

JAN 26 2011

A BILL FOR AN ACT

RELATING TO PRIMARY ELECTIONS.

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

1 SECTION 1. In *California Democratic Party v. Jones*, 530
2 U.S. 567 (2000), the United States Supreme Court ruled that a
3 political party has a right, guaranteed by the First Amendment
4 of the United States Constitution, to limit participation in its
5 primary elections to persons who are members of that political
6 party. At present, the State of Hawaii lacks statutory
7 provisions that would enable a political party to exercise this
8 First Amendment right.

9 The purpose of this Act is to enable political parties to
10 limit participation in party primary elections to members of the
11 political party.

12 SECTION 2. Chapter 12, Hawaii Revised Statutes, is amended
13 by adding five new sections to be appropriately designated and
14 to read as follows:

15 "§12-A Political parties; participation in primary
16 election limited; notice. (a) A political party that has
17 qualified under sections 11-62 and 11-64 may limit participation
18 in the party's primary elections to members of the party,



1 subject to the requirements of this section. The decision shall
2 be made by the governing body of the political party pursuant to
3 the governing documents. The political party shall be the sole
4 judge of whether the decision conforms to the requirements of
5 the governing documents.

6 (b) The chairperson of a qualified political party that
7 limits participation in the party's primary elections to members
8 of the party shall provide written notice to the office of
9 elections as to state and congressional primary elections and
10 the county clerk in the case of partisan county primary
11 elections. The written notice shall be received by the office
12 of elections or county clerk not less than ninety days before
13 the scheduled date of the primary election. Upon receipt of the
14 notice by the office of elections or county clerk, a political
15 party may not withdraw the decision to limit participation for
16 that primary election.

17 (c) A decision to limit participation in a political
18 party's primary elections shall apply to the elective offices
19 that are subject to the primary election in the election period
20 for which written notice is provided by the party's chairperson
21 and shall be deemed to continue to the next primary election
22 period.



1 (d) A political party may withdraw the decision to limit
2 participation in a future election period; provided that the
3 withdrawal be in writing and signed by the chair of the party
4 and received by the office of elections or the clerk no less
5 than ninety days prior to the next applicable primary election
6 date.

7 §12-B Political party membership list; office of
8 elections. (a) No less than sixty days before the affected
9 primary election, a qualified political party that has limited
10 participation in a primary election pursuant to section 12-A
11 shall submit to the office of elections or county clerk a list
12 of registered voters who are members in good standing of that
13 political party. The list shall state the name, address, and
14 legislative district and precinct in which the voter resides.
15 The membership list shall provide a space on the line for each
16 member that shall be marked by a precinct official to indicate
17 that the member has voted. The membership list shall be as
18 accurate as is reasonable.

19 (b) The party may submit to the office of elections or
20 county clerk as appropriate an exclusion list of persons who
21 have been expelled from the party or disqualified by the party
22 from participation in party activities.



1 (c) The party shall submit to the office of elections or
2 county clerk an updated list of enrolled members for each
3 succeeding primary election not less than sixty days before the
4 primary election.

5 §12-C Voter participation in party primary; enrollment
6 at time of primary election. (a) A political party that
7 limits participation in a primary election shall provide the
8 office of elections or county clerk with standard-form party
9 enrollment cards in sufficient quantity to allow any registered
10 voter to enroll as a party member on primary election day or
11 simultaneously with early voting.

12 (b) A registered voter whose name is included on the
13 membership list submitted by a political party to the office of
14 elections or county clerk shall be entitled to receive and cast
15 a ballot for that party's primary election. A precinct officer
16 shall mark the membership list in the appropriate space to
17 indicate that the member has taken a ballot of that political
18 party for the primary election. The voter may decline to take
19 the party ballot and may vote in the party primary election of
20 any other party, if the voter is qualified, or the voter may
21 vote in an independent primary election.



1 (c) Except for persons who are listed on the exclusion list
2 of a party, a registered voter whose name is not included on the
3 membership list submitted by a political party to the office of
4 elections or county clerk shall be entitled to receive and cast
5 a ballot for the party's primary election if the voter completes
6 and signs the standard form party enrollment card. No political
7 party may impose a fee or require a monetary donation for
8 enrollment.

9 (d) No voter whose name is not listed on the party
10 membership list of a party that has exercised the option provided
11 for in this part, and no voter who refuses to complete a party
12 membership enrollment card, may take or cast a ballot in the
13 primary election of the political party.

14 (e) Any watcher duly appointed by a political party
15 pursuant to section 11-77 shall have the authority and timely
16 opportunity to review party enrollment cards that voters fill
17 out pursuant to subsection (c) to ensure that the enrollment
18 cards are properly completed prior to the voter being given a
19 ballot for that party's primary election. If any disagreement
20 between a watcher and a voter relating to the completion of a
21 party enrollment card cannot be immediately resolved, the voter
22 shall be entitled to cast a provisional ballot in the party's



1 primary election, and the provisional ballot shall be treated in
2 the same manner as is provided by law generally for provisional
3 ballots.

4 §12-D Privacy interests; political parties and voters;
5 membership lists and related documents. A political party that
6 submits a membership list to the office of elections or county
7 clerk for use in primary elections and the respective party
8 members have and retain a significant privacy interest in the
9 information contained in the membership list within the meaning
10 of section 92F-14. The membership list and political party
11 enrollment cards completed by voters pursuant to this part shall
12 remain the property of the respective political parties. The
13 office of elections, county clerks, and the department of the
14 attorney general may copy the membership lists or portions
15 thereof solely for the limited purposes set out in this part.
16 Completed enrollment cards may not be copied, except with
17 respect to the resolution of disputes relating to provisional
18 ballots.

19 §12-E Return of party membership documents to party.
20 Not less than ten days after a primary election designated as
21 limited to political party members, the office of elections or
22 county clerk shall return to the party all membership lists and



1 copies thereof, including all party enrollment cards completed by
2 voters pursuant to section 12-C, and unused enrollment cards."

3 SECTION 3. Section 12-31, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§12-31 Selection of party ballot; voting. [~~No~~] Except as
6 otherwise provided in this chapter, no person eligible to vote
7 in any primary or special primary election shall be required to
8 state a party preference or nonpartisanship as a condition of
9 voting[.—Each], and each voter shall be issued the primary or
10 special primary ballot for each party and the nonpartisan
11 primary or special primary ballot. A voter shall be entitled to
12 vote only for candidates of one party or only for nonpartisan
13 candidates. If the primary or special primary ballot is marked
14 contrary to this paragraph, the ballot shall not be counted.

15 In any primary or special primary election in the year 1979
16 and thereafter, a voter shall be entitled, subject to the
17 provisions of this chapter, to select and to vote the ballot of
18 any one party or nonpartisan, regardless of which ballot the
19 voter voted in any preceding primary or special primary
20 election."



1 SECTION 4. The office of elections shall take all actions
2 necessary to ensure that the provisions of this Act shall be
3 implemented for the 2012 primary election period.

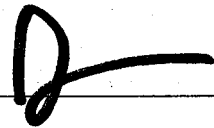
4 SECTION 5. In codifying the new sections added by section
5 2 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: _____



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Report Title:

Primary Elections; Participation

Description:

Authorizes a political party to limit participation in the party's primary election to members of the political party.

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

