

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1           SECTION 1. The legislature finds that all states make an  
2 effort to inform the electorate about upcoming elections, where  
3 and when the elections will be held, and how to vote. Each  
4 state determines what information will be provided and how it  
5 will be distributed. Many states provide sample ballots that  
6 are posted in polling places, published in newspapers, printed  
7 and distributed by request, or printed and mailed to each  
8 household or registered voter. In Hawaii, the chief election  
9 officer or county clerk, in the case of a county election, is  
10 required to have printed informational posters with facsimile  
11 ballots that depict the official ballots that will be used in  
12 the election. Precinct officials are required to post these  
13 informational posters near the entrance to the polling place so  
14 that voters may easily see the posters prior to voting.

15           The legislature further finds that other states publish and  
16 distribute voters' pamphlets to registered voters. Voters'  
17 pamphlets may include candidate information, judicial



1 performance reviews, descriptions of elected offices, or  
2 background information on constitutional amendments or ballot  
3 measures. The purpose of these pamphlets is to allow voters to  
4 exercise their fundamental right to vote by informing them about  
5 each of the ballot measures and candidates seeking office,  
6 reading both sides of an argument to each of the ballot  
7 measures, and learning where each of the candidates stand on the  
8 issues that affect the voters.

9 The purpose of this Act is to increase the amount of  
10 information provided to registered voters in Hawaii by:

- 11 (1) Requiring the chief election officer to publish and  
12 disseminate a voters' pamphlet; and  
13 (2) Appropriating funds to allow the chief election  
14 officer to produce and distribute a voters' pamphlet  
15 for each election.

16 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended  
17 by adding a new part to be appropriately designated and to read  
18 as follows:

19 **"PART . VOTERS' PAMPHLET**

20 **§11-A Definitions.** As used in this part, unless the  
21 context requires otherwise:



1 "Ballot issue" means a proposed constitutional amendment,  
2 county charter amendment, or initiative or referendum issue  
3 listed on a ballot at the next applicable election.

4 **§11-B Voters' pamphlet; content; form.** (a) The chief  
5 election officer, with assistance from the clerk for elections  
6 involving county offices and countywide ballot issues, shall be  
7 responsible for publication and distribution of the voters'  
8 pamphlet for each election.

9 (b) The voters' pamphlet shall contain:

- 10 (1) Information regarding each ballot issue listed on a  
11 ballot in accordance with section 11-112;
- 12 (2) Candidate statements from candidates whose names are  
13 listed on a ballot in accordance with section 11-112;
- 14 (3) Contact information for the campaign spending  
15 commission;
- 16 (4) Contact information for the political parties that are  
17 subject to part V of this chapter; and
- 18 (5) Any information, including voter registration  
19 information, voting instructions, and voter education,  
20 as deemed necessary by the chief election officer.



1           (c) The chief election officer shall determine the format  
2 and layout of the voters' pamphlet; provided that the voters'  
3 pamphlet shall include a table of contents. The voters'  
4 pamphlet shall be printed in clear, readable type on a size,  
5 quality, and weight of paper that best serves voters, as  
6 determined by the chief election officer.

7           **§11-C Publication; distribution.** The chief election  
8 officer, with assistance from the clerk for elections involving  
9 county offices and countywide ballot issues, shall publish a  
10 voters' pamphlet for each election. The chief election officer  
11 shall distribute the voters' pamphlet using any means, as  
12 determined by the chief election officer, that will best serve  
13 the interests of all registered voters and meet federal or state  
14 election requirements. The means of distribution shall include  
15 but not be limited to:

- 16           (1) Through postal mail;
- 17           (2) At public libraries, polling places, or absentee  
18           polling places;
- 19           (3) In braille, large print, or audio recording;



1 (4) In a daily or weekly publication of statewide  
2 circulation or countywide circulation in the affected  
3 county; or

4 (5) In electronic form.

