

ACT 113

S.B. NO. 19

A Bill for an Act Relating to Cast Ballots.

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

SECTION 1. The legislature finds that voters eligible to vote who cast their ballot and subsequently become ineligible to vote due to death or other reasons should have their vote counted. A person voting by mail expects their

ballot to be tabulated when they place it in the mail or deposit it at a place of deposit. If the voter is eligible to vote at the time the ballot is cast, subsequent events that may make the voter ineligible are irrelevant.

The legislature further finds that Act 10, Session Laws of Hawaii 2019 (Act 10), repealed the law that invalidated the cast ballots of absentee voters who died before the opening of the polls on election day. Act 10 also added language to the absentee voter and military-overseas voter laws providing that these voters' ballots would remain valid even if the voter became ineligible to vote after casting their ballot. However, the State's vote by mail process commenced with the 2020 election without similar language establishing procedures for validating mail-in ballots cast by eligible voters who thereafter became ineligible, including those who became ineligible by death.

The purpose of this Act is to guarantee the vote of eligible voters who cast their ballot and then subsequently die or otherwise become ineligible before election day.

SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§11- Validity of cast mail-in ballot where voter later becomes ineligible.

The mail-in ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote, including by death of the voter, after casting the ballot. For the purposes of this section, “cast” means that the voter has:

- (1) Returned the return identification envelope containing the optional secrecy envelope or secrecy sleeve with the marked ballot in any manner permitted pursuant to section 11-104(c); or
- (2) Completed voting in person at a voter service center.”

SECTION 3. Section 15-13.5, Hawaii Revised Statutes, is amended to read as follows:

“§15-13.5 ~~[Eligibility of voter after absentee ballot cast.]~~ Validity of cast absentee ballot where voter later becomes ineligible. The absentee ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote, including by death of the voter, after casting the ballot. For the purposes of this section, “cast” means that the voter has:

- (1) Deposited the absentee ballot in the mail for ballots mailed in accordance with section 15-9;
- (2) Delivered the absentee ballot to the appropriate county clerk or polling place in accordance with section 15-9; or
- (3) Completed voting in person at an absentee polling place.”

SECTION 4. Section 15D-10.5, Hawaii Revised Statutes, is amended to read as follows:

“~~§15D-10.5~~ ~~[Eligibility of covered voter after ballot cast.]~~ Validity of cast military-overseas ballot where covered voter later becomes ineligible. The military-overseas ballot of any covered voter who was eligible to vote at the time the ballot was cast in accordance with this chapter shall not be deemed invalid solely because the covered voter became ineligible to vote, including by death of the voter, after casting the ballot.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.
(Approved June 23, 2023.)

Note

1. Edited pursuant to HRS §23G-16.5.