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## A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1           SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended  
2 by adding three new sections to part X to be appropriately  
3 designated and to read as follows:

4           "§11-A Instant runoff voting method; procedure for  
5 counting votes. (a) To determine the winners in an election  
6 conducted by the instant runoff voting method, election  
7 officials shall initially count the ballots according to the  
8 first choice marked on each ballot. If at the end of the  
9 initial count, one candidate receives a majority of the votes  
10 cast, that candidate shall be declared the winner for that  
11 office.

12           (b) If at the end of the initial count, no candidate  
13 receives a majority of the first choice votes cast, the chief  
14 election officer or county clerk, as appropriate, shall declare  
15 that no candidate has received a majority of first choice votes  
16 and that the candidate with the fewest first choice votes and



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1 candidates receiving fewer than one per cent of the first choice  
2 votes, if any, are deemed defeated.

3 The chief election officer or county clerk shall transfer  
4 the first choice votes for the defeated candidate or candidates  
5 to the candidates who received the next highest ranking on each  
6 ballot containing first choice votes for the defeated candidate  
7 or candidates. If after the first round of transferring votes  
8 no candidate has received a majority of votes cast for the  
9 office, the process of eliminating candidates, transferring  
10 votes, including previously transferred votes, to candidates  
11 still in the race, and tabulating results shall continue until  
12 one candidate receives a majority of the votes cast. If after  
13 the fourth round of tabulation no candidate has received a  
14 majority of the votes cast, then the candidate with the most  
15 first choice votes following the fourth round of tabulation  
16 shall be declared the winner, regardless of whether that  
17 candidate has received a majority of the votes cast. Blank and  
18 spoiled votes shall not be tabulated.

19 (c) Once a winner has been declared pursuant to subsection  
20 (b), a certificate of election declaring the results shall be  
21 issued pursuant to section 11-156.



1        §11-B Instant runoff voting method; generally. (a) Once  
2        a ballot in an election using the instant runoff voting method  
3        has no more available choices ranked on it, the ballot shall be  
4        deemed exhausted.

5        (b) If a ballot in an election using the instant runoff  
6        voting method skips a ranked choice, the ballot shall be deemed  
7        exhausted. A ballot that gives two or more candidates the same  
8        ranking shall be deemed exhausted when that ranking is reached  
9        unless only one of the candidates so ranked is still in the race  
10       when the vote is due to be transferred to that ranked choice.

11       (c) If a tie between candidates occurs at any stage in the  
12       tabulation, the tie shall be resolved against the candidate who  
13       received the fewest number of combined first choice votes and  
14       transferred votes at the previous stage of tabulation. In the  
15       case of a tie to which a previous stage does not apply, or where  
16       the previous stage was also a tie, the tie shall be resolved by  
17       drawing lots. However, if a tie occurs when there are only two  
18       candidates remaining, the tie shall be resolved as set forth in  
19       section 11-157.

20       §11-C Instant runoff voting method; application. (a) The  
21       instant runoff voting method shall be conducted by mail,



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1 pursuant to section 11-91.5, and shall be used for any federal,  
2 state, or county election not held on the date of a regularly  
3 scheduled primary or general election. The election shall  
4 consist of one election contest and no subsequent separate  
5 runoff election shall be held.

6 (b) The election proclamation required pursuant to section  
7 11-91 shall state that votes shall be cast and tabulated using  
8 the instant runoff voting method and provide an explanation of  
9 the procedures for instant runoff voting.

10 (c) For purposes of this section, the chief election  
11 officer and county clerks shall adopt rules under chapter 91 to  
12 provide for the use of mechanical, electronic, or other means  
13 devised for marking, sorting, and counting the ballots and  
14 tabulating and transferring the votes in an election using the  
15 instant runoff voting method; provided that no rule shall alter  
16 the intent or principles embodied in the instant runoff voting  
17 method described in this part.