5 The chief election officer shall distribute the voters'  
6 pamphlets no later than days prior to each election.

7 **§11-D Ballot issue; information.** The voters' pamphlet  
8 shall include the following information for each ballot issue:

9 (1) The number and title of the ballot issue;

10 (2) An explanatory statement prepared by the attorney  
11 general for a statewide ballot issue or corporation  
12 counsel or county attorney for a countywide ballot  
13 issue in accordance with section 11-E;

14 (3) A fiscal impact statement prepared by the attorney  
15 general for a statewide ballot issue or corporation  
16 counsel or county attorney for a countywide ballot  
17 issue in accordance with section 11-F;

18 (4) The total number of votes cast for and against the  
19 ballot issue on the last reading of the ballot issue  
20 in the senate and house of representatives for a  
21 statewide ballot issue, or county council or charter



1           commission for a countywide ballot issue, as  
2           applicable;

3           (5) An argument advocating the voters' approval of the  
4           ballot issue together with any statement in rebuttal  
5           of the opposing argument in accordance with section  
6           11-G;

7           (6) An argument advocating the voters' rejection of the  
8           ballot issue together with any statement in rebuttal  
9           of the opposing argument in accordance with section  
10          11-G;

11          (7) The names of the committee members established under  
12          section 11-G(b) for each argument or rebuttal  
13          statement; and

14          (8) The full text of the ballot issue.

15          **§11-E Ballot issue; explanatory statement.** (a) An  
16          explanatory statement shall be prepared by the attorney general  
17          for each statewide ballot issue or corporation counsel or county  
18          attorney for each countywide ballot issue listed on a ballot in  
19          accordance with section 11-112. The attorney general,  
20          corporation counsel, or county attorney shall write the  
21          explanatory statements in clear and concise language and avoid

1 the use of legal and technical terms whenever possible. The  
2 chief election officer shall prescribe the content and maximum  
3 length of these statements.

4 (b) The chief election officer shall receive all  
5 explanatory statements prepared by the attorney general for  
6 statewide ballot issues or corporation counsel or county  
7 attorney for countywide ballot issues by a date determined by  
8 the chief election officer for each election. The chief  
9 election officer may authorize the clerk to receive explanatory  
10 statements for countywide ballot issues for each respective  
11 county, as applicable; provided that these explanatory  
12 statements are received by the chief election officer by the  
13 date determined by the chief election officer for each election.

14 **§11-F Ballot issue; fiscal impact statement.** (a) A  
15 fiscal impact statement shall be prepared by the attorney  
16 general for each statewide ballot issue or corporation counsel  
17 or county attorney for each countywide ballot issue listed on a  
18 ballot in accordance with section 11-112. The attorney general  
19 or corporation counsel or county attorney, as applicable, shall  
20 consult with appropriate fiscal state or county agencies in  
21 preparing the fiscal impact statements. The attorney general,



1 corporation counsel, or county attorney shall write fiscal  
2 impact statements in clear and concise language and avoid the  
3 use of legal and technical terms whenever possible. Fiscal  
4 impact statements may include easily understood graphics. The  
5 chief election officer shall prescribe the content and maximum  
6 length of these statements.

7 (b) The chief election officer shall receive all fiscal  
8 impact statements prepared by the attorney general for statewide  
9 ballot issues or corporation counsel or county attorney for  
10 countywide ballot issues by a date determined by the chief  
11 election officer for each election. The chief election officer  
12 may authorize the clerk to receive fiscal impact statements for  
13 countywide ballot issues for each respective county, as  
14 applicable; provided that these fiscal impact statements are  
15 received by the chief election officer by the date determined by  
16 the chief election officer for each election.

17 **§11-G Ballot issue; argument statements in support or**  
18 **opposition; rebuttals; committees.** (a) The chief election  
19 officer, in consultation with state and county legislative  
20 bodies and clerks, shall appoint the initial two members of each  
21 argument statement committee. In making these committee





1 appointments, the chief election officer shall consider  
2 legislators and stakeholders known to advocate for or oppose the  
3 ballot issue. The initial two members may select up to four  
4 additional members, and the committee shall elect a chairperson.

5 (b) Committees shall write and submit argument statements  
6 advocating the approval or rejection of each statewide or  
7 countywide ballot issue and rebuttals of those argument  
8 statements. The committees shall obtain the explanatory and  
9 fiscal impact statements prepared in accordance with sections  
10 11-E and 11-F, respectively, before preparing their argument  
11 statements. The committees shall write the argument statements  
12 in clear and concise language and avoid the use of legal and  
13 technical terms whenever possible. The content and maximum  
14 length of these argument statements shall be prescribed by the  
15 chief election officer.

16 (c) After a committee submits its initial argument  
17 statement to the chief election officer, the chief election  
18 officer shall transmit the statement to the opposite committee.  
19 The opposite committee may then prepare a rebuttal statement.  
20 Rebuttal statements may not interject new points. All argument  
21 and rebuttal statements shall be submitted to the chief election



1 officer by dates determined by the chief election officer for  
2 each election.

