
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 an increasing number
2 of Hawaii voters are submitting their votes by mail. The 2014
3 Hawaii primary election was the first election in which more
4 ballots were submitted before primary election day than on that
5 day. Fifty-six per cent of Hawaii voters chose to vote early
6 during the 2014 primary, and approximately eighty-three per cent
7 of those voters did so through a mail-in absentee ballot. In
8 2016, the number of votes cast before election day exceeded the
9 number of votes cast at polling places on election day, except
10 in one county.

11 The legislature further finds that Hawaii's conversion to
12 elections by mail would significantly reduce the logistical
13 issues related to conducting elections at polling places.

14 Accordingly, the purpose of this Act is to:

15 (1) Conduct a pilot program to require that the 2020
16 primary election and 2020 general election in any
17 county with a population of less than one hundred
18 thousand be conducted by mail;



- 1 (2) For purposes of the pilot program, establish a voter
2 service center that would remain open from the tenth
3 business day preceding an election through the day of
4 the election to receive personal delivery of mail-in
5 ballots, accommodate voters with special needs, offer
6 same day registration and voting, and provide other
7 election services;
- 8 (3) Allow for additional places of deposit for personal
9 delivery of mail-in ballots under the pilot program;
- 10 (4) Appropriate funds for the implementation and
11 administration of the election by mail pilot program;
12 and
- 13 (5) Require the office of elections to submit a report to
14 the legislature prior to the convening of each regular
15 session from 2019 through 2021, regarding the
16 implementation of the election by mail pilot program
17 pursuant to this Act.

18 SECTION 2. Definitions. (a) As used in this Act:
19 "Ballot" shall have the same meaning as in section 11-1,
20 Hawaii Revised Statutes, and shall include a ballot used in an



1 election by mail pursuant to this Act, including a ballot
2 approved for electronic transmission.

3 "Business day" means any day excluding Saturdays, Sundays,
4 and state or federal holidays.

5 "County" means a county with a population of less than one
6 hundred thousand.

7 "Electronic transmission" means the transmission of a blank
8 or voted ballot by facsimile or electronic mail delivery, or the
9 use of an online absentee ballot delivery and return system,
10 which may include the ability to mark the ballot.

11 "Place of deposit" means a site within the county that has
12 been designated pursuant to section 11 of this Act for the
13 purpose of receiving return identification envelopes in an
14 election conducted by mail pursuant to this Act.

15 "Voter service center" means a location within the county
16 that has been established pursuant to section 11 of this Act to
17 serve all of the following purposes:

- 18 (1) Receive return envelopes for the county's absentee
19 ballots pursuant to chapter 15, Hawaii Revised
20 Statutes;



- 1 (2) Receive return identification envelopes in an election
- 2 by mail conducted pursuant to this Act;
- 3 (3) Provide voting machine services for persons with
- 4 disabilities pursuant to the Help America Vote Act of
- 5 2002, P.L. 107-252, as amended, and any other federal
- 6 or state law relating to persons with disabilities;
- 7 (4) Provide any other voting services as provided by law;
- 8 and
- 9 (5) Any other purposes the chief election officer or
- 10 county clerk may deem necessary if a natural disaster
- 11 or other exigent circumstance occurs before an
- 12 election.

13 "Voting system" shall have the same meaning as in section
14 11-1, Hawaii Revised Statutes, and shall include electronic
15 transmission, elections by mail, and absentee voting pursuant to
16 chapter 15, Hawaii Revised Statutes.

17 (b) As used in this Act, the terms "chief election
18 officer", "clerk", "election", "election officials", "office",
19 "political party" or "party", "precinct", "primary", and "voter"
20 shall have the same meanings as in section 11-1, Hawaii Revised
21 Statutes.



1 SECTION 3. Elections conducted by mail; pilot program.
2 Notwithstanding any other law to the contrary, the county shall
3 conduct the 2020 primary election and 2020 general election by
4 mail in accordance with this Act.

5 This Act shall apply only to the counties and elections
6 specified in this section.

7 SECTION 4. Procedures for conducting elections by mail.

8 (a) Ballot packages for elections by mail shall include:

- 9 (1) An official ballot;
- 10 (2) A return identification envelope with postage prepaid;
- 11 (3) A secrecy envelope; and
- 12 (4) Instructions.

