A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

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

"PART I

ELECTIONS BY MAIL WITHIN QUALIFYING COUNTIES

"§11-A Definitions. As used in this part, unless the context requires otherwise:

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

"Qualifying county" means any county in the State that has a population of more than one hundred thousand, but less than one hundred ninety-five thousand, and any county deemed to be included within that county pursuant to the definition of "county" in section 11-1.

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

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

"Voter service center" means a location within the
qualifying county that has been established pursuant to section
11-J.

§11-B Elections by mail. Beginning with the 2020 primary
election, each qualifying county shall conduct all primary,
general, and special elections by mail.

§11-C Procedures for conducting elections by mail. (a)
Ballot packages for elections by mail shall include:

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

(b) To the extent practicable, the county clerk shall mail
a ballot package by non-forwardable mail to each registered
voter in the qualifying county so as to enable voters to receive
the ballot package approximately eighteen days before the
election. The county clerk shall continue mailing ballot
packages to voters who update their voter registration address
no later than fourteen days before the date of the election. In
determining the initial mailing date of the ballot packages, the
county clerk shall consider the mailing place of origin and the
most recent postal service delivery standards. The county clerk
shall not mail a ballot package to any voter in the qualifying
county register who is identified as having an outdated or non-
deliverable mailing address. Nothing in this part shall be
construed to change the responsibilities of the county clerk or
chief election officer under chapter 15D with respect to
military and overseas voters.

(c) The chief election officer shall determine and provide
for voter service centers and places of deposit pursuant to this
part.

§11-D Public notice of mailing. Before the ballot
packages are made available to voters, the county clerk shall
give public notice of the date or dates on which the initial
ballot packages are to be mailed.
§11-E Ballot Instructions; Ballot Return. (a) After a voter receives a ballot package, the voter shall comply with the instructions included in the ballot package to cast a valid vote. The instructions shall include directions for:

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

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

(c) To cast a valid ballot, the voter shall return the return identification envelope containing the secrecy envelope with the marked ballot:
(1) By mail so that the return identification envelope is received at the office of the county clerk no later than 6:00 p.m. on the date of the election;

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

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

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

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

(b) Upon receipt of a completed replacement ballot application form, the county clerk shall:
(1) Verify the registration of the voter and ensure that another ballot has not been returned by the voter;

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

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

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

(c) Voters who obtain a replacement ballot shall return the return identification envelope containing the secrecy envelope with the marked replacement ballot in the same manner as specified in section 11-E(c)(1), (2), or (3).

§11-G Deficient return identification envelopes. If:

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

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

(3) A return identification envelope contains another condition that would not allow the counting of the ballot,
the county clerk shall make an attempt to notify the voter by first class mail, telephone, or electronic mail to inform the voter of the procedure to correct the deficiency. The voter shall have five business days after the date of the election to cure the deficiency. The chief election officer may adopt rules regarding requirements and procedures for correcting deficient return identification envelopes. The counting of ballots and disclosure of subsequent election results may continue during the time period permitted to cure a deficiency under this section. The county clerk's inability to contact voters under this section shall not be grounds for a contest for cause under section 11-172.

§11-H Electronic transmission under certain circumstances.

(a) If a ballot package is not received by a voter within five days prior to an election or a voter otherwise requires a replacement ballot within five days prior to an election, the voter may request that a ballot be forwarded by electronic transmission; provided that a voter with special needs may request that a ballot be forwarded by electronic transmission at any time. Upon receipt of a request made pursuant to this section and confirmation that proper application was made, the
county clerk may transmit the appropriate ballot, together with
a form containing the affirmations, information, and a waiver of
the right to secrecy under section 11-137.

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

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

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

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

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

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

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

§11-J Voter service centers; places of deposit. (a) A voter service center shall be established at the office of the county clerk.

(b) The voter service center shall be open from the tenth business day preceding the day of the election during regular business hours until 6:00 p.m. on the date of the election; provided that:
(1) On the day of the election, the voter service center shall be open from 7:00 a.m.;

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

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

(c) Each voter service center within a qualifying county shall:

(1) Receive return envelopes for the qualifying county's absentee ballots pursuant to chapter 15;

(2) Receive return identification envelopes in an election by mail conducted pursuant to this part;

(3) Provide voting machine services for persons with disabilities pursuant to the Help America Vote Act of 2002, P.L. 107-252, as amended, and any other federal or state law relating to persons with disabilities;
(4) Provide any other voting services as provided by law; and

(5) Perform other duties as the chief election officer or county clerk may deem necessary if a natural disaster or other exigent circumstance occurs before an election.

