A BILL FOR AN ACT

RELATING TO VOTER REGISTRATION.

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

SECTION 1. The legislature finds that voter turnout in the State remains low and continues to decline. In 2016, Hawaii had the lowest voter turnout in the United States. Only 52.6 percent of registered Hawaii voters cast ballots in the 2018 general election. This represents a sharp decline in voter turnout over the years, as approximately ninety-three percent of registered voters cast ballots in the State’s first gubernatorial election in 1959.

Additionally, the State has a historically low rate of registering voters. According to a 2016 estimate from the United States Census Bureau, Hawaii had the lowest percentage of registered voters in the country. In 2016, only 49.8 percent of qualified voters were registered to vote, well below the national average of 64.2 percent. Therefore, of the 1,111,117 people in Hawaii who were qualified to vote in the 2016 election, 557,780 were not registered to vote.
The legislature also finds that states with both the highest voter registration rate and highest voter turnout have adopted automatic voter registration programs. Massachusetts, Oregon, and Colorado have all adopted automatic voter registration programs, and each of those states' voter registration rates are some of the highest in the nation, at 68.1 per cent, 67.4 per cent, and 68.2 per cent, respectively. Moreover, Massachusetts had the eighth highest voter turnout in the 2016 election at 68.1 per cent, and Oregon had the highest at 80.33 per cent.

The legislature further finds that voting is the cornerstone of American democracy, and while other states have been in the news for suppressing voters, Hawaii, by automatically registering qualified voters, can convey a message that voting is an unquestioned fundamental right that should be exercised.

Accordingly, the purpose of this Act is to establish a system for automatic voter registration in the State.

SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:
Automatic voter registration; opt out.  

Beginning January 1, 2020, any person who is eligible to vote under this part and properly completes and submits:

(1) A state tax return; or

(2) An application for public assistance,

shall be automatically registered to vote as provided in subsection (d).

(b) The director of taxation and the director of human services shall use certain forms designated under sections 231- and 346-29, respectively, for voter registration. The forms shall contain spaces for all information required by section 11-15. Within five calendar days of collection of a completed voter registration affidavit, the director of taxation or director of human services shall electronically transmit the voter registration information to the clerk of the county in which the applicant resides, election officials, and the statewide voter registration system pursuant to subsection (e); provided that the director of taxation and the director of human services shall not transmit any information necessary to register an applicant as a voter if that applicant affirmatively declines to be registered to vote.
(c) The clerk of each county shall determine whether the applicant is currently registered in the general county register. If the applicant is not currently registered, the clerk shall determine whether the applicant is eighteen years of age or older and a citizen of the United States. If the applicant is less than eighteen years of age, the clerk shall defer the applicant until the applicant reaches eighteen years of age to determine whether the applicant is eligible to vote.

(d) Upon determination that the applicant is eligible to vote and not currently registered, the county clerk shall provide written notification to the applicant of the process to opt out of the automatic voter registration; provided that if the applicant does not opt out of registration within twenty-one calendar days, the clerk shall assign a transaction number to the registration in a manner that is substantially similar to the numbering of affidavits as required by section 11-15(c) and register the name of the voter in the general county register as provided in section 11-14.

(e) Databases maintained or operated by the department of taxation and the department of human services shall be directly accessible and provided electronically to election officials and
the statewide voter registration system to allow for the timely processing of voter registration applications, ensure the integrity of the voter registration rolls, and for any other government purpose, as determined by the director of taxation and the director of human services, and upon request by the chief election officer to the director of taxation and the director of human services for the electronic transmission of the information; provided that the chief election officer shall establish and implement an information privacy policy that:

1. Specifies each class of internal users who shall have authorized access to the statewide voter registration system, specifies for each class the permissions and levels of access to be granted, and sets forth other safeguards to protect the privacy of the information on the statewide voter registration system;

2. Prohibits any disclosure or transmission of any information not necessary to voter registration, including financial information;

3. Protects against public disclosure of full or partial social security numbers, driver's license numbers, and signatures;
(4) Prohibits public disclosure of an individual's decision to not register to vote;

(5) Prohibits the director of taxation and the director of human services from transmitting to county clerks information other than that required for voter registration or specified information relevant to the administration of elections;

(6) Prohibits agencies from sharing individuals' citizenship status or information regarding country of origin with any federal agency;

(7) Prohibits the disclosure of information relating to persons eligible for confidentiality of record information pursuant to section 11-14.5 and informs individuals of the confidentiality protections available under section 11-14.5; and

(8) Prohibits the disclosure of any information that is considered to be confidential pursuant to chapter 231 or 346."

SECTION 3. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:
"§231- Automatic voter registration; state tax returns.

The form used for voter registration for the purposes of section 11- (b) shall be a state tax return form."

