

JAN 23 2015

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 tends to
2 experience low voter turnout during elections. For example, in
3 the 2014 general election, only 52.3 per cent of those
4 registered actually cast ballots – the lowest statistic on
5 record for a general election. The State has also faced other
6 problems in recent elections. During the 2012 general election,
7 twenty-four polling places on the island of Oahu ran out of
8 paper ballots and about one-third of Oahu's voting precincts
9 experienced ballot shortages. More recently, the 2014 primary
10 election was held amid a threat of back-to-back tropical storms.
11 Tropical storm Iselle arrived the day before the primary,
12 toppling trees on Hawaii island and resulting in the closure of
13 two polling precincts in Puna. A makeup vote, open only to
14 registered voters from the two precincts that had closed who had
15 not voted, was held six days after the primary on August 15.
16 However, dozens of voters from surrounding districts who were
17 unable to vote on August 9 because of storm damage showed up and



1 were turned away. In a separate primary election incident,
2 election officials discovered about eight hundred mail-in
3 absentee votes from Maui had not been properly scanned and read.
4 These incidents show that changes are needed to ensure that
5 eligible voters in Hawaii can exercise their constitutionally
6 protected right to vote.

7 The legislature further finds that at least twenty-two
8 states allow certain elections to be conducted entirely by mail,
9 with Colorado, Oregon, and Washington administering all
10 elections entirely by mail. Voting by mail enables voters to
11 avoid wait times at polling places, can be a convenient method
12 of voting for people located in remote electoral precincts, and
13 may increase voter turnout in special and small elections.

14 The legislature additionally finds that the trend in Hawaii
15 has been toward more mail-in voting. The 2014 Hawaii primary
16 election was the first election where there were more early
17 votes than ballots cast on primary election day. 56 per cent of
18 Hawaii voters chose to vote early during the 2014 primary, with
19 approximately 83 per cent of these early voters doing so by
20 mail-in absentee ballot. The legislature concludes that
21 requiring elections by mail in Hawaii could help the State



1 increase voter turnout, reduce the potential for errors at the
2 polls on election day, and save money.

3 Accordingly, the purpose of this Act is to:

4 (1) Enable the office of elections to implement elections
5 by mail in any interested county, beginning with the
6 2016 primary election;

7 (2) By 2018, require all federal, state, and county
8 primary, special primary, general, special general,
9 and special elections to be conducted by mail;

10 (3) Enable absentee walk-in voting to continue prior to
11 election day;

12 (4) Ensure limited polling sites in each county remain
13 open on election day for absentee walk-in voting and
14 to receive mail-in ballots; and

15 (5) Appropriate funds for the implementation and
16 administration of the election by mail program.

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

20 **"PART . ELECTIONS BY MAIL**



1 **§11- Elections eligible to be conducted by mail.** (a)
2 Beginning with the 2016 primary election, the office of
3 elections may implement elections by mail in any interested
4 county; provided that by 2018, all federal, state, and county
5 primary, special primary, general, special general, and special
6 elections shall be conducted by mail in accordance with this
7 part; provided further that any person registered to vote may
8 request an absentee ballot or permanent absentee ballot in
9 accordance with section 15-4, in lieu of receiving an election-
10 by-mail ballot packet pursuant to this part.

11 (b) The chief election officer shall adopt rules pursuant
12 to chapter 91 to provide for uniformity in the conduct of
13 federal, state, and county elections by mail.

14 **§11- Procedures for conducting elections by mail.** (a)
15 Except as provided in subsections (b) and (c), between fourteen
16 and twenty days before the date of an election, the county clerk
17 shall mail an election-by-mail ballot packet by nonforwardable
18 mail to each registered voter who has not requested an absentee
19 ballot or permanent absentee ballot in accordance with section
20 15-4.



1 (b) If the county clerk determines that a voter does not
2 receive daily mail service from the United States Postal
3 Service, the county clerk shall mail an election-by-mail ballot
4 packet by nonforwardable mail to the voter between eighteen and
5 twenty days before the date of the election.

6 (c) If the voter requests that an election-by-mail ballot
7 packet be mailed outside of the State, the county clerk shall
8 mail the election-by-mail ballot packet by nonforwardable mail
9 to the voter no later than the twenty-ninth day before the
10 election.

11 (d) Public notice of the date or dates that election-by-
12 mail ballot packets are mailed, delivered, or made available
13 shall be given by the chief election officer and all county
14 election officers in the manner prescribed in section 1-28.5
15 when all the packets have been mailed, delivered, or made
16 available to voters.

