

JAN 21 2011

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 Hawaii has one of
2 the lowest voter participation records in the United States.
3 One national survey reported that forty-eight per cent of
4 eligible voters actually voted in the 2004 presidential
5 election. As a result, Hawaii was ranked last in voter
6 participation. Steps must be taken to increase the number of
7 registered voters in the State and encourage participation in
8 the political process.

9 Eligible voters are often not interested in voting for the
10 available candidates and refrain from voting at all. Write-in
11 voting would allow voters greater freedom to support candidates
12 of their choice and signify their displeasure with the available
13 candidates. The legislature believes that the authorization of
14 write-in voting would increase the number of registered voters
15 that actually vote in each election.

16 Past objections to write-in voting have included the added
17 difficulty in counting the ballots, but the legislature finds
18 that the inconvenience caused to the State in having to count



1 the write-in ballots is by far outweighed by the public's
2 interest in voting for the candidate of their, and not a
3 political party's, choice.

4 The purpose of this Act is to allow voters of the State to
5 vote for declared candidates other than those listed on the
6 ballot through a write-in voting procedure.

7 SECTION 2. Chapter 12, Hawaii Revised Statutes, is amended
8 by adding a new part to be appropriately designated and to read
9 as follows:

10 **"PART . WRITE-IN VOTING**

11 **§12-A Write-in voting.** Write-in voting is permitted for
12 any state or county election conducted in Hawaii. A voter may
13 cast a write-in vote for a candidate whose name is not printed
14 on the ballot by writing in the candidate's name in the
15 appropriate blank space provided on the ballot. Voters may cast
16 write-in votes only for candidates who have filed declarations
17 pursuant to section 12-B. As used in this section, "write-in"
18 does not include imprinting of any name by rubber stamp or
19 similar device, or the use of preprinted stickers or labels.

20 **§12-B Write-in candidates.** Any person who desires to be
21 a write-in candidate shall file a declaration of candidacy with
22 the chief election officer, or the clerk in case of county



1 offices, not later than 4:30 p.m. on the seventh calendar day
2 prior to the election; provided that if that day is a Saturday,
3 Sunday, or holiday then the person shall file the declaration
4 of candidacy not later than 4:30 p.m. on the first working day
5 immediately preceding.

6 **§12-C Write-in vote count.** (a) When only one person is
7 to be elected to an office, write-in votes shall be officially
8 counted by the chief election officer only if the total number
9 of write-in votes cast for the office equals or exceeds the
10 number of votes for the candidate whose name is printed on the
11 ballot and who received the highest number of votes for that
12 office. When more than one person is to be elected to an
13 office, write-in votes shall be counted only if the total
14 number of write-in votes for the office equals or exceeds the
15 number of votes for the candidates whose names are printed on
16 the ballots and who would otherwise be nominated or elected to
17 that office.

18 (b) Write-in votes shall not be counted for a candidate:
19 (1) Whose name is printed on the ballot for any office at
20 the same election;



1 (2) Who is currently a public officer that is ineligible
2 to run for office pursuant to article II, section 7
3 of the Hawaii State Constitution; or

4 (3) Who, in the case of a general election, was on the
5 ballot for the same office for the primary election.

6 (c) In addition to the applicable requirements of
7 subsection (a), write-in votes for a candidate shall be counted
8 only if the total number of write-in votes for the candidate is
9 at least equal to the number of signatures required on
10 nomination papers for that office.

11 **§12-D Write-in ballots.** Following the names of candidates
12 for each office, there shall be as many blank lines as there are
13 persons to be elected to that office to allow for write-in
14 voting. The name of a write-in candidate shall not appear on
15 the ballot. The ballot in which a write-in candidate is a
16 candidate shall contain:

17 (1) A blank underlined space designated "Write-in" for the
18 voter to write in the name of the candidate; and

19 (2) A box or oval adjacent to the blank underlined space
20 to indicate the voter's choice to write-in a candidate
21 in lieu of voting for a name printed on the ballot.



1 The write-in vote shall be counted only if the box or oval is
2 filled in on the ballot and if the write-in name appears on the
3 ballot as written on the declaration of write-in candidacy;
4 provided that the name of the write-in candidate is not required
5 to be spelled correctly on the ballot if the voter's intent, in
6 the determination of the clerk and the chief election officer,
7 is evident from the misspelled name.

