June 24, 2014

The Honorable Donna Mercado Kim,  
President  
and Members of the Senate  
Twenty-Seventh State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Seventh State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 24, 2014, the following bill was signed into law:

HB452 HD1 SD1 CD1 RELATING TO ELECTION FRAUDS  
ACT 128 (14)

Sincerely,

Neil Abercrombie  
Governor, State of Hawaii
A BILL FOR AN ACT

RELATING TO ELECTION FRAUDS.

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

SECTION 1. The legislature finds that in recent elections, attempts may have been made in several states to prevent registered voters from lawfully voting through the provision of false information regarding the time and place voting was to occur. For example, in Virginia, Indiana, and Florida, there were reports of elderly voters receiving phone calls telling them they did not have to go to the polls to vote, but could tell the caller their vote instead. In Delaware and Pennsylvania, voters were reportedly told photo identification was required to vote when Delaware has no such law and litigation has postponed Pennsylvania's law from taking effect until 2013. In addition, a mass mailing of fake letters questioning voters' citizenship was investigated. The letter purportedly written on the falsified letterhead of a local county's supervisor of elections told recipients to fill out a "voter eligibility form," including their social security and driver's license number, and return the form within fifteen days or be purged from voter rolls.
The legislature further finds that such efforts discourage electoral participation and undermine the democratic process. Therefore, the purpose of this Act is to:

(1) Deem any person who knowingly broadcasts, televises, circulates, publishes, distributes, or otherwise communicates false information about the time, date, place, or means of voting, guilty of an election fraud; and

(2) Make conforming amendments to clarify that advertisements shall not contain false information about the time, date, place, or means of voting.

SECTION 2. Section 11-391, Hawaii Revised Statutes, is amended to read as follows:

"§11-391 Advertisements. (a) Any advertisement that is broadcast, televised, circulated, published, distributed, or otherwise communicated, including by electronic means, shall [contain]:

(1) [The] Contain the name and address of the candidate, candidate committee, noncandidate committee, or other person paying for the advertisement; and

(2) [A] Contain a notice in a prominent location stating either that:
(A) The advertisement [is published, broadcast, televised, or circulated with] has the approval and authority of the candidate; provided that an advertisement paid for by a candidate, candidate committee, or ballot issue committee does not need to include the notice; or

(B) The advertisement [is published, broadcast, televised, or circulated without the approval and authority of] has not been approved by the candidate[·]; and

(3) Not contain false information about the time, date, place, or means of voting.

(b) The fine for violation of this section, if assessed by the commission, shall not exceed $25 for each advertisement that lacks the information required by this section or provides prohibited information, and shall not exceed an aggregate amount of $5,000."

SECTION 3. Section 19-3, Hawaii Revised Statutes, is amended to read as follows:

"§19-3 Election frauds. The following persons shall be deemed guilty of an election fraud:

HB452 CD1 HMS 2014-3280

[Redacted]
(1) Every person who, directly or indirectly, personally or through another, gives, procures, or lends, or agrees or offers to give, procure, or lend, or who endeavors to procure, any money or office or place of employment or valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who does any such act on account of any person having voted or refrained from voting for any particular person at any election;

(2) Every person who advances or pays, or causes to be paid, any money to, or to the use of, any other person, with the intent that the money, or any part thereof, shall be expended in bribery at any election, or for any purpose connected with or incidental to any election; or who knowingly pays or causes to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election;
(3) Every elector who, before, during, or after any
    election, directly or indirectly, personally or
    through another, receives, agrees, or contracts for
    any money, gift, loan, or valuable consideration,
    office, place, or employment for oneself or any other
    person for voting or agreeing to vote, or for
    refraining to vote or agreeing to refrain from voting,
    or for voting or refraining to vote for any particular
    person or party;

(4) Every person who, directly or indirectly, personally
    or through another, makes use of, or threatens to make
    use of, any force, violence, or restraint; or inflicts
    or threatens to inflict any injury, damage, or loss in
    any manner, or in any way practices intimidation upon
    or against any person in order to induce or compel the
    person to vote or refrain from voting, or to vote or
    refrain from voting for any particular person or
    party, at any election, or on account of the person
    having voted or refrained from voting, or voted or
    refrained from voting for any particular person or
    party; or who by abduction, distress, or any device or
contrivance impedes, prevents, or otherwise interferes
with the free exercise of the elective franchise;

(5) Every person who, at any election, votes or attempts
to vote in the name of any other person, living or
dead, or in some fictitious name, or who, having once
voted, votes or attempts to vote again, or knowingly
gives or attempts to give more than one ballot for the
same office at one time of voting;

(6) Every person who, before or during an election,
knowingly publishes a false statement of the
withdrawal of any candidate at the election;

(7) Every person who induces or procures any person to
withdraw from being a candidate at an election in
consideration of any payment or gift or valuable
consideration; or of any threat; and every candidate
who withdraws from being a candidate in pursuance of
such inducement or procurement;

(8) Every public officer by law required to do or perform
any act or thing with reference to any of the
provisions in any law concerning elections who
wilfully fails, neglects, or refuses to do or perform
the same, or who is guilty of any wilful violation of any of the provisions thereof;

(9) Any person wilfully tampering or attempting to tamper with, disarrange, deface, or impair in any manner whatsoever, or destroy any voting machine while the same is in use at any election, or who, after the machine is locked in order to preserve the registration or record of any election made by the same, tampers or attempts to tamper with any voting machine;

(10) Every person who, directly or indirectly, personally or through another, wilfully designs, alters, accesses, or programs any electronic voting system to cause the system to inaccurately record, tally, or report votes cast on the electronic voting system;

[and]

(11) Every person who assists a voter in the completion of a ballot in violation of section 11-139[-7]; and

(12) Every person who knowingly broadcasts, televises, circulates, publishes, distributes, or otherwise communicates, including by electronic means or advertisement, false information about the time, date,
place, or means of voting with the purpose of
impeding, preventing, or otherwise interfering with
the free exercise of the elective franchise."

SECTION 4. Act 112, Session Laws of Hawaii 2013, is
amended by repealing section 10.

["SECTION 10.—Section 11-391, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:

"(a) Any advertisement that is broadcast, televised,
circulated, or published, including by electronic means, shall
contain:

(1) The name and address of the candidate, candidate
committee, noncandidate committee, or other person
paying for the advertisement, and

(2) A notice in a prominent location stating either that:

(A) The advertisement has the approval and authority
of the candidate, provided that an advertisement
paid for by a candidate, candidate committee, or
ballot issue committee does not need to include
the notice; or

(B) The advertisement has not been approved by the
candidate."
]
SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

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

APPROVED this 24 day of JUN, 2014

GOVERNOR OF THE STATE OF HAWAII