SECTION 4. Section 11-15, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The applicant shall then affix the applicant's signature to the affidavit. In the case where an applicant is unable to write for the reason of illiteracy, blindness, or other physical disability, the applicant's mark shall be witnessed by another person who shall sign the affidavit in the space provided. A voter having once been registered shall not be required to register again for any succeeding election, except as provided in this chapter. Affidavits approved by the clerk shall thereupon be numbered appropriately, filed by the clerk, and kept available for election or government purposes in accordance with procedures established by section 11-97. Approved voter registration transactions conducted through the online voter registration system established pursuant to section 11-15.3 and automatic voter registration established pursuant to section 11- shall be assigned a transaction number in a
manner that is substantially similar to the numbering of affidavits."

SECTION 5. Section 231-18, Hawaii Revised Statutes, is amended to read as follows:

"§231-18 Tax and other officials permitted to inspect returns; reciprocal provisions. Notwithstanding the provisions of any law making it unlawful for any person, officer, or employee of the State to make known information imparted by any tax return or permit any tax return to be seen or examined by any person, it shall be lawful to:

(1) Permit a duly accredited tax official of the United States, any state or territory, any county of this State, or the Multistate Tax Commission to inspect any tax return of any taxpayer;

(2) Furnish to an official, commission, or the authorized representative thereof an abstract of the return or supply the official, commission, or the authorized representative thereof with information concerning any item contained in the return or disclosed by the report of any investigation of the return or of the
subject matter of the return for tax purposes only;

(3) Provide tax return information to the auditor pursuant to section 23-5(a)[←]; or

(4) Provide the information required under section 11-(b) for voter registration.

The Multistate Tax Commission may make the information available to a duly accredited tax official of the United States, any state or territory, or the authorized representative thereof, for tax purposes only."

SECTION 6. Section 346-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department and its agents shall keep records that may be necessary or proper in accordance with this chapter. All applications and records concerning any applicant or recipient shall be confidential. The use or disclosure of information concerning applicants and recipients shall be limited to:

(1) Persons duly authorized by the State or the United States in connection with their official duties, when the official duties are directly connected with the
administration of any form of public assistance, medical assistance, food stamps, or social services;

(2) Purposes directly connected with any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any form of public assistance, food stamps, medical assistance, or social services, including disclosure by the department of information and documents to police departments, prosecutors' offices, the attorney general's office, or any other state, county, or federal agency engaged in the detection, investigation, or prosecution of violations of applicable state, county, and federal laws or regulations regarding any aspect of theft, fraud, deception, or overpayment in connection with any aspect of public assistance, food stamps, medical assistance, or social services; provided that disclosure by recipient agencies and personnel shall be permitted under this section to the extent reasonably necessary to carry out the functions for which the information was provided;
(3) Disclosure to the extent necessary to provide services for applicants and recipients, to determine eligibility, or to determine the amount of public assistance, including verification of information provided by the recipient of public assistance, medical assistance, or food stamps, or to determine the type, kind, frequency, and amount of social services, including health and mental health related services needed;

(4) Disclosure to banks, financial institutions, or any other payor of a public assistance warrant or check of any information indicating that a public assistance warrant or check honored by the bank, institution, or payor has been forged or otherwise wrongfully presented for payment;

(5) Federal agencies responsible for the administration of federally assisted programs that provide assistance in cash or in kind for services directly to individuals on the basis of need and the certification of receipt of assistance to needy families with minor dependents to an employer for purposes of claiming tax credit
under Public Law 94-12, the Tax Reduction Act of 1975, shall be permitted;

(6) Employees acting within the scope and course of their employment of recognized social welfare organizations as may be approved by the department;

(7) Purposes directly connected with any investigation, prosecution, or criminal proceeding conducted in connection with the licensure or operation of an adult day care center, including disclosure by the department of information and documents to police departments, prosecutors' offices, the attorney general's office, or any other state, county, or federal agency engaged in the detection, investigation, or prosecution of violations of applicable state, county, and federal laws or regulations;

(8) Disclosure to the child support enforcement agency for obtaining or enforcing a child support order under chapter 576D;

(9) Disclosure of a recipient's residence and business address to law enforcement officers who request
information if the information is needed for an official administrative, civil, or criminal law enforcement purpose to identify a recipient as a fugitive felon or parole violator, and in cases where the information is needed for an official purpose and where the department has informed the recipient of the circumstances in which the recipient's address may be released under section 92F-19(a)(1), (3), or (4);

(10) Disclosure of reports and records relating to child abuse or neglect to the extent allowed by rules adopted under section 350-1.4; [and]

(11) Disclosure pursuant to a court order, after an in-camera review of the records by the court, upon a showing of good cause by the party seeking the release of the records; and

(12) Disclosure of the information required under section 11- (b) for voter registration."

SECTION 7. Section 346-29, Hawaii Revised Statutes, is amended to read as follows:

"§346-29 Applications for public assistance; manner, form, conditions. (a) Applications for public assistance under this
chapter shall be made by the applicant, or by someone acting in
the applicant's behalf, in the manner, place, and form
prescribed by the department.

