
A BILL FOR AN ACT

RELATING TO ELECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that citizens of this
2 State have the right to expect that public servants be people of
3 integrity, and not people who have committed actions that
4 threaten democracy or undermine the vote of the people.

5 Accordingly, the purpose of this Act is to:

6 (1) Specify that election ballots issued by the chief
7 election officer or county clerk shall exclude any
8 candidate who is disqualified by:

9 (A) Section 3 of the Fourteenth Amendment to the
10 Constitution of the United States;

11 (B) Article XVI, section 3, of the Hawaii State
12 Constitution; or

13 (C) Another constitutional or statutory provision;

14 (2) Provide for a process for challenging a candidate's
15 inclusion or exclusion on a ballot issued by the chief
16 election officer or a county clerk;



- 1 (3) Include the grounds referenced in paragraph (1) as
- 2 grounds for a complaint regarding an election contest;
- 3 (4) Specify that electors of presidential and vice
- 4 presidential candidates shall not be individuals who
- 5 are disqualified by grounds referenced in paragraph
- 6 (1), and provide for contests of nominations of
- 7 individuals disqualified based upon those grounds; and
- 8 (5) Prohibit electors of presidential and vice
- 9 presidential candidates from voting for any
- 10 presidential or vice presidential nominee who has been
- 11 disqualified pursuant to section 3 of the Fourteenth
- 12 Amendment to the Constitution of the United States, as
- 13 determined by any federal court; article XVI, section
- 14 3, of the Hawaii State Constitution, as determined by
- 15 the state supreme court; or another constitutional or
- 16 statutory provision as determined by a federal court
- 17 or the state supreme court.

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



1 "§11- Candidates on ballots; inclusion and exclusion;
2 challenges. (a) Each ballot issued by the chief election
3 officer and each clerk shall include the name of each qualified
4 candidate and exclude the name of any disqualified candidate;
5 provided that the chief election officer or clerk shall exclude
6 any candidate who is disqualified by:

7 (1) Section 3 of the Fourteenth Amendment to the
8 Constitution of the United States;

9 (2) Article XVI, section 3, of the Hawaii State
10 Constitution; or

11 (3) Another constitutional or statutory provision.

12 (b) Any challenge to the inclusion or exclusion of any
13 candidate on a ballot issued by the chief election officer or
14 clerk that is not filed pursuant to section 12-8 shall be in
15 writing and, no later than the fifty-seventh day prior to the
16 general election, shall be filed with the supreme court. The
17 challenge shall provide notice in a summary manner of the
18 grounds that give rise to the complaint. No later than the
19 fifty-fourth day prior to the general election, the supreme
20 court shall hold a hearing regarding the challenge. The supreme
21 court shall assess the validity of the complaint and shall issue



1 findings of fact and conclusions of law no later than the fifty-
 2 third day prior to the general election. The party filing the
 3 challenge shall have the burden to sustain the challenge by a
 4 preponderance of the evidence, unless a higher burden is
 5 required by constitutional law."

6 SECTION 3. Section 11-113, Hawaii Revised Statutes, is
 7 amended by amending subsection (e) to read as follows:

8 "(e) [~~If the~~] Any applicant [~~,-er~~]; any other party,
 9 individual, or group with a candidate on the presidential
 10 ballot [~~,-~~]; or any group of not less than thirty voters of any
 11 election district that objects to the finding of eligibility or
 12 disqualification [~~the person~~] may [~~,- not later than 4:30 p.m. on~~
 13 ~~the fifth day after the finding; file a request in writing with~~
 14 ~~the chief election officer for a hearing on the question. A~~
 15 ~~hearing shall be called not later than 4:30 p.m. on the tenth~~
 16 ~~day after the receipt of the request and shall be conducted in~~
 17 ~~accord with chapter 91. A decision shall be issued not later~~
 18 ~~than 4:30 p.m. on the fifth day after the conclusion of the~~
 19 ~~hearing.~~] pursue a challenge pursuant to section 11- . If the
 20 candidate in question is excluded from the presidential ballot



1 pursuant to section 11- , another candidate may be selected
2 pursuant to a procedure conducted pursuant to subsection (c)."

3 SECTION 4. Section 11-172, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§11-172 **Contests for cause; generally.** (a) With respect
6 to any election, any candidate, or qualified political party
7 directly interested, or any thirty voters of any election
8 district, may file a complaint in the supreme court.

9 (b) The complaint shall set forth any cause or causes,
10 [~~such as but not limited to, provable~~] including:

11 (1) Provable fraud, overages, or underages, that could
12 cause a difference in the election results[-]; or

13 (2) A candidate's disqualification pursuant to:

14 (A) Section 3 of the Fourteenth Amendment to the
15 Constitution of the United States;

16 (B) Article XVI, section 3, of the Hawaii State
17 Constitution; or

18 (C) Another constitutional or statutory provision;
19 provided that a complaint filed pursuant to this
20 subsection shall be dismissed if the facts alleged
21 cannot be proven by a preponderance of the evidence,



1 or by any higher burden of proof required by
2 constitutional law, or if the complaint is based on
3 facts or substantially similar facts that could have
4 previously been raised pursuant to section 11- ,
5 section 12-8, or this paragraph, and the previous
6 action failed.

7 (c) The complaint shall also set forth any reasons for
8 reversing, correcting, or changing the decisions of the voter
9 service center officials or the officials at a counting center
10 in an election using the electronic voting system.

11 (d) A copy of the complaint shall be delivered to the
12 chief election officer or the clerk in the case of county
13 elections."