13 (b) To the extent practicable, the county clerk shall mail
14 a ballot package by non-forwardable mail to each registered
15 voter in the county so as to enable voters to receive the ballot
16 package approximately eighteen days before the election. The
17 county clerk shall continue mailing ballot packages to voters
18 who update their voter registration address no later than
19 fourteen days before the date of the election. In determining
20 the initial mailing date of the ballot packages, the county
21 clerk shall consider the mailing place of origin and the most



1 recent postal service delivery standards. The county clerk
2 shall not mail a ballot package to any voter in the county
3 register who is identified as having an outdated or non-
4 deliverable mailing address. Nothing in this Act shall be
5 construed to change the responsibilities of the county clerk or
6 chief election officer under chapter 15D, Hawaii Revised
7 Statutes, with respect to military and overseas voters.

8 (c) The county clerk shall determine and provide for
9 places of deposit pursuant to this Act.

10 SECTION 5. Public notice of mailing. Public notice of the
11 date or dates on which the initial ballot packages are to be
12 mailed shall be given by the county clerk before the ballot
13 packages are made available to voters.

14 SECTION 6. Ballot instructions; ballot return. (a) After
15 a voter receives a ballot package, the voter shall comply with
16 the instructions included in the ballot package in order to cast
17 a valid vote. The instructions shall include directions for:

- 18 (1) Marking the ballot;
19 (2) Inserting the marked ballot in the secrecy envelope;
20 (3) Inserting the secrecy envelope with the marked ballot
21 in the return identification envelope; and



1 (4) Signing the return identification envelope before
2 mailing or delivering the return identification
3 envelope containing the secrecy envelope with the
4 marked ballot.

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

10 (c) To cast a valid ballot, the voter shall return the
11 return identification envelope containing the secrecy envelope
12 with the marked ballot:

13 (1) By mail so that the return identification envelope is
14 received at the office of the county clerk no later
15 than 6:00 p.m. on the date of the election;

16 (2) By personal delivery at any place of deposit no later
17 than 6:00 p.m. on the day preceding the date of the
18 election; or

19 (3) By personal delivery to the voter service center no
20 later than 6:00 p.m. on the date of the election.



1 (d) Once a voter has returned a return identification
2 envelope containing the secrecy envelope with the marked ballot,
3 that voter's ballot shall be deemed cast and may not be recast
4 in the election.

5 SECTION 7. Replacement ballots. (a) A voter may obtain a
6 replacement ballot if the ballot was destroyed, spoiled, or lost
7 by contacting the county clerk. The chief election officer may
8 prescribe a replacement ballot application form that shall
9 include information that allows the county clerk to verify the
10 registration of the voter and ensure that another ballot has not
11 been returned by the voter.

12 (b) Upon receipt of a completed replacement ballot
13 application form, the county clerk shall:

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

16 (2) Record that the voter has requested a replacement
17 ballot;

18 (3) Mark the return identification envelope as containing
19 a replacement ballot; and

20 (4) Issue the replacement ballot package by mail or make
21 the ballot package available for pick-up by the voter.



1 (c) Voters who obtain a replacement ballot shall return
2 the return identification envelope containing the secrecy
3 envelope with the marked replacement ballot:

4 (1) By mail so that the return identification envelope is
5 received at the office of the county clerk no later
6 than 6:00 p.m. on the date of the election;

7 (2) By personal delivery to any place of deposit no later
8 than 6:00 p.m. on the day preceding the date of the
9 election; or

10 (3) By personal delivery to the voter service center no
11 later than 6:00 p.m. on the date of the election.

12 SECTION 8. Deficient return identification envelopes. If:

13 (1) A return identification envelope is returned with an
14 unsigned affirmation;

15 (2) The affirmation signature does not match a reference
16 signature image; or

17 (3) A return identification envelope contains another
18 condition that would not allow the counting of the
19 ballot,

20 the county clerk shall make an attempt to notify the voter by
21 first class mail, telephone, or electronic mail to inform the



1 voter of the procedure to correct the deficiency. The voter
2 shall have five business days after the date of the election to
3 cure the deficiency. The chief election officer may adopt rules
4 regarding requirements and procedures for correcting deficient
5 return identification envelopes. The counting of ballots and
6 disclosure of subsequent election results may continue during
7 the time period permitted to cure a deficiency under this
8 section. The county clerk's inability to contact voters under
9 this section shall not be grounds for a contest for cause under
10 section 11-172, Hawaii Revised Statutes.