(b) No applicant or recipient who is found guilty of
fraudulently misrepresenting residence to obtain assistance in
two or more states shall be entitled to public assistance under
this chapter for ten years from date of conviction. No
applicant or recipient shall be entitled to public assistance
under this chapter who is a fugitive felon or who is in
violation of a condition of probation or parole or has
sufficient income or other resources to provide a standard above
that provided in this chapter, or who is an inmate of any public
institution, except that any inmate of a public institution who
is otherwise eligible for medical assistance and who has been
determined by the medical director of the institution as having
a major illness or medical condition requiring the provision of
medical care outside of the institution may receive assistance
under this chapter. An inmate of a public institution or
resident of a medical institution may apply for assistance to
begin after the inmate's discharge from the institution. To
enforce this subsection, the department shall examine each list
of inmates within, or newly admitted to, a correctional facility in the State that is submitted to the department by the director of public safety pursuant to section 353-12.5, regardless of the nature of the offense for which an inmate is incarcerated or the duration of incarceration, to determine whether an inmate is eligible for public assistance under this chapter.

(c) In determining the needs of an applicant or recipient for public assistance by the department, the department shall:

(1) Disregard the amounts of earned or unearned income as required or allowed by federal acts and other regulations, to receive federal funds and disregard from gross earned income twenty per cent plus $200 and a percentage of the remaining balance of earned income consistent with federal regulations and other requirements;

(2) Consider as net income in all cases the income as federal acts and other regulations require the department to consider for receipt of federal funds and may consider the additional income and resources as these acts and regulations permit to be considered;
(3) For households with minor dependents, disregard assets in determining the needs of persons for financial assistance; provided that the amount to be disregarded shall not exceed standards under federally funded financial assistance programs. This paragraph shall not apply to persons eligible for federal supplemental security income benefits, aid to the aged, blind or disabled, or general assistance to households without minor dependents. In determining the needs of persons eligible for federal supplemental security income benefits, aid to the aged, blind or disabled, or general assistance to households without minor dependents, the department shall apply all the resource retention and exclusion requirements under the federal supplemental security income program;

(4) Apply the resource retention requirements under the federal supplemental security income program in determining the needs of a single person for medical assistance only;

(5) Apply the resource retention requirements under the federal supplemental security income program in
determining the needs of a family of two persons for medical assistance only and an additional $250 for each additional person included in an application for medical assistance only;

(6) Disregard amounts of emergency assistance granted under section 346-65;

(7) Not consider as income or resources any payment for services to or on behalf of, or any benefit received by, a participant under the first-to-work program of part XI, other than wages. Wages earned by a participant while participating in the first-to-work program shall be considered income of the participant, unless the wages are excluded or disregarded under any other law;

(8) Not consider as income or resources payment made to eligible individuals, eligible surviving spouses, surviving children or surviving parents as specified under title I of the Civil Liberties Act of 1988, Public Law 100-383, which made restitution to individuals of Japanese ancestry who were interned during World War II;
(9) Allow the community spouse of an individual residing in a medical institution to maintain countable resources to the maximum allowed by federal statutes or regulations with provisions for increases, as allowed by the Secretary of Health and Human Services by means of indexing, court order, or fair hearing decree, without jeopardizing the eligibility of the institutionalized spouse for medical assistance;

(10) Allow an individual residing in a medical institution to contribute toward the support of the individual's community spouse, thereby enabling the community spouse to maintain the monthly maximum income allowed by federal statutes or regulations, with provisions for increases as allowed by the Secretary of Health and Human Services by means of indexing, court order, or fair hearing decree;

(11) Consider the transfer of assets from the applicant's name to another name within the specified time period as required by federal regulations, known as the "lookback" period, prior to the application for medical assistance for care in a nursing home or other
long-term care facility. Pursuant to rules adopted
under chapter 91, the director may attribute any
assets that have been transferred within the required
federal "lookback" period from the applicant if the
director determines that transfer of certain assets
was made solely to make the applicant eligible for
assistance under this chapter; and

(12) Not consider as income or resources any funds
deposited into a family self-sufficiency escrow
account on behalf of a participant under a federal
housing choice voucher family self-sufficiency program
as required or allowed under federal law.

(d) In determining eligibility for medical assistance, the
department shall require from all applicants and recipients the
assignment of any benefits due to a third party liability. Any
rights or amounts so assigned shall be applied against the cost
of medical care paid under this chapter.

(e) Applications for public assistance shall include the
information required under section 11- (b) for voter
registration.
The director shall adopt rules pursuant to chapter 91 defining assets and to determine eligibility for medical assistance; provided that the cash surrender value of life insurance policies owned by persons included in an application shall be treated as assets."

SECTION 8. 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 electronic transmission, receipt, and processing of voter registration information pursuant to this Act.

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

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect on January 1, 2020; provided that section 8 shall take effect on July 1, 2019.

INTRODUCED BY:  

JAN 24 2019
Report Title:
Automatic Voter Registration; Department of Taxation; Tax Return; Department of Human Services; Public Assistance; Opt out; Appropriations

Description:
Beginning on 1/1/2020, requires that any person who is eligible to vote and submits a state tax return or application for public assistance shall be automatically registered to vote if that person is not already registered to vote; provided that, upon receipt of notification from the respective county clerk, the applicant shall have 21 calendar days to opt out of automatic voter registration. Appropriates funds.

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