18 (d) Ballots approved under this section shall be simple  
19 and easy to understand and shall allow a voter to rank each  
20 candidate for an office in order of preference, up to four  
21 places. Prior to finalization and printing, sample ballots



1 shall be made available for a minimum of seven days on the  
2 applicable office of elections' website and at the office of  
3 elections for public review and comment.

4 Instructions on the ballot shall include the following  
5 statement: "You may mark as many as four or as few alternate  
6 choices as you wish. Marking a second choice cannot help defeat  
7 your first choice. Marking a subsequent choice cannot help  
8 defeat your higher-ranked choices."

9 Sample ballots illustrating the procedures for instant  
10 runoff voting shall be included in the instruction materials for  
11 mail ballots, and posted on the office of elections' website.  
12 The office of elections shall distribute educational materials  
13 explaining instant runoff voting prior to the election."

14 SECTION 2. Section 11-1, Hawaii Revised Statutes, is  
15 amended by adding a new definition to be appropriately inserted  
16 and to read as follows:

17 "Instant runoff voting method" means a method of casting  
18 and tabulating votes that tabulates a single vote for each voter  
19 but simulates the ballot counts that would occur if all voters  
20 participated in a series of runoff elections, whereby voters are  
21 allowed to rank candidates according to the voter's preference



1 and, if no candidate obtains a majority of first choice votes,  
2 votes are transferred in sequential tabulations according to  
3 voters' preferences."

4 SECTION 3. Section 11-112, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§11-112 Contents of ballot. (a) The ballot shall  
7 contain the names of the candidates, their party affiliation or  
8 nonpartisanship in partisan election contests, the offices for  
9 which they are running, and the district in which the election  
10 is being held. In multimember races the ballot shall state that  
11 the voter shall not vote for more than the number of seats  
12 available or the number of candidates listed where [~~such~~] the  
13 number of candidates is less than the number of seats available.

14 (b) The ballot may include questions concerning proposed  
15 state constitutional amendments, proposed county charter  
16 amendments, or proposed initiative or referendum issues.

17 (c) At the chief election officer's discretion, the ballot  
18 may have a background design imprinted onto it.

19 (d) When the electronic voting system is used, the ballot  
20 may have pre-punched codes and printed information which



1 identify the voting districts, precincts, and ballot sets to  
2 facilitate the electronic data processing of these ballots.

3 (e) The name of the candidate may be printed with the  
4 Hawaiian or English equivalent or nickname, if the candidate so  
5 requests in writing at the time the candidate's nomination  
6 papers are filed. Candidates' names, including the Hawaiian or  
7 English equivalent or nickname, shall be set on one line.

8 (f) The ballot shall bear no word, motto, device, sign, or  
9 symbol other than as allowed in this title.

10 (g) The ballot may include language necessary to use the  
11 instant runoff voting method in sections 11-A, 11-B, and 11-C."

12 SECTION 4. Section 11-151, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§11-151 Vote count.** [~~Each~~] Except for contests where the  
15 instant runoff voting method is used, each contest or question  
16 on a ballot shall be counted independently as follows:

17 (1) If the votes cast in a contest or on a question are  
18 equal to or [~~less~~] fewer than the number to be elected  
19 or chosen for that contest or question, the votes for  
20 that contest or question shall be counted;



1           (2) If the votes cast in a contest or question exceed the  
2           number to be elected or chosen for that contest or  
3           question, the votes for that contest or question shall  
4           not be counted; and

5           (3) If a contest or question requires a majority of the  
6           votes for passage, any blank, spoiled, or invalid  
7           ballot shall not be tallied for passage or as votes  
8           cast except that such ballots shall be counted as  
9           votes cast in ratification of a constitutional  
10          amendment or a question for a constitutional  
11          convention."