11 SECTION 9. Electronic transmission under certain
12 circumstances. (a) If a ballot package is not received by a
13 voter within five days prior to an election or a voter otherwise
14 requires a replacement ballot within five days prior to an
15 election, the voter may request that a ballot be forwarded by
16 electronic transmission; provided that a voter with special
17 needs may request that a ballot be forwarded by electronic
18 transmission at any time. Upon receipt of such a request and
19 confirmation that proper application was made, the county clerk
20 may transmit the appropriate ballot, together with a form



1 containing the affirmations, information, and a waiver of the
2 right to secrecy under section 11-137, Hawaii Revised Statutes.

3 (b) The voter may return the voted ballot and executed
4 forms:

5 (1) By electronic transmission so that the voted ballot
6 and executed forms are received at the office of the
7 county clerk no later than 6:00 p.m. on the date of
8 the election;

9 (2) By mail so that the voted ballot and executed forms
10 are received at the office of the county clerk no
11 later than 6:00 p.m. on the date of the election;

12 (3) By personal delivery to any place of deposit no later
13 than 6:00 p.m. on the day preceding the date of the
14 election; or

15 (4) By personal delivery to the voter service center no
16 later than 6:00 p.m. on the date of the election.

17 (c) Upon receipt, the county clerk shall verify compliance
18 with the requirements of this Act; provided that if the voter
19 returns multiple voted ballots for the same election, the county
20 clerk shall prepare only the first ballot returned that is not
21 spoiled.



1 SECTION 10. Counting of mail-in ballots. Ballot
 2 processing for tabulation may begin no sooner than the tenth day
 3 before the election. In the presence of official observers,
 4 counting center employees may open the return identification
 5 envelopes and count the ballots; provided that any tabulation of
 6 the number of votes cast for a candidate or question appearing
 7 on the ballot, including a counting center printout or other
 8 disclosure, shall be kept confidential and shall not be
 9 disclosed to the public until after 6:00 p.m. on the date of the
 10 election. All handling and counting of ballots shall be
 11 conducted in accordance with procedures established by the chief
 12 election officer.

13 SECTION 11. Voter service center; places of deposit. (a)
 14 A voter service center shall be established at the office of the
 15 county clerk.

16 (b) The voter service center shall be open from the tenth
 17 business day preceding the day of the election during regular
 18 business hours until 6:00 p.m. on the date of the election;
 19 provided that:

20 (1) On the day of the election, the voter service center
 21 shall be open from 7:00 a.m.;



1 (2) If, at the closing hour of voting, any voter desiring
2 to vote is standing in line with the desire of
3 entering and voting, but due to the voter service
4 center being overcrowded has been unable to do so, the
5 voter shall be allowed to vote irrespective of the
6 closing hour of voting; and

7 (3) No voter shall be permitted to enter or join the line
8 after the prescribed hours of voting.

9 (c) Each voter service center shall provide the services
10 specified in section 2 of this Act under the definition of
11 "voter service center".

12 (d) The county clerk may designate and provide for places
13 of deposit to be open five business days before the election
14 until 6:00 p.m. the day preceding the election; provided that
15 the locations and apparatus for receiving voted ballots can be
16 securely maintained during the period of use for each election,
17 and as may be permitted by the operational hours.

18 (e) The chief election officer shall issue a proclamation
19 listing the voter service center and places of deposit as may
20 have been determined by the county clerk as of the proclamation
21 date. The county clerk shall make arrangements for the rental



1 or erection of suitable shelter for the establishment of a voter
2 service center whenever public buildings are not available and
3 shall cause the voter service center to be equipped with the
4 necessary facilities for lighting, ventilation, and equipment
5 needed for elections. This proclamation may be issued jointly
6 with the proclamation required in section 11-91, Hawaii Revised
7 Statutes.

8 (f) Notwithstanding the foregoing, the county clerk is not
9 required to establish a voter service center for areas affected
10 by natural disasters, as provided in section 15-2.5, Hawaii
11 Revised Statutes.

12 (g) Notwithstanding the closing of the general county
13 register pursuant to section 11-24, Hawaii Revised Statutes, a
14 person who is eligible to vote but not registered to vote may
15 register by appearing in person at the voter service center
16 before or on election day. The county clerk shall designate a
17 registration clerk, who may be an election official, at the
18 voter service center, who shall process applications for any
19 person not registered to vote in accordance with section 11-
20 15.2(c), (d), (e), (f), and (g), Hawaii Revised Statutes.



