A BILL FOR AN ACT

RELATING TO RANKED CHOICE VOTING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that the current plurality voting method allows a candidate to win an election with less than a majority of votes when there are more than two candidates for the office. In elections with many candidates, the plurality method may result in winners who received small percentages of votes or who are not the most favored among the voters. Accordingly, winners under the plurality voting method may possibly raise concerns about a lack of public support and confidence and may therefore undermine the ability of those elected to govern effectively.

Ranked choice voting is an election method that allows voters the option to rank candidates as the voter's first, second, and subsequent choices. Tabulation begins with each voter's first choice vote. If no candidate receives a majority of votes, the candidate with the fewest votes is eliminated and the tabulation is repeated by using the second choice of voters whose first choice was eliminated and the first place vote of
all other voters. If no candidate receives a majority in the second tabulation, the process is repeated by eliminating the candidate with the fewest votes and performing the tabulation using the next highest choice of voters who had chosen that candidate.

Ranked choice voting ensures that elected officials have the support of a majority or near majority of voters because it allows voters to indicate their preferences among more than one candidate. Ranked choice voting allows all voters to vote for their favorite candidate without fear of helping to elect their least favorite candidate.

The legislature further finds that ranked choice voting has been used effectively around the world, including in Ireland for presidential elections, Australia for parliamentary elections, and London for mayoral elections. Ranked choice voting is used by numerous local governments in the United States, including San Francisco, Oakland, and Berkeley, California; Telluride, Colorado; Portland, Maine; Minneapolis and St. Paul, Minnesota; and Memphis, Tennessee.
Finally, the legislature finds that Hawaii's voting systems, including optical scanners, can process ranked choice voting with little or no difficulty.

The purpose of this Act is to require the use of the ranked choice voting method for elections for elective office.

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

"§11-A Ranked choice method; applicability. The ranked choice method shall be used in all contests for elected office. If the ranked choice voting method is used in a special election, the special election shall consist of only one election contest and no subsequent separate runoff election shall be held.

§11-B Ranked choice method; ballots. (a) In addition to the requirements under sections 11-111 and 11-119, in any contest conducted by ranked choice voting with three or more qualified candidates, including qualified write-ins, the ballot shall allow voters to rank candidates in order of preference.

(b) If more than one seat is to be filled by the contest, the voter may be limited to ranking no more than twice the
number of candidates as seats to be filled. Instructions on the ballot for contests with more than one seat to be filled shall include the following statement:

"You may rank up to twice the number of candidates as seats to be filled in order of preference. Marking a second choice cannot help defeat your first choice. Marking a subsequent choice cannot help defeat your higher-ranked choices."

(c) The ballot shall not interfere with a voter's ability to rank a write-in candidate.

(d) The chief election officer or county clerk in the case of a county election shall print informational materials containing a facsimile ballot that depicts the official ballot to be used in the election and voting instructions and procedures for the election using the ranked choice method. The informational materials shall be:

(1) Posted near the entrance to the polling place where the information can be easily seen by voters prior to voting;

(2) Posted in or near a voting booth;
(3) Included in the instruction materials for absentee ballots;

(4) Posted on the website of the office of elections or county clerk, as applicable; and

(5) Included in any voter education materials distributed by the office of elections or county clerk in the case of a county election held prior to an election using the ranked choice method.

(e) Prior to printing the ballots for an election using the ranked choice method, the chief election officer or county clerk in the case of a county election shall make a sample ballot available on the website of the office of elections or county clerk, as applicable. The sample ballot shall be accessible on the applicable website for no less than fifteen calendar days prior to printing for public review and comment.

§11-C Ranked choice voting tabulation. (a) Single winner tabulation. In any contest for exactly one office conducted by ranked choice voting, tabulation shall proceed in rounds. Each round shall proceed sequentially as follows:

(1) To determine the winner in an election using the ranked choice method, election officials shall
initially count the ballots according to the highest-ranked candidate marked on each ballot. If at the end of the initial count, one candidate receives a majority of the first-choice votes cast, then that candidate shall be deemed to have received the greatest number of votes and tabulation shall be declared complete; and

(2) If at the end of the initial count, no candidate receives a majority of the first-choice votes cast, the chief election officer or county clerk, as applicable, shall declare that no candidate has received a majority of first-choice votes and that the candidate with the fewest first-choice votes shall be declared defeated. The chief election officer or county clerk, as applicable, shall recalculate the votes using the continuing candidate with the next highest ranking on each of the ballots for each voter who had selected a defeated candidate. If after the first round of recalculating votes, no candidate has received a majority of votes cast for the office, the process of eliminating candidates, recalculating the
eliminated candidates' votes (including any previously recalculated votes), to candidates who remain in the race, and tabulating results shall continue until one candidate receives a majority of the votes cast or the majority of the votes cast for the two remaining candidates. Blank and spoiled votes shall not be tabulated.

