
A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. Section 15-9, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§15-9 Return and receipt of absentee ballots. (a) The
4 return envelope shall be:

5 (1) Mailed and must be received by the clerk issuing the
6 absentee ballot not later than the closing of the
7 polls on any election day;

8 (2) Delivered other than by mail to the clerk issuing the
9 absentee ballot, or another election official
10 designated by the clerk to act on the clerk's behalf,
11 not later than the closing of polls on any election
12 day; or

13 (3) Delivered other than by mail to any polling place
14 within the county in which the voter is registered and
15 deposited by a precinct official in the ballot box
16 before the closing of the polls on any election day.

17 (b) Upon receipt of the return envelope from any person
18 voting under this chapter, the clerk may prepare the ballots for



1 counting pursuant to this section and section 15-10. As
2 required by section 15-6, the voter shall be provided a ballot,
3 a ballot envelope for the ballot, and a return envelope for the
4 ballot envelope. Preparing the ballots for counting may include
5 opening the return envelope and validating the signature on the
6 return envelope, but shall not include opening the ballot
7 envelope within the return envelope.

8 (c) [~~Prior to opening the return and ballot envelopes and~~
9 ~~counting the ballots, the~~] Unless stated otherwise by election
10 officials, the period for opening return envelopes and
11 validating signatures shall begin the day immediately after
12 absentee ballots are transmitted to voters and shall end on the
13 day of the election. Official observers, designated in section
14 16-45, may elect to be present at any time during this time
15 frame. The return envelopes shall be checked for the following:

- 16 (1) Signature on the affirmation statement;
17 (2) Whether the signature corresponds with the absentee
18 request or register as prescribed in the rules adopted
19 by the chief election officer; and



1 (3) Whether the person is a registered voter and has
2 complied with the requirements of sections 11-15 and
3 11-16.

4 (d) If any of the above requirements is not met or if the
5 return or ballot envelope appears to be tampered with, which
6 shall not include the return envelope having been opened by
7 election officials, the [clerk or the absentee ballot team
8 ~~official]~~ election officials shall mark across the face of the
9 envelope "invalid" and ~~[it]~~ the envelope shall be kept in the
10 custody of the clerk and disposed of as prescribed for ballots
11 in section 11-154.

12 (e) If an absentee polling place is established at the
13 clerk's office prior to or on election day, ~~[the officials of~~
14 ~~the absentee polling place shall check the return or ballot~~
15 ~~envelopes for the above requirements prior to depositing them in~~
16 ~~the correct absentee ballot box.]~~ this section shall not apply
17 to any ballots cast at that location."

18 SECTION 2. Section 15-10, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§15-10 Counting of absentee ballots. (a) If the
21 requirements in section 15-9 are met, the ~~[return and]~~ ballot



1 envelopes may be opened and the ballot counted as prescribed by
2 law for the voting system in use.

3 ~~[In those absentee polling places using paper ballots,~~
4 ~~counting of the absentee ballots may begin after noon of~~
5 ~~election day.~~

6 ~~In those absentee polling places using the electronic~~
7 ~~voting system, the absentee ballots shall be transported to the~~
8 ~~counting center in a manner and by a schedule as provided in the~~
9 ~~rules promulgated by the chief election officer. In no case,~~
10 ~~however, shall the results of the absentee count become publicly~~
11 ~~known before the polls have officially closed.~~

12 ~~Any person violating this section shall be guilty of an~~
13 ~~election offense under section 19-6.]~~

14 (b) The counting of absentee ballots may begin no earlier
15 than the fifteenth day prior to an election. The counting of
16 absentee ballots shall generally involve the following stages:

17 (1) Removing the ballot envelope or ballot, if the voter
18 did not utilize the ballot envelope, from the return
19 envelope;

20 (2) Opening the ballot envelope;



1 (3) Duplicating any damaged ballot so it may be counted by
2 the vote counting equipment; and

3 (4) Scanning or otherwise allowing the ballot to be
4 counted by the vote counting equipment.

5 Additionally, to the extent a voter has voted by fax, electronic
6 mail, or any other means authorized by law, election officials
7 may duplicate the votes of the voter onto a traditional ballot
8 to be counted by the vote counting equipment. As required by
9 section 16-45, official observers shall be given reasonable
10 notice of the time and place where the ballots will be counted.
11 Official observers may elect to be present at any time during
12 this time frame.

13 (c) No person present during the counting of ballots shall
14 disclose any information concerning how voters voted on a
15 particular contest or question. In the case of absentee polling
16 places, the stages described in subsection (b) shall not apply,
17 to the extent voters directly utilize an electronic voting
18 system or voting machine that counts their ballot, as opposed to
19 being provided a return envelope, a ballot envelope, and a
20 ballot. Poll watchers, as authorized in section 11-77, may
21 observe the operations of the absentee polling place."