1 (h) The county clerk shall designate a registration clerk,
2 who may be an election official, at the voter service center,
3 who shall take applications for change of name pursuant to
4 section 11-21, Hawaii Revised Statutes.

5 (i) Each qualified political party shall be entitled to
6 appoint no more than one watcher who may be present at any time
7 at the voter service center; provided that:

8 (1) Each party shall submit its list of watchers no later
9 than 4:30 p.m. on the twentieth day before any
10 election to the county clerk;

11 (2) All watchers shall serve without expense to the county
12 or the State; and

13 (3) All watchers so appointed shall be registered voters.

14 Each watcher shall be provided with identification from the
15 county clerk stating the watcher's name and the name of the
16 political party the watcher represents.

17 The watcher shall call the attention of the county clerk to
18 any violations of the election laws that the watcher observes.
19 After the county clerk's attention is called to the violation,
20 the county clerk shall make an attempt to correct the violation.



1 If the county clerk fails to correct the violation, the watcher
2 may appeal to the chief election officer.

3 (j) No person shall take a ballot out of the voter service
4 center unless authorized by the chief election officer or a
5 designee of the chief election officer.

6 (k) A person with disabilities may be provided assistance
7 at the voter service center pursuant to any state or federal law
8 relating to persons with disabilities.

9 (l) For the purposes of section 11-25, Hawaii Revised
10 Statutes, the term "polling place" shall include the voter
11 service center established pursuant to this Act.

12 (m) For the purposes of section 11-132, Hawaii Revised
13 Statutes, the term "polling place" shall include the voter
14 service center or a place of deposit established pursuant to
15 this Act.

16 SECTION 12. Absentee ballots. (a) Any person who is
17 registered to vote who is unable to receive a ballot at the
18 person's voter registration address of record may request an
19 absentee ballot pursuant to section 15-4, Hawaii Revised
20 Statutes; provided that a return envelope containing an absentee
21 ballot shall be:



1 (1) Mailed and received by the county clerk issuing the
2 absentee ballot no later than 6:00 p.m. on election
3 day; or

4 (2) Delivered other than by mail to the county clerk
5 issuing the absentee ballot or to the voter service
6 center no later than 6:00 p.m. on election day.

7 (b) An absentee ballot received by the county clerk shall
8 be processed and counted pursuant to chapter 15, Hawaii Revised
9 Statutes.

10 SECTION 13. Election expenses and responsibilities for
11 elections by mail. (a) Election expenses in an election by
12 mail shall be as follows:

13 (1) All expenses related to elections by mail involving
14 both state and county offices, or involving both
15 federal and county offices, unrelated to voter
16 registration, shall be divided in half between the
17 State and the county. To the extent that a particular
18 expense is shared statewide, each county shall pay a
19 proration of expenses as a proportion of the
20 registered voters at the time of the general election.



1 The county shall separately be responsible for
2 expenses associated with voter registration;

3 (2) All expenses for county elections by mail, which do
4 not involve state or federal offices, shall be borne
5 by the county and paid out of appropriations as may be
6 made by the county council; and

7 (3) All expenses for state or federal elections by mail,
8 which do not involve county offices, shall be borne by
9 the State and paid out of appropriations as may be
10 made by the legislature. Expenses attributable to
11 registration of voters by the county clerk for state
12 or federal elections that do not involve county
13 offices shall be borne by the State and paid out of
14 appropriations as may be made by the legislature.

15 (b) Election responsibilities for elections by mail shall
16 be as follows:

17 (1) For elections by mail involving both state and county
18 offices, or involving both federal and county offices:

19 (A) The county shall be responsible for voter
20 registration, absentee voting, the voter service



1 center, places of deposit, and the mailing and
2 receipt of ballots;

3 (B) The State shall be responsible for the printing
4 and counting of ballots;

5 (C) The State and county may otherwise agree to the
6 delegation of these responsibilities to each
7 other; and

8 (D) Any responsibilities not specified in this
9 paragraph may be assigned to the county or the
10 State by the chief election officer;

11 (2) For elections by mail involving only county offices,
12 the respective county shall be solely responsible; and

13 (3) For elections by mail involving only state or federal
14 offices:

15 (A) The county shall be responsible for voter
16 registration, absentee voting, the voter service
17 center, and places of deposit;

18 (B) The State shall be responsible for the printing,
19 mailing, receipt, and counting of ballots; and



1 (C) Any responsibilities not specified in this
2 paragraph may be assigned to the county or the
3 State by the chief election officer.