17 **§11- Ballot instructions; ballot return.** (a) Upon
18 receipt of the election-by-mail ballot packet, the voter shall
19 comply with the instructions included in the election-by-mail
20 ballot packet. The instructions shall include directions on
21 marking the ballot, inserting the marked ballot in the secrecy



1 envelope, inserting the secrecy envelope with the marked ballot
2 in the return identification envelope, and signing the return
3 identification envelope before mailing or delivering the return
4 identification envelope containing the secrecy envelope with the
5 marked ballot.

6 (b) The instructions shall include information on election
7 fraud and voter fraud, as provided in sections 19-3(5) and
8 19-3.5, and notice that violation of either section may subject
9 the voter, upon conviction, to imprisonment, a fine, or both.

10 (c) Voters shall return the identification envelope
11 containing the secrecy envelope with the marked ballot by mail
12 or by delivery to a place of deposit so that the return
13 identification envelope is received at the office of the clerk
14 or a place of deposit no later than the time provided in section
15 11-131 on the date of the election.

16 **§11- Replacement ballots.** (a) A voter may obtain a
17 replacement ballot if the ballot is destroyed, spoiled, lost, or
18 not received by the clerk. Replacement ballots shall be
19 provided to a voter who completes and signs a replacement ballot
20 request form. The replacement ballot request form shall include
21 information that allows the clerk to verify the registration of



1 the voter and ensure that another ballot has not been returned
2 by the voter.

3 (b) Upon receipt of the replacement ballot request form,
4 the clerk shall:

5 (1) Verify the registration of the voter and ensure that
6 another ballot has not been returned by the voter;

7 (2) Note on the list of registered voters that the voter
8 has requested a replacement ballot;

9 (3) Mark the return identification envelope as a
10 replacement ballot; and

11 (4) Issue the replacement ballot packet by mail, by
12 delivery, or by making the ballot packet available for
13 pick-up by the voter.

14 (c) Voters requesting a replacement ballot shall return
15 the identification envelope containing the secrecy envelope with
16 the marked replacement ballot by mail or by delivery to a place
17 of deposit so that the return identification envelope is
18 received at the office of the clerk or a place of deposit no
19 later than the time provided in section 11-131 on the date of
20 the election.



1 **§11- Counting of mail-in ballots.** (a) The method of
2 preparing ballots for counting may begin no sooner than the
3 seventh day before the election. In the presence of official
4 observers, counting center employees may start to count the
5 ballots on the day of the election. All handling and counting
6 of the mailed-in ballots shall be according to procedures
7 established by the chief election officer.

8 (b) A mail-in ballot shall be counted only if:

9 (1) It is returned in the return identification envelope;

10 (2) The return identification envelope is signed by the
11 voter to whom the ballot is mailed or delivered;

12 (3) The signature on the return identification envelope is
13 verified by the clerk with the signature of the voter
14 shown on the registry of voters; and

15 (4) The return identification envelope is received at the
16 office of the clerk or at the place of deposit no
17 later than the time stated in section 11-131 on the
18 date of the election.

19 (c) Upon receipt of a marked replacement ballot, the
20 county clerk shall verify that a completed and signed
21 replacement ballot request form has been received by the county



1 clerk or is included with the marked replacement ballot. If a
2 request form has been completed and signed by the voter and
3 received by the county clerk, the county clerk shall process the
4 ballot. If the replacement ballot request form is not completed
5 or signed by the voter or not received by the county clerk, the
6 county clerk shall not process the ballot."

7 SECTION 3. Section 11-1, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding three new definitions to be appropriately
10 inserted and to read:

11 "Election-by-mail ballot packet" means the packet of
12 information, including an official ballot, a pre-paid postage
13 return identification envelope, a secrecy envelope, and
14 instructions, that shall be provided by the county clerk to
15 eligible voters in an election by mail.

16 "Place of deposit" means any state public library or any
17 other site designated by the chief election officer for
18 receiving return identification envelopes in an election by mail
19 pursuant to part _____.



1 "Poll" or "polling place" means an office or other suitable
2 facility designated by the respective clerks for the conduct of
3 voting."

4 2. By amending the definitions of "ballot" and "voting
5 system" to read:

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

20 "Voting system" [~~7~~] means the use of paper ballots,
21 electronic ballot cards, voting machines, items necessary for



1 processing elections by mail, or any system by which votes are
2 cast and counted."

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

5 "**§11-4 Rules [~~and regulations~~]**. The chief election
6 officer may make, amend, and repeal [~~such~~] rules [~~and~~
7 ~~regulations~~] governing elections held under this title, election
8 procedures, and the selection, establishment, use, and operation
9 of all voting systems now in use or to be adopted in the State,
10 and all other similar matters relating thereto as in the chief
11 election officer's judgment shall be necessary to carry out this
12 title.