12          SECTION 5. Section 11-152, Hawaii Revised Statutes, is  
13          amended to read as follows:

14          "**§11-152 Method of counting.** (a) In an election using  
15          the paper ballot voting system, immediately after the close of  
16          the polls, the chairperson of the precinct officials shall open  
17          the ballot box. The precinct officials at the precinct shall  
18          proceed to count the votes as follows:

19               (1) The whole number of ballots shall first be counted to  
20               see if their number corresponds with the number of  
21               ballots cast as recorded by the precinct officials;





1           (2) If the number of ballots corresponds with the number  
2           of persons recorded by the precinct officials as  
3           having voted, the precinct officials shall then  
4           proceed to count the [~~vote~~] votes cast for each  
5           candidate; and

6           (3) If there are more ballots or [~~less~~] fewer ballots than  
7           the record calls for the precinct officials shall  
8           proceed as directed in section 11-153.

9           (b) In those precincts using the electronic voting system,  
10          the ballots shall be taken in the sealed ballot boxes to the  
11          counting center according to the procedure and schedule  
12          promulgated by the chief election officer to promote the  
13          security of the ballots. In the presence of official observers,  
14          counting center employees may start to count the ballots prior  
15          to the closing of the polls; provided that there shall be no  
16          printout by the computer or other disclosure of the number of  
17          votes cast for a candidate or on a question prior to the closing  
18          of the polls. For the purposes of this section, the closing of  
19          the polls is that time identified in section 11-131 as the  
20          closing hour of voting.



1           (c) In an election that uses the instant runoff voting  
 2 method, votes shall be counted as provided in sections 11-A and  
 3 11-B."

4           SECTION 6. Section 11-155, Hawaii Revised Statutes, is  
 5 amended to read as follows:

6           "**§11-155 Certification of results of election.** On receipt  
 7 of certified tabulations from the election officials concerned,  
 8 the chief election officer in state elections or county clerk in  
 9 county elections shall compile, certify, and release the  
 10 election results after the expiration of the time for bringing  
 11 an election contest. The certification shall be based on a  
 12 comparison and reconciliation of the following:

- 13           (1) The results of the canvass of ballots conducted
- 14                       pursuant to chapter 16;
- 15           (2) The audit of pollbooks (and related record books) and
- 16                       resultant overage and underage report;
- 17           (3) The audit results of the manual audit team;
- 18           (4) The results of the absentee ballot reconciliation
- 19                       report compiled by the clerks; and



1           (5) All logs, tally sheets, and other documents generated  
2                   during the election and in the canvass of the election  
3                   results.

4 A certificate of election or a certificate of results declaring  
5 the results of the election as of election day shall be issued  
6 pursuant to section 11-156; provided that in the event of an  
7 overage or underage, a list of all precincts in which an overage  
8 or underage occurred shall be attached to the certificate. The  
9 number of candidates to be elected receiving the [~~highest~~]  
10 greatest number of votes in any election district shall be  
11 declared to be elected[-]; provided that candidates for office  
12 subject to the instant runoff voting method shall be declared to  
13 be elected pursuant to section 11-A. Unless otherwise provided,  
14 the term of office shall begin or end as of the close of polls  
15 on election day. The position on the question receiving the  
16 appropriate majority of the votes cast shall be reflected in a  
17 certificate of results issued pursuant to section 11-156."

18           SECTION 7. In codifying the new sections added by section  
19 1 of this Act, the revisor of statutes shall substitute  
20 appropriate section numbers for the letters used in designating  
21 the new sections in this Act.



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1 SECTION 8. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2017;  
4 provided that this Act shall not apply to any election held  
5 prior to January 1, 2018; and provided further that, no later  
6 than December 31, 2017, the chief election officer and each  
7 county clerk shall adopt rules pursuant to chapter 91, Hawaii  
8 Revised Statutes, to effectuate the purposes of this Act.

9  
INTRODUCED BY:

*Matthew Lapan*  
*Greg Taylor*  
*Sam*  
*Don*  
*John M. ...*  
*Edgar ...*  
*Jan ...*

JAN 19 2017



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**Report Title:**

Elections; Special Elections; Instant Runoff Voting

**Description:**

Establishes instant runoff voting procedures for any federal, state, or county election not held on the date of a regularly scheduled primary or general election.

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