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

(e) The chief election officer shall issue a proclamation listing the voter service center and places of deposit as may have been determined by the county clerk as of the proclamation date. The county clerk shall make arrangements for the rental or erection of suitable shelter for the establishment of a voter service center whenever public buildings are not available and shall cause the voter service center to be equipped with the necessary facilities for lighting, ventilation, and equipment.
needed for elections. This proclamation may be issued jointly
with the proclamation required in section 11-91.

(f) Notwithstanding the foregoing, the county clerk shall
not be required to establish a voter service center for areas
affected by natural disasters, as provided in section 15-2.5.

(g) Notwithstanding the closing of the general county
register pursuant to section 11-24, a person who is eligible to
vote but not registered to vote may register by appearing in
person at the voter service center before or on election day.

The county clerk shall designate a registration clerk, who may
be an election official, at the voter service center, who shall
process applications for any person not registered to vote in
accordance with section 11-15.2(c), (d), (e), (f), and (g).

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

(i) Each qualified political party shall be entitled to
appoint no more than one watcher who may be present at any time
at the voter service center; provided that:
(1) Each party shall submit its list of watchers to the county clerk no later than 4:30 p.m. on the twentieth day before any election;

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

(3) All watchers so appointed shall be registered voters. Each watcher shall be provided with identification from the county clerk stating the watcher's name and the name of the political party the watcher represents.

A watcher shall call the attention of the county clerk to any violations of the election laws that the watcher observes. After the county clerk's attention is called to the violation, the county clerk shall make an attempt to correct the violation. If the county clerk fails to correct the violation, the watcher may appeal to the chief election officer.

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

(k) A person with disabilities may be provided assistance at the voter service center pursuant to any state or federal law relating to persons with disabilities.
§11-K Absentee ballots. (a) Any person who is registered to vote who is unable to receive a ballot at the person's voter registration address of record may request an absentee ballot pursuant to section 15-4; provided that a return envelope containing an absentee ballot shall be:

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

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

(b) An absentee ballot received by the county clerk shall be processed and counted pursuant to chapter 15.

§11-L Election expenses and responsibilities for elections by mail. (a) Election expenses in an election by mail pursuant to this part shall be as follows:

(1) All expenses related to elections by mail involving both state and county offices, or involving both federal and county offices, unrelated to voter registration, shall be divided in half between the State and the county. To the extent that a particular
expense is shared statewide, each county shall pay a proration of expenses as a proportion of the registered voters at the time of the general election. The county shall separately be responsible for expenses associated with voter registration;

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

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

(b) Election responsibilities for elections by mail pursuant to this part shall be as follows:

(1) For elections by mail involving both state and county offices, or involving both federal and county offices:
(A) The county shall be responsible for voter registration, absentee voting, the voter service center, places of deposit, and the mailing and receipt of ballots;

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

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

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

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

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

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

(B) The State shall be responsible for the printing, mailing, receipt, and counting of ballots; and
(C) Any responsibilities not specified in this paragraph may be assigned to the county or the State by the chief election officer.

§11-M Misdemeanors. Any person who opens a return envelope containing a ballot voted by mail other than those persons authorized to do so pursuant to this part shall be guilty of a misdemeanor."

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

1. By amending the definition of "ballot" to read:

"Ballot", a ballot including an absentee ballot is a written or printed, or partly written and partly printed paper or papers containing the names of persons to be voted for, the office to be filled, and the questions or issues to be voted on. "Ballot" includes a ballot used in an election by mail pursuant to part , including a ballot approved for electronic transmission under that part. A ballot may consist of one or more cards or pieces of paper, or one face of a card or piece of paper, or a portion of the face of a card or piece of paper, depending on the number of offices, candidates to be elected thereto, questions or issues to be voted on, and the voting
system in use. It shall also include the face of the mechanical
voting machine when arranged with cardboard or other material
within the ballot frames, containing the names of the candidates
and questions to be voted on."

2. By amending the definition of "voting system" to read:
"Voting system", the use of paper ballots, electronic
ballot cards, voting machines, or any system by which votes are
cast and counted. "Voting system" includes electronic
transmission, elections by mail, and absentee voting pursuant to
chapter 15."

SECTION 3. Section 11-17, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:
"(a) The clerk, not later than 4:30 p.m. on the sixtieth
day after every general election, shall remove the name of any
registered voter who did not vote in that general election, and
also did not vote in the primary election preceding that general
election, and also did not vote in the previous general
election, and also did not vote in the primary election
preceding that general election, and also did not vote in the
regularly scheduled special elections held in conjunction with
those primary and general elections, if any, with the exception of:

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

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

If a person voted, at least once, in any of the above-mentioned elections, the person's name shall remain on the list of registered voters. For this purpose, "vote" means the depositing of the ballot in the ballot box regardless of whether the ballot is blank or later rejected for any reason. In the case of voting machines, "vote" means the voter has activated the proper mechanism and fed the vote into the machine. In the case of an election by mail pursuant to part ____ , "vote" means the voter has returned the ballot to the chief election officer or county clerk by the United States Postal Service, by personal delivery of the ballot to a place of deposit or the voter service center, or by electronic transmission under certain circumstances pursuant to part ____ .