13 In making, amending, and repealing rules [~~and regulations~~]
14 for voters who cannot vote at the polls in person or receive or
15 return ballots by mail, and all other voters, the chief election
16 officer shall provide for voting by [~~such~~] these persons in
17 [~~such~~] a manner as to [~~insure~~] ensure secrecy of the ballot and
18 to preclude tampering with the ballots of these voters and other
19 election frauds. [~~Such~~] The rules [~~and regulations,~~] when
20 adopted in conformity with chapter 91 and upon approval by the
21 governor, shall have the force and effect of law."



1 SECTION 5. Section 11-17, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The clerk, not later than 4:30 p.m. on the sixtieth
4 day after every general election, shall remove the name of any
5 registered voter who did not vote in that general election, and
6 also did not vote in the primary election preceding that general
7 election, and also did not vote in the previous general
8 election, and also did not vote in the primary election
9 preceding that general election, and also did not vote in the
10 regularly scheduled special elections held in conjunction with
11 those primary and general elections, if any, with the exception
12 of:

13 (1) Those who submitted written requests for absentee
14 ballots as provided in section 15-4; or

15 (2) Anyone who preregistered pursuant to section 11-12(b).

16 If a person voted, at least once, in any of the above-mentioned
17 elections, the person's name shall remain on the list of
18 registered voters. For this purpose, "vote" means the mailing
19 in of the ballot or the depositing of the ballot in the ballot
20 box or at a place of deposit whether the ballot is blank or
21 later rejected for any reason. In the case of voting machines,



1 "vote" means the voter has activated the proper mechanism and
2 fed the vote into the machine."

3 SECTION 6. Section 11-92.1, Hawaii Revised Statutes, is
4 amended by amending its title and subsection (a) to read as
5 follows:

6 **"§11-92.1 Election proclamation; [~~establishment of a new~~**
7 **~~precinct.] precincts.~~** (a) The chief election officer shall
8 issue a proclamation [~~whenever a new precinct is established in~~
9 ~~any representative district.] listing all polling places and
10 places of deposit. All places of deposit shall be open as soon
11 as election-by-mail ballot packets are made available to voters.
12 The chief election officer shall provide [~~a suitable polling~~
13 ~~place for each precinct.] one or more precincts within a
14 representative district as the chief elections officer deems
15 necessary for voters who are unable to participate in elections
16 conducted by mail pursuant to part . Limited polling places,
17 to be established by each respective county clerk, shall be
18 available on election day for absentee voting and to receive
19 election-by-mail ballots. Schools, recreational halls, park
20 facilities, and other publicly owned or controlled buildings,
21 whenever possible and convenient, shall be used as polling~~~~



1 places. The chief election officer shall make arrangements for
2 the rental or erection of suitable shelter for this purpose
3 whenever public buildings are not available and shall cause
4 these polling places to be equipped with the necessary
5 facilities for lighting, ventilation, and equipment needed for
6 elections on any island. This proclamation may be issued
7 jointly with the proclamation required in section 11-91."

8 SECTION 7. Section 11-92.3, Hawaii Revised Statutes, is
9 amended by amending the title and subsection (a) to read as
10 follows:

11 **"§11-92.3 Consolidated or alternate precincts; natural**
12 **disasters; postponement; absentee voting [~~required~~]; elections**
13 **by mail; special elections.** (a) In the event of a flood,
14 tsunami, earthquake, volcanic eruption, high wind, or other
15 natural disaster, occurring prior to an election, that makes a
16 precinct or place of deposit inaccessible, the chief election
17 officer or county clerk in the case of county elections may
18 consolidate precincts or provide an alternate precinct within a
19 representative district. If the extent of damage caused by any
20 natural disaster is such that the ability of voters, in any
21 precinct, district, or county, to exercise their right to vote



1 is substantially impaired, the chief election officer or county
2 clerk in the case of county elections may [~~require the~~]:

3 (1) Require the registered voters of the affected
4 precinct, district, or county to vote by absentee
5 ballot pursuant to section 15-2.5 [~~and may postpone~~]
6 or elections by mail pursuant to part ; and

7 (2) Postpone the conducting of an election in the affected
8 precinct for no more than twenty-one days; provided
9 that any such postponement shall not affect the
10 conduct of the election, tabulation, or distribution
11 of results for those precincts, districts, or counties
12 not designated for postponement.