1 SECTION 3. Section 16-43, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§16-43 Ballot handling. (a) In every case where the
4 precinct ballots are handled by election officials or election
5 employees, from the time the ballots are delivered to the
6 several precincts to the time they are returned to the chief
7 election officer or clerk in county elections for disposition
8 upon completion of the tabulation, they [~~shall~~] may be [~~handled~~
9 ~~in the presence of not less than two officials~~] observed by an
10 official assigned in accordance with sections 11-71 and 11-72 or
11 section 16-45.

12 (b) This section shall not apply to absentee ballots
13 handled pursuant to sections 15-9 and 15-10."

14 SECTION 4. Section 16-46, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§16-46 Counting defective ballots. Counting center
17 employees [~~in the presence of at least two official observers~~]
18 shall prepare a new ballot to replace each defective ballot.
19 The defective ballots shall be segregated and the replacement
20 ballots counted pursuant to rules promulgated by the chief
21 election officer."



1 SECTION 5. Section 19-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§19-6 Misdemeanors. The following persons shall be
4 guilty of a misdemeanor:

5 (1) Any person who offers any bribe or makes any promise
6 of gain, or with knowledge of the same permits any
7 person to offer any bribe or make any promise of gain
8 for the person's benefit to any voter to induce the
9 voter to sign a nomination paper, and any person who
10 accepts any bribe or promise of gain of any kind as
11 consideration for signing the same, whether the bribe
12 or promise of gain be offered or accepted before or
13 after the signing;

14 (2) Any person who wilfully tears down or destroys or
15 defaces any election proclamation or any poster or
16 notice or list of voters or visual aids or facsimile
17 ballot, issued or posted by authority of law;

18 (3) Any person printing or duplicating or causing to be
19 printed or duplicated any ballot, conforming as to the
20 size, weight, shape, thickness, or color to the



- 1 official ballot so that it could be cast or counted as
2 an official ballot in an election;
- 3 (4) Every person who is disorderly or creates a
4 disturbance whereby any meeting of the precinct
5 officials or the board of registration of voters
6 during an election is disturbed or interfered with; or
7 whereby any person who intends to be lawfully present
8 at any meeting or election is prevented from
9 attending; or who causes any disturbance at any
10 election; and every person assisting or aiding or
11 abetting any disturbance;
- 12 (5) Every person who, either in person or through another,
13 in any manner breaks up or prevents, or endeavors to
14 break up or prevent, the holding of any meeting of the
15 board of registration of voters, or in any manner
16 breaks up or prevents, or endeavors to break up or
17 prevent, the holding of any election;
- 18 (6) Any person, other than those designated by section
19 11-132, who remains or loiters within the area set
20 aside for voting as set forth in section 11-132 during
21 the time appointed for voting;



1 (7) Any person, including candidates carrying on any
2 campaign activities within the area described in
3 section 11-132 during the period of time starting one
4 hour before the polling place opens and ending when
5 the polling place closes for the purpose of
6 influencing votes. Campaign activities shall include
7 the following:

8 (A) Any distribution, circulation, carrying, holding,
9 posting, or staking of campaign cards, pamphlets,
10 posters and other literature;

11 (B) The use of public address systems and other
12 public communication media;

13 (C) The use of motor caravans or parades; and

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

16 (8) Any person who opens a return envelope containing an
17 absentee ballot voted under chapter 15 other than
18 those authorized to do so under chapter 15;

19 (9) Any unauthorized person found in possession of any
20 voting machine or keys thereof;



1 (10) Any person who wilfully causes the results of any
2 absentee ballot count to become publicly known before
3 the polls have officially closed; and

4 ~~[(10)]~~ (11) Every person who wilfully violates or fails to
5 obey any of the provisions of law, punishment for
6 which is not otherwise in this chapter specially
7 provided for."

8 SECTION 6. Section 16-47, Hawaii Revised Statutes, is
9 repealed.

10 [~~["§16-47] Preparation of absentee ballots. Counting~~
11 ~~center employees in the presence of at least two official~~
12 ~~observers shall prepare absentee ballots for counting by~~
13 ~~automatic tabulating equipment in a manner that shall accurately~~
14 ~~reflect the votes cast by the absentee voters."]~~

15 SECTION 7. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 8. This Act shall take effect upon its approval.

18



Report Title:

Office of Elections Package; Elections; Absentee; Return Ballots

Description:

Provides that the preparation of absentee ballots for counting may include opening the return envelope in which the ballot is enclosed and the validation of signatures, but shall not include opening the ballot envelope. Allows official election observers to be present during this process. Requires that, unless otherwise stated, the opening of return absentee ballot envelopes and signature validation commence the day immediately after ballots are transmitted to voters through election day. Provides that the counting of absentee ballots may begin no earlier than the fifteenth day prior to an election and establishes stages of absentee ballot counting. Prohibits persons present during the counting of absentee ballots from disclosing the results. Allows, rather than requires, observation of ballot handling by an official. Allows defective ballots to be replaced with new ballots by counting center employees without the presence of at least two official observers. Establishes a misdemeanor for any person who wilfully causes the results of any absentee ballot count to become publicly known before the polls have officially closed.
(SD1)

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