8 **§12-E Requirements for write-in candidate.** A write-in
9 candidate determined to be a party or nonpartisan candidate in
10 the primary or special primary election pursuant to section
11 12-41, shall meet the following requirements not later than
12 4:30 p.m. on the fifth day following the primary election.
13 The candidate shall:

- 14 (1) File a statement in a form prescribed by the chief
15 election officer containing the following information:
- 16 (A) The name of the candidate;
- 17 (B) The residence address and county in which the
18 candidate resides;
- 19 (C) A certification by the candidate that the
20 candidate will qualify under the law for the
21 office the candidate is seeking;



- 1 (D) A certification by a party candidate that the
- 2 candidate is a member of the party; and
- 3 (E) The name the candidate wishes inserted on the
- 4 ballot and the post office address of the
- 5 candidate;
- 6 (2) Register with the campaign spending commission and
- 7 comply with the commission's requirements pursuant to
- 8 chapter 11 on the same basis as any other candidate;
- 9 (3) File documents required of candidates with the
- 10 appropriate ethics commission;
- 11 (4) File a written oath or affirmation as specified in
- 12 section 12-7; and
- 13 (5) Deposit the appropriate filing fee specified in the
- 14 fee schedule contained in section 12-6, which shall
- 15 be deposited into the treasury of the State or
- 16 county, as the case may be, except that the chief
- 17 election officer or clerk shall waive the filing fee
- 18 in the case of a person who declares, by affidavit,
- 19 that the person is indigent.

20 **§12-F Rules.** The lieutenant governor shall adopt
21 rules under chapter 91 to implement this part."

1 SECTION 3. Section 11-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "ballot" to read as
3 follows:

4 "Ballot", a ballot including an absentee ballot is a
5 written or printed, or partly written and partly printed paper
6 or papers containing the names of persons to be voted for^[7] and
7 blank spaces for write-in candidates, the office to be filled,
8 and the questions or issues to be voted on. A ballot may
9 consist of one or more cards or pieces of paper, or one face of
10 a card or piece of paper, or a portion of the face of a card or
11 piece of paper, depending on the number of offices, candidates
12 to be elected thereto, questions or issues to be voted on, and
13 the voting system in use. It shall also include the face of the
14 mechanical voting machine when arranged with cardboard or other
15 material within the ballot frames, containing the names of the
16 candidates and questions to be voted on."

17 SECTION 4. Section 11-112, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) The ballot shall contain the names of the candidates,
20 their party affiliation or nonpartisanship in partisan election
21 contests, the offices for which they are running, and the
22 district in which the election is being held. Following the



1 names of candidates for each office, there shall be blank lines
2 for write-in candidates. In multimember races the ballot shall
3 state that the voter shall not vote for more than the number of
4 seats available or the number of candidates listed where such
5 number is less than the seats available."

6 SECTION 5. Section 11-302, Hawaii Revised Statutes, is
7 amended by amending the definition of "candidate" to read as
8 follows:

9 "Candidate" means an individual who seeks nomination for
10 election or seeks election to office. An individual remains a
11 candidate until the individual's candidate committee terminates
12 registration with the commission. An individual is a candidate
13 if the individual does any of the following:

14 (1) Files nomination papers for an office for the
15 individual with the county clerk's office or with the
16 chief election officer's office, whichever is
17 applicable;

18 (2) Receives contributions, makes expenditures, or incurs
19 financial obligations of more than \$100 to bring about
20 the individual's nomination for election, or to bring
21 about the individual's election to office;



1 (3) Gives consent for any other person to receive
 2 contributions, make expenditures, or incur financial
 3 obligations to aid the individual's nomination for
 4 election, or the individual's election, to office;
 5 [er]

6 (4) Files a declaration of candidacy; or

7 ~~[(4)]~~ (5) Is certified to be a candidate by the chief
 8 election officer or county clerk."

9 SECTION 6. Section 12-21, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "**§12-21 Official party ballots.** The primary or special
 12 primary ballot shall be clearly designated as such. The names
 13 of the candidates of each party qualifying under section 11-61
 14 or 11-62 and of nonpartisan candidates may be printed on
 15 separate ballots, or on a single ballot. The name of each party
 16 and the nonpartisan designation shall be distinctly printed and
 17 sufficiently separate from each other. The names of all
 18 candidates shall be printed on the ballot as provided in section
 19 11-115. When the names of all candidates of the same party for
 20 the same office exceed the maximum number of voting positions on
 21 a single side of a ballot card, the excess names may be arranged
 22 and listed on both sides of the ballot card and additional

1 ballot cards if necessary. When separate ballots for each party
2 are not used, the order in which parties appear on the ballot,
3 including nonpartisan, shall be determined by lot. Following
4 the names of candidates for each office, there shall be blank
5 lines for write-in candidates.

6 The chief election officer or the county clerk, in the case
7 of county elections, shall approve printed samples or proofs of
8 the respective party ballots as to uniformity of size, weight,
9 shape, and thickness prior to final printing of the official
10 ballots."

11 SECTION 7. In codifying the new sections added by section
12 2 of this Act, the revisor of statutes shall substitute
13 appropriate section numbers for the letters used in designating
14 the new sections in this Act.

15 SECTION 8. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

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1 SECTION 9. This Act shall take effect upon its approval;
2 provided that this Act shall apply to any state or county
3 election conducted on or after January 1, 2012.

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INTRODUCED BY:

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Report Title:

Write-In Voting

Description:

Allows voters to vote for declared candidates other than those listed on preprinted ballot through write-in voting procedure.

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