13 The chief election officer or county clerk in the case of county
14 elections shall give notice of the consolidation, postponement,
15 or requirement to vote by absentee ballot[~~7~~] or by mail, in the
16 affected [~~county or~~] precinct, county, or district prior to the
17 opening of [~~the~~] each precinct polling place by whatever
18 possible news or broadcast media are available. Precinct
19 officials and workers affected by any consolidation shall not
20 forfeit their pay."



1 SECTION 8. Section 11-184, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§11-184 Election expenses and responsibilities in**
4 **combined state and county elections.** Election expenses in
5 elections involving both state and county offices shall be
6 shared as set forth below:

- 7 (1) The State shall pay and be responsible for:
- 8 (A) Precinct officials;
 - 9 (B) Instruction of precinct officials when initiated
10 or approved by the chief election officer;
 - 11 (C) Boards of registration;
 - 12 (D) Polling place costs other than supplies:
13 installation rentals, ballot boxes, voting
14 booths, custodians, telephones, and maintenance;
 - 15 (E) Other equipment such as ballot transport
16 containers;
 - 17 (F) Temporary election employees hired to do strictly
18 state work; and
 - 19 (G) Extraordinary voter registration and voter
20 education costs when approved by the chief
21 election officer.



- 1 (2) The county shall pay and be responsible for:
- 2 (A) Normal voter registration, voters list
- 3 maintenance, and all printing connected with
- 4 voter registration, including printing of the
- 5 voters list;
- 6 (B) Temporary election employees hired to do strictly
- 7 county work;
- 8 (C) Maintenance of existing voting machines,
- 9 including parts, freight, storage, programming,
- 10 and personnel;
- 11 (D) Maintenance and storage of voting devices and
- 12 other equipment; and
- 13 (E) Employees assigned to conduct absentee or
- 14 elections-by-mail polling place functions.
- 15 (3) The remaining election expenses shall be divided in
- 16 half between the State and the counties. Each county
- 17 will pay a proration of expenses as a proportion of
- 18 the registered voters at the time of the general
- 19 election. These expenses shall include but not be
- 20 limited to:
- 21 (A) Polling place supplies;



- 1 (B) All printing, including ballots, but excluding
- 2 printing connected with voter registration;
- 3 (C) Temporary election employees not including voting
- 4 machine programmers doing work for both the State
- 5 and county;
- 6 (D) Ballot preparation and packing; and
- 7 (E) All other costs for which the State or county are
- 8 not specifically responsible relating to the
- 9 operation of voting machines, electronic voting
- 10 systems, and other voting systems except paper
- 11 ballots to include but not be limited to real
- 12 property rentals, equipment rentals, personnel,
- 13 mileage, telephones, supplies, publicity,
- 14 computer programming, and freight.

15 The responsibility for the above functions shall
16 be determined by the chief election officer where the
17 responsibility for such functions has not been
18 assigned by the legislature.

19 Any future expenses not presently incurred under any voting
20 system now in use or to be used shall be assigned to
21 ~~[paragraphs]~~ paragraph (1), (2), or (3) ~~[above]~~ by the chief



1 election officer upon agreement with the clerks or by the
2 legislature."

3 SECTION 9. Section 15-7, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The absentee polling places shall be open [~~no later~~
6 ~~than~~] at least ten working days before election day, and all
7 Saturdays falling within that time period, or as soon thereafter
8 as ballots are available[~~;~~ ~~provided that all~~], and shall remain
9 open through the day before election day. All absentee polling
10 places shall be open on the same date statewide, as determined
11 by the chief election officer. On election day, limited polling
12 places, to be established by each county clerk, shall be open in
13 each county to receive absentee ballots and election-by-mail
14 ballots pursuant to chapter 11, part ."

15 SECTION 10. Section 15D-3, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§15D-3[+] **Elections covered.** The voting procedures in
18 this chapter apply to:

19 (1) A general, special, or primary election for federal
20 office;



1 (2) A general, special, or primary election for statewide
2 or state legislative office or state ballot measure;
3 and

4 (3) A general, special, recall, primary, or runoff
5 election for local government office or local ballot
6 measure conducted under [~~section 11-91.5~~] part of
7 chapter 11 for which absentee voting or voting by mail
8 is available for other voters."

