record books) and resultant overage and underage report;
- (3) The audit results of the manual audit team;
- (4) The results of the absentee ballot reconciliation report compiled by the clerks; ~~[and]~~
- (5) The results of any mandatory recount of votes conducted pursuant to section 11- ; and
- ~~[(5)]~~ (6) All logs, tally sheets, and other documents generated during the election and in the canvass of the election results.

A certificate of election or a certificate of results declaring the results of the election as of election day shall be issued pursuant to section 11-156; provided that in the event of an overage or underage, a list of all precincts in which an overage or underage occurred shall be attached to the certificate. The number of candidates to be elected receiving the highest number of votes in any election district shall be declared to be elected. Unless otherwise provided, the term of office shall begin or end as of the close of polls on election day. The position on the question receiving the appropriate majority of the votes cast shall be reflected in a certificate of results issued pursuant to section 11-156.”

SECTION 3. Section 11-173.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In a primary and special primary election ~~[contests, and]~~ contest, or a county election ~~[contests]~~ contest held concurrently with a regularly scheduled primary or special primary election, 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~~[-]~~ or a county election ~~[contests]~~ contest held concurrently with a regularly scheduled primary or special primary election, and shall be accompanied by a deposit for costs of court as established by the rules of the supreme court~~[-]~~; provided that a complaint for a contest for cause that arises from a mandatory recount pursuant to section 11- shall be filed no later than 4:30 p.m. on the third calendar day following the public announcement of the results of the mandatory recount pursuant to section 11- (c). 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.]~~ of the summons.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 25, 2019.)

Note

1. Edited pursuant to HRS §23G-16.5.