(b) Multi-winner tabulation. In any contest for more than one office conducted by ranked choice voting, tabulation shall proceed in rounds. If, in the initial tabulation, the number of continuing candidates is less than or equal to the number of offices to be elected, then all continuing candidates shall be declared elected and tabulation shall be declared complete. Otherwise, each round shall proceed sequentially, until tabulation is complete, as follows:

(1) Each ballot shall count, at its current transfer value, for the highest-ranked continuing candidate on that ballot. If the sum of the number of elected candidates and the number of continuing candidates is equal to the sum of one and the number of offices to be elected, then the candidate with the fewest votes
shall be declared defeated, all other continuing candidates shall be declared elected, and tabulation shall be declared complete;

(2) If at least one continuing candidate has more votes than the election threshold for the contest, then each of those candidates shall be declared elected. Each ballot counting for an elected candidate shall be assigned a new transfer value by multiplying the ballot's current transfer value by the surplus fraction for the elected candidate, rounded down to four decimal places and ignoring any remainder. Each candidate elected under this subsection shall be deemed to have a number of votes equal to the election threshold for the contest in all future rounds. A new round shall begin with paragraph (1); and

(3) If no candidate is elected under paragraph (2), then the continuing candidate with the fewest votes shall be declared defeated, and a new round shall begin with paragraph (1).

(c) Inactive ballots. In any round of tabulation in a contest conducted by ranked choice voting, a ballot that does
not contain a highest-ranked continuing candidate shall not
count for any candidate. Instead, it shall be counted as an
overvote, abstention, or exhausted ballot.

§11-D Ranked choice method; vote count. (a) Each voter's
ballot shall count for no more than one candidate per contest in
each round of tabulation. Once a ballot in a contest using the
ranked choice method has no more available choices ranked on it,
the ballot shall be deemed exhausted for that contest.

(b) If a ballot in a contest using the ranked choice
method skips a ranking by leaving a ranking blank and then
ranking a candidate at a subsequent ranking, the ballot for that
contest shall be deemed exhausted. A ballot that gives two or
more candidates the same ranking in a single contest shall be
deemed exhausted when that ranking is reached, unless only one
of the candidates so ranked is still in the race when the vote
is due to be transferred pursuant to section 11-C(b).

(c) If a tie between candidates for last place, and thus
elimination, occurs during any round of tabulation, the tie
shall be resolved by eliminating the candidate who received the
fewest number of combined first-choice votes and recalculated
votes at the previous round of tabulation. In the case of a tie
to which a previous round of tabulation does not apply, or where
the previous round of tabulation was also a tie, the tie shall
be resolved by drawing lots; provided that if a tie occurs when
there are only two candidates remaining, the tie shall be
resolved as set forth in section 11-157.

(d) Batch elimination. In any contest conducted by ranked
choice voting, the chief election official may modify the
tabulation to include batch elimination. If the tabulation
includes batch elimination, then at any time the continuing
candidate with the fewest votes would be declared defeated, each
continuing candidate in the elimination batch shall be declared
simultaneously defeated instead. A continuing candidate shall
be in the elimination batch if the number of elected and
continuing candidates with more votes than that candidate is
greater than the number of offices to be elected, and it is
deemed mathematically impossible for that candidate to be
elected for any of the following reasons:

(1) The candidate has fewer votes than any other
continuing candidate;

(2) The candidate's current vote total plus all votes that
could possibly be transferred to the candidate in
future rounds would not be deemed to be enough to equal or surpass the continuing candidate with the next higher current vote total;

(3) The candidate has a lower current vote total than the continuing candidate who is described under paragraph (2); or

(4) The number of ballots with any highest-ranked continuing candidate, on which that candidate is ranked at any ranking order, is fewer than the following:

(A) For contests for exactly one office, the current vote total of the continuing candidate with the greatest number of votes; or

(B) For contests for more than one office, the current vote total of any of the top "x" continuing candidates with the highest current vote totals, where "x" is the number of offices to be elected.

§11-E Rulemaking authority. (a) The chief election officer shall adopt rules pursuant to chapter 91 to implement the use of mechanical, electronic, or other means devised for
marking, sorting, and counting the ballots and tabulating and
transferring the votes in an election using the ranked choice
method.

(b) The chief election official may make any changes to
the ranked choice voting ballot and tabulation process necessary
to preserve the secrecy of the ballot and ensure the integrity
and smooth functioning of the election; provided that ranked
choice voting shall still be used and the smallest number of
changes made to achieve its purposes."

SECTION 3. Section 11-1, Hawaii Revised Statutes, is
amended by adding twelve new definitions to be appropriately
inserted and to read as follows:

"Abstention" means a ballot that does not contain a
highest-ranked continuing candidate and either more than one
ranking order contains the same candidate or one or more ranking
orders did not contain any candidate.

"Continuing candidate" means any candidate that has not
been declared defeated or elected.

"Election threshold" means the number of votes sufficient
for a candidate to be elected in a multi-winner contest. The
election threshold is calculated by dividing the total number of
votes counting for continuing candidates in the first round by
the sum of one plus the number of offices to be filled, rounding
up to four decimal places.