9 SECTION 11. Section 19-6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§19-6 Misdemeanors.** The following persons shall be
12 guilty of a misdemeanor:

13 (1) Any person who offers any bribe or makes any promise
14 of gain, or with knowledge of the same permits any
15 person to offer any bribe or make any promise of gain
16 for the person's benefit to any voter to induce the
17 voter to sign a nomination paper, and any person who
18 accepts any bribe or promise of gain of any kind as
19 consideration for signing the same, whether the bribe
20 or promise of gain be offered or accepted before or
21 after the signing;



- 1 (2) Any person who wilfully tears down or destroys or
2 defaces any election proclamation or any poster or
3 notice or list of voters or visual aids or facsimile
4 ballot, issued or posted by authority of law;
- 5 (3) Any person printing or duplicating or causing to be
6 printed or duplicated any ballot, conforming as to the
7 size, weight, shape, thickness, or color to the
8 official ballot so that it could be cast or counted as
9 an official ballot in an election;
- 10 (4) Every person who is disorderly or creates a
11 disturbance whereby any meeting of the precinct
12 officials or the board of registration of voters
13 during an election is disturbed or interfered with; or
14 whereby any person who intends to be lawfully present
15 at any meeting or election is prevented from
16 attending; or who causes any disturbance at any
17 election; and every person assisting or aiding or
18 abetting any disturbance;
- 19 (5) Every person who, either in person or through another,
20 in any manner breaks up or prevents, or endeavors to
21 break up or prevent, the holding of any meeting of the



- 1 board of registration of voters, or in any manner
2 breaks up or prevents, or endeavors to break up or
3 prevent, the holding of any election;
- 4 (6) Any person, other than those designated by section
5 11-132, who remains or loiters within the area set
6 aside for voting as set forth in section 11-132 during
7 the time appointed for voting;
- 8 (7) Any person, including candidates carrying on any
9 campaign activities within the area described in
10 section 11-132 during the period of time starting one
11 hour before the polling place opens and ending when
12 the polling place closes for the purpose of
13 influencing votes. Campaign activities shall include
14 the following:
- 15 (A) Any distribution, circulation, carrying, holding,
16 posting, or staking of campaign cards, pamphlets,
17 posters and other literature;
- 18 (B) The use of public address systems and other
19 public communication media;
- 20 (C) The use of motor caravans or parades; and



1 (D) The use of entertainment troupes or the free
2 distribution of goods and services;

3 (8) Any person who opens a return envelope containing [an
4 absentee];

5 (A) An absentee ballot voted under chapter 15 other
6 than those persons authorized to do so under
7 chapter 15; or

8 (B) A ballot voted by mail under part of chapter
9 11 other than those persons authorized to do so
10 under part of chapter 11;

11 (9) Any unauthorized person found in possession of any
12 voting machine or keys thereof; and

13 (10) Every person who wilfully violates or fails to obey
14 any of the provisions of law, punishment for which is
15 not otherwise in this chapter specially provided for."

16 SECTION 12. Section 11-91.5, Hawaii Revised Statutes, is
17 repealed.

18 ~~["§11-91.5 Federal, state, and county elections by mail.~~

19 ~~(a) Any federal, state, or county election held other than on~~
20 ~~the date of a regularly scheduled primary or general election~~
21 ~~may be conducted by mail.~~



1 ~~(b) The chief election officer shall determine whether a~~
2 ~~federal or state election, other than a regularly scheduled~~
3 ~~primary or general election, may be conducted by mail or at~~
4 ~~polling places.~~

5 ~~(c) The county clerk shall determine whether a county~~
6 ~~election, held other than on the date of a regularly scheduled~~
7 ~~primary or general election, may be conducted by mail or at~~
8 ~~polling places. An election by mail in the county shall be~~
9 ~~under the supervision of the county clerk.~~

10 ~~(d) Any ballot cast by mail under this section shall be~~
11 ~~subject to the provisions applicable to absentee ballots under~~
12 ~~sections 11-139 and 15-6.~~

13 ~~(e) The chief election officer shall adopt rules pursuant~~
14 ~~to chapter 91 to provide for uniformity in the conduct of~~
15 ~~federal, state, and county elections by mail."]~~

16 SECTION 13. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2015-2016 and
19 the same sum or so much thereof as may be necessary for fiscal
20 year 2016-2017 for the purpose of implementing and administering
21 the election-by-mail program.



S.B. NO. 578

1 The sums appropriated shall be expended by the office of
2 elections for the purposes of this Act.

3 SECTION 14. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 15. This Act shall take effect on July 1, 2015;
6 provided that section 9 of this Act shall take effect on July 1,
7 2016.

8

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S.B. NO. 578

Report Title:

Elections; Voting; Elections by Mail; Absentee Voting; Appropriation

Description:

Enable the office of elections to implement elections by mail in any interested county, beginning with the 2016 primary election. By 2018, requires all federal, state, and county primary, special primary, general, special general, and special elections to be conducted by mail. Enables absentee walk-in voting to continue prior to election day. Ensures limited polling sites in each county remain open on election day for absentee walk-in voting and to receive mail-in ballots. Appropriates funds for the implementation and administration of the election by mail program.

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