SECTION 4. Section 11-25, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:
"(a) Any registered voter may challenge the right of a person to be or to remain registered as a voter in any precinct for any cause not previously decided by the board of registration or the supreme court in respect to the same person [provided that in an election of members of the board of trustees of the office of Hawaiian affairs the voter making the challenge must be registered to vote in that election]. The challenge shall be in writing, setting forth the grounds upon which it is based, and be signed by the person making the challenge. The challenge shall be delivered to the clerk who shall forthwith serve notice thereof on the person challenged. The clerk shall, as soon as possible, investigate and rule on the challenge.

(b) Any voter rightfully in the polling place, including absentee polling places established pursuant to section 15-7[τ]; or a voter service center established pursuant to part [ ], may challenge the right to vote of any person who comes to the precinct officials for voting purposes. The challenge shall be on the grounds that the voter is not the person the voter alleges to be, or that the voter is not entitled to vote in that precinct [provided that only in an election of members of the
board of trustees of the office of Hawaiian affairs, a person registered to vote in that election may also challenge on the grounds that the voter is not Hawaiian]. No other or further challenge shall be allowed. Any person thus challenged shall first be given the opportunity to make the relevant correction pursuant to section 11-21. The challenge shall be considered and decided immediately by the precinct officials and the ruling shall be announced."

SECTION 5. Section 11-132, Hawaii Revised Statutes, is amended to read as follows:

"§11-132 Two hundred foot radius; admission within polling place. (a) The precinct officials shall post in a conspicuous place, prior to the opening of the polls, a map designating an area of two hundred feet from the perimeter of the polling place and its appurtenances. Any person who remains or loiters within an area of two hundred feet from the perimeter of the polling place and its appurtenances for the purpose of campaigning shall be guilty of a misdemeanor. For the purposes of this section, a polling place and its appurtenances shall include:

(1) The building in which the polling place is located;
(2) Any parking lot adjacent to the building and routinely used for parking at that building;

(3) The routes of access between the building and any parking lot; and

(4) Any route of access between any public thoroughfare (right of way) and the polling place to ensure an open and accessible ingress and egress to and from the polling place for voters.

(b) The chief election officer may regulate other activities within the area specified in subsection (a) pursuant to rules adopted by the chief election officer under chapter 91 in order to ensure the safe and orderly conduct of elections.

(c) Admission within the polling place shall be limited to the following:

(1) Election officials;

(2) Watchers, if any, pursuant to section 11-77;

(3) Candidates;

(4) Any voters actually engaged in voting, going to vote or returning from voting;

(5) Any person, designated by a voter who is physically disabled, while the person is assisting the voter;
(6) Any person or nonvoter group authorized by the chief election officer or the clerk in county elections to observe the election at designated precincts for educational purposes provided that they conduct themselves so that they do not interfere with the election process; and

(7) A child for the purpose of observing the voting process when accompanied by an adult who is voting provided that this activity does not disrupt or interfere with normal voting procedures.

(d) Within the appropriate boundary as established in subsection (a), and the building in which the polling place is located, the display or distribution of campaign posters, signs, or other campaign materials for the purpose of soliciting votes for or against any person or political party or position on a question is prohibited. Any voter who displays campaign material in the polling place shall remove or cover that material before entering the polling place. The chief election officer may adopt rules pursuant to chapter 91 to address special circumstances regarding the display of campaign materials.
(e) For the purposes of this section, "polling place"
shall include a voter service center or a place of deposit
established pursuant to this part."

SECTION 6. There is appropriated out of the general
revenues of the State of Hawaii the sum of $ or so much
thereof as may be necessary for fiscal year 2019-2020 and the
same sum or so much thereof as may be necessary for fiscal year
2020-2021 for the purpose of preparing for, implementing, and
administering elections by mail pursuant to section 1 of this
Act, including voter education and public awareness programs;
provided that the office of elections may distribute a portion
of the sum to a county subject to section 1 of this Act in the
form of a grant to cover startup, transition, and other
necessary costs that may be foreseeably incurred by the county.
The sums appropriated shall be expended by the office of
elections for the purposes of this Act.

SECTION 7. In codifying the new sections added by section
1 of this Act, the revisor of statutes shall substitute
appropriate section numbers for the letters used in designating
the new sections in this Act.
SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2019.

INTRODUCED BY:

[Signatures]

JAN 24 2019
Report Title:
Voting by Mail; Voter Service Center; Places of Deposit

Description:
Requires elections by mail in any qualifying county, beginning with the 2020 primary election. Allows for places of deposit for personal delivery of mail-in ballots. Appropriates funds.

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