14 SECTION 5. Section 14-21, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§14-21 Nomination of presidential electors and**
17 **alternates; certification by parties; notification of nominees;**
18 **pledge.** (a) In each year when electors of president and vice
19 president of the United States are to be chosen, each of the
20 political parties or parties or groups qualified under section
21 11-113 shall hold a state party or group convention pursuant to



1 the constitution, bylaws, and rules of the party or group; and
2 nominate as candidates for its party or group as many electors,
3 and a first and second alternate for each elector, of president
4 and vice president of the United States as the State is then
5 entitled. The electors and alternates shall be registered
6 voters of the State[-] and shall not be individuals who are
7 disqualified by section 3 of the Fourteenth Amendment to the
8 Constitution of the United States; article XVI, section 3, of
9 the Hawaii State Constitution; or another constitutional or
10 statutory provision. The names and addresses of the nominees
11 shall be certified by the chairperson and secretary of the
12 convention of the respective parties or groups and submitted to
13 the chief election officer no later than 4:30 p.m. on the
14 sixtieth day before the general election of the same year. The
15 chief election officer upon receipt thereof, shall immediately
16 notify each of the nominees for elector and alternate elector of
17 the nomination.

18 (b) Each elector nominee and alternate elector nominee of
19 a political party or group shall execute the following pledge:
20 "If selected for the position of elector, I agree to serve and
21 to mark my ballots for president and vice president for the



1 nominees for those offices of the party or group that nominated
2 ~~[me].~~ me, except that I may decline to vote for any nominee who
3 has died. I also agree not to mark my ballot for any nominee
4 who is disqualified under section 3 of the Fourteenth Amendment
5 to the Constitution of the United States." The executed pledges
6 shall accompany the submission of the corresponding names to the
7 chief election officer. Electors shall not be ~~[released from~~
8 ~~their pledge if the presidential candidate whom they are pledged~~
9 ~~to vote for dies. Electors]~~ required to vote for any nominee
10 who has died. Further, electors shall not [be released from
11 their pledge under any circumstance other than the death of the
12 presidential candidate for whom they are pledged to vote.] vote
13 for any presidential or vice presidential nominee who has been
14 disqualified from the presidency or vice presidency pursuant to
15 section 3 of the Fourteenth Amendment to the Constitution of the
16 United States, as determined by any federal court, or as
17 determined by the state supreme court pursuant to part XI of
18 chapter 11."

19 SECTION 6. Section 14-22, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§14-22 Contested nominations of presidential electors and
2 alternates. (a) If ~~more~~:

3 (1) More than one certificate of choice and selection of
4 presidential electors and alternate electors of the
5 same political party or group; or

6 (2) Any party, individual, or group with a candidate on
7 the presidential ballot; or any group of not less than
8 thirty voters of any election district asserts that an
9 elector or alternate is disqualified pursuant to:

10 (A) Section 3 of the Fourteenth Amendment to the
11 Constitution of the United States;

12 (B) Article XVI, section 3, of the Hawaii State
13 Constitution; or

14 (C) Another constitutional or statutory provision,

15 and a complaint is filed with the chief election officer, as

16 chairperson of the contested presidential electors' committee

17 hereby constituted, the chief election officer shall notify the

18 state comptroller and attorney general, who are the remaining

19 members of the committee, of the date, time, and place of ~~the~~

20 a hearing ~~to~~.



1 (b) The hearing shall be held for the purposes of [making
2 ~~a determination of which]~~ determining:

3 (1) Which set of electors and alternative electors were
4 lawfully chosen and selected by the political party or
5 group [-]; or

6 (2) Whether an elector or alternate is disqualified as
7 described in subsection (a) (2),
8 as the case may be.

9 (c) Notice of the hearing shall be given to the
10 chairperson of the state central committee of each political
11 party and the chairperson of each party or group qualified under
12 section 11-113, contestants for the positions of electors and
13 alternate electors by written notice, and to all other
14 interested parties by public notice at least once. A
15 determination shall be made by the contested presidential
16 electors' committee by majority vote not later than 4:30 p.m. on
17 October 30 of the same year and the determination shall be
18 final. Notice of the results shall be given to the nominees
19 duly determined to have been chosen. The contested presidential
20 electors' committee shall have all the powers enumerated in
21 section 11-43."



1 SECTION 7. Section 14-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§14-23 Time for election, number to be chosen. In each
4 presidential election year there shall be elected at large, at
5 the general election, by the voters of the State, as many
6 electors and alternates of president and vice president of the
7 United States as the State is then entitled to elect, in the
8 manner provided under section 11-113. The electors and the
9 alternates ~~[must]~~ shall be registered voters of the State~~[-]~~ and
10 shall not be individuals who are disqualified by section 3 of
11 the Fourteenth Amendment to the Constitution of the United
12 States; article XVI, section 3, of the Hawaii State
13 Constitution; or another constitutional or statutory provision.
14 The election shall be conducted and the results thereof
15 determined in conformity with the laws governing general
16 elections except as otherwise provided."

17 SECTION 8. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 9. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 10. This Act shall take effect upon its approval.



Report Title:

Elections; Candidates; Ballots; Electors; Disqualification

Description:

Specifies that election ballots issued by the Chief Election Officer or county clerk shall exclude any candidate who is disqualified by a constitutional or statutory provision. Provides for a process for challenging an inclusion or exclusion of a candidate from a ballot. Includes a candidate's disqualification as grounds for an election contest complaint. Specifies that electors of presidential and vice presidential candidates shall not be individuals who are disqualified by a constitutional or statutory provision. Prohibits electors from voting for any presidential or vice presidential nominee who has been disqualified pursuant to section 3 of the Fourteenth Amendment to the Constitution of the United States; article XVI, section 3, of the Hawaii State Constitution; or another constitutional or statutory provision as determined by a federal court or the Supreme Court. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