"Exhausted ballot" means a ballot that does not contain a
highest-ranked continuing candidate and is not an abstention or
an overvote.

"Highest-ranked continuing candidate" means the candidate
assigned to the highest ranking order that is not a skipped
ranking, does not follow two consecutive skipped rankings, and
does not contain a candidate who is declared elected or
defeated.

"Inactive ballot" means a ballot that does not contain a
highest-ranked continuing candidate, including abstentions,
overvotes, and exhausted ballots.

"Overvote" means a ballot that does not contain a highest-
ranked continuing candidate because the highest ranking order
contains more than one candidate, is not a skipped ranking, and
does not contain a candidate who is declared elected or
defeated.

"Ranking order" means the number available to be assigned
by a voter to a candidate to express the voter's choice for that
candidate. The number "1" is the highest ranking order,
followed by "2", and then "3", and so on.

"Round" means an instance of the sequence of voting
tabulation whether for single winner contests or multi-winner
contests.

"Skipped ranking" means a voter has left a ranking order
unassigned but ranks a candidate at a subsequent ranking order.

"Surplus fraction" means a number equal to the quotient of
the difference between an elected candidate's vote total and the
election threshold, divided by the candidate's vote total,
rounded down to four decimal places, ignoring any remainder.

"Transfer value" means the proportion of a vote that a
ballot will contribute to its highest-ranked continuing
candidate. Each ballot begins with a transfer value of 1. If a
ballot contributes to the election of a candidate under the
multi-winner tabulation, it receives a new transfer value."

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

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

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

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

(d) When the electronic voting system is used, the ballot
may have pre-punched codes and printed information which
identify the voting districts, precincts, and ballot sets to
facilitate the electronic data processing of these ballots.

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

(f) The ballot shall bear no word, motto, device, sign, or
symbol other than allowed in this title.
(g) The ballot may include language necessary to use the ranked choice method pursuant to sections 11-A to 11-E.

SECTION 5. Section 11-151, Hawaii Revised Statutes, is amended to read as follows:

"§11-151 Vote count. [Each] Except for contests in which the ranked choice voting method is used, each contest or question on a ballot shall be counted independently as follows:

(1) If the votes cast in a contest or on a question are equal to or less than the number to be elected or chosen for that contest or question, the votes for that contest or question shall be counted;

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

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

SECTION 6. Section 11-152, Hawaii Revised Statutes, is
amended to read as follows:

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

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

(2) If the number of ballots corresponds with the number
of persons recorded by the precinct officials as
having voted, the precinct officials shall then
proceed to count the votes cast for each
candidate;

(3) If there are more ballots or fewer ballots than
the record calls for the precinct officials shall
proceed as directed in section 11-153."
(b) In those precincts using the electronic voting system, the ballots shall be taken in the sealed ballot boxes to the counting center according to the procedure and schedule promulgated by the chief election officer to promote the security of the ballots. In the presence of official observers, counting center employees may start to count the ballots prior to the closing of the polls; provided that there shall be no printout by the computer or other disclosure of the number of votes cast for a candidate or on a question prior to the closing of the polls. For the purposes of this section, the closing of the polls is that time identified in section 11-131 as the closing hour of voting.

(c) In an election that uses the ranked choice voting method, the votes shall be counted as provided under sections 11-A to 11-E."

SECTION 7. Section 11-155, Hawaii Revised Statutes, is amended to read as follows:

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

(1) The results of the canvass of ballots conducted pursuant to chapter 16;
(2) The audit of pollbooks [*] and related record books[*] and resultant overage and underage report;
(3) The audit results of the manual audit team;
(4) The results of the absentee ballot reconciliation report compiled by the clerks; and
(5) All logs, tally sheets, and other documents generated during the election and in the canvass of the election results.

A certificate of election or a certificate of results declaring the results of the election as of election day shall be issued pursuant to section 11-156; provided that in the event of an overage or underage, a list of all precincts in which an overage or underage occurred shall be attached to the certificate. The number of candidates to be elected receiving the [highest] greatest number of votes in any election district shall be declared to be elected[...]; provided that candidates for an
office that is subject to the ranked choice voting method shall be declared elected pursuant to sections 11-A to 11-E. Unless otherwise provided, the term of office shall begin or end as of the close of polls on election day. The position on the question receiving the appropriate majority of the votes cast shall be reflected in a certificate of results issued pursuant to section 11-156."

SECTION 8. In codifying the new sections added by section 2 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 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 2020; provided that this Act shall not apply to any election to be held prior to July 1, 2020; and provided further that the chief election officer and each county clerk shall commence rulemaking pursuant to chapter 91, Hawaii Revised Statutes, to effectuate
the purposes of this Act immediately upon the effective date of this Act.

INTRODUCED BY: [Signature]

JAN 24 2019
Report Title:
Elections; Ranked Choice Voting

Description:
Establishes the ranked choice voting method of tabulation for all elections for elected office to ensure that elected officials received the majority of votes cast by the electorate.

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