4 SECTION 14. Misdemeanors. Any person who opens a return
5 envelope containing a ballot voted by mail other than those
6 persons authorized to do so pursuant to this Act shall be guilty
7 of a misdemeanor.

8 SECTION 15. Removal of names from register. For the
9 purpose of section 11-17(a), Hawaii Revised Statutes, a person
10 has voted if the voter has returned the ballot to the chief
11 election officer or county clerk by the United States Postal
12 Service, by personal delivery of the ballot to a place of
13 deposit or the voter service center, or by electronic
14 transmission under certain circumstances pursuant to this Act.

15 SECTION 16. Applicability of title 2, Hawaii Revised
16 Statutes. An election by mail conducted pursuant to this Act
17 shall be administered in accordance with title 2, Hawaii Revised
18 Statutes; provided that if any provision of that title conflicts
19 with a provision of this Act, this Act shall prevail.

20 SECTION 17. Rules. The chief election officer may adopt
21 rules pursuant to chapter 91 to implement this Act.



1 SECTION 18. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$75,450 or so much
3 thereof as may be necessary for fiscal year 2018-2019 for the
4 purpose of preparing for, implementing, and administering
5 elections by mail in a county with a population of less than one
6 hundred thousand, including voter education and public awareness
7 programs; provided that the office of elections may distribute a
8 portion of the sum to a county in the form of a grant to cover
9 startup, transition, and other necessary costs that may be
10 foreseeably incurred by the county.

11 The sum appropriated shall be expended by the office of
12 elections for the purposes of this Act.

13 SECTION 19. No later than twenty days prior to the
14 convening of the regular sessions of 2019 and 2020, the office
15 of elections shall submit a preliminary report to the
16 legislature that includes:

- 17 (1) The office of elections' progress in implementing this
18 Act;
- 19 (2) A summary of the office of elections' discussions with
20 the county clerk to determine areas of joint
21 implementation of this Act;



- 1 (3) An estimate of any costs the county clerk or the
- 2 office of elections may incur to implement this Act;
- 3 (4) Any developments in assistive technology that may be
- 4 implemented by the State, the counties, or nonprofit
- 5 associations to ensure that persons with disabilities
- 6 are not, on the whole, disadvantaged by implementation
- 7 of this Act, including the costs associated with
- 8 applicable technology;
- 9 (5) Any difficulties encountered;
- 10 (6) Specific steps taken and recommendations necessary to
- 11 prevent fraud and ensure the integrity of the election
- 12 process; and
- 13 (7) Any other findings and recommendations, including any
- 14 proposed legislation, necessary to clarify and
- 15 implement this Act.

16 SECTION 20. No later than January 15, 2021, the office of

17 elections shall submit a final report to the legislature that

18 includes:

- 19 (1) Critical evaluation and assessment of the office of
- 20 elections' and county clerk's performance in
- 21 implementing this Act;



- 1 (2) A summary of the office of elections' discussions with
2 the county clerk to determine areas of joint
3 implementation of this Act;
- 4 (3) An estimate of the costs required by the county clerks
5 or the office of elections to implement elections by
6 mail statewide;
- 7 (4) Any developments in assistive technology that may be
8 implemented by the State, the counties, or nonprofit
9 associations to ensure that persons with disabilities
10 are not, on the whole, disadvantaged by implementation
11 of elections by mail statewide, including the costs
12 associated with applicable technology;
- 13 (5) Any difficulties encountered;
- 14 (6) Specific steps taken and recommendations necessary to
15 prevent fraud and ensure the integrity of the election
16 process;
- 17 (7) Findings on whether the pilot project has increased
18 voter participation; and
- 19 (8) Any other findings and recommendations, including any
20 proposed legislation, necessary to implement elections
21 by mail statewide.



1 SECTION 21. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 22. This Act does not affect rights and duties
8 that matured, penalties that were incurred, and proceedings that
9 were begun before its effective date.

10 SECTION 23. This Act shall take effect on July 1, 2018 and
11 shall be repealed on June 30, 2021.



Report Title:

Voting by Mail; Pilot Program; Voter Service Center; Places of Deposit

Description:

Requires a pilot program for the 2020 primary and general elections in any county with a population of less than 100,000 to be conducted by mail. Establishes a voter service center to provide certain election services. Allows for additional places of deposit for personal delivery of mail-in ballots. Requires the Office of Elections to submit reports to the Legislature. Appropriates funds. (HB1401 CD1)

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