3 (d) The voters' pamphlet shall only contain argument and  
4 rebuttal statements prepared in accordance with this section.  
5 Argument and rebuttal statements may contain graphs and charts  
6 supported by factual statistical data and pictures or other  
7 illustrations; provided that illustrations shall not include  
8 cartoons or caricatures.

9 **§11-H Candidate statements.** (a) Candidates whose names  
10 are listed on a ballot in accordance with section 11-112 may  
11 write and submit a statement and photograph advocating their  
12 candidacy. The content and maximum length of the candidate  
13 statement shall be prescribed by the chief election officer.

14 (b) A candidate statement shall not contain false or  
15 misleading statements about the candidate's opponent. A  
16 candidate who believes that the candidate has been defamed or  
17 libeled under an opponent's statement may commence an action  
18 under section 11-I.

19 (c) All candidate statements shall be submitted to the  
20 chief election officer by a date determined by the chief  
21 election officer for each election.



1           §11-I Rejection or dispute of arguments or statements.

2   (a) In the opinion of the chief election officer, if any  
3 argument, rebuttal, or candidate statement submitted pursuant to  
4 this part for inclusion in the voters' pamphlet contains obscene  
5 matter or matter that is otherwise prohibited by law for  
6 distribution through postal, electronic, or audio or visual  
7 means, the chief election officer may petition the circuit court  
8 of competent jurisdiction for a judicial determination that the  
9 argument, rebuttal, or candidate statement may be rejected for  
10 publication or edited to delete the matter. The court shall not  
11 enter an order unless it concludes that the matter is obscene or  
12 otherwise prohibited for distribution.

13       (b) A candidate may petition the circuit court of  
14 competent jurisdiction for a judicial determination if the  
15 candidate believes an argument, rebuttal, or candidate statement  
16 submitted for inclusion in the voters' pamphlet defames the  
17 candidate. The court shall not enter an order unless it  
18 concludes that the statement is untrue and the petitioner has a  
19 very substantial likelihood of prevailing in a defamation  
20 action. An action under this subsection shall be filed and  
21 served no later than           days after the deadline for the



1 submission of the argument, rebuttal, or candidate statement to  
2 the chief election officer. If the chief election officer  
3 notifies a person named or identified in an argument, rebuttal,  
4 or candidate statement of the contents of the statement within  
5 days after the deadline for submission to the chief  
6 election officer, the State shall not be liable for damages  
7 resulting from the publication of the argument, rebuttal, or  
8 candidate statement unless the chief election officer publishes  
9 the statement in violation of the order entered under this  
10 subsection. Nothing in this subsection shall create a duty on  
11 the part of the chief election officer to identify, locate, or  
12 notify the person.

13 (c) Parties to a dispute under this section may agree to  
14 resolve the dispute by rephrasing the argument, rebuttal, or  
15 candidate statement, even if the deadline for submission to the  
16 chief election officer has lapsed, unless the chief election  
17 officer determines that the process of publication is too far  
18 advanced to permit the change. The chief election officer shall  
19 promptly provide any revision to any committee entitled to  
20 submit a rebuttal statement. If that committee has not yet  
21 submitted its rebuttal statement, its deadline to submit a



1 rebuttal statement is extended by            days. If it has  
2 submitted a rebuttal statement, the committee may revise the  
3 rebuttal statement to address the change within            days of  
4 the filing of the revised argument with the chief election  
5 officer.

6            (d) In any action under this section, the committee or  
7 candidate shall be named as a defendant and may be served with  
8 process by certified mail directed to the address contained in  
9 the chief election officer's records for that party. The chief  
10 election officer shall be a nominal party to an action brought  
11 under subsection (b) solely for the purpose of determining the  
12 content of the voters' pamphlet. The circuit court shall give  
13 these actions priority on its calendar.

14            **§11-J Deceptively similar campaign materials prohibited.**

15            (a) No person or entity may publish or distribute any campaign  
16 material that is deceptively similar in design or appearance to  
17 a voters' pamphlet that is published by the chief election  
18 officer.

19            (b) The chief election officer shall take reasonable  
20 measures to prevent or stop violations of this section,



1 including petitioning the court for a temporary restraining  
2 order or other appropriate injunctive relief.

3 **§11-K Public inspection; arguments and statements. (a)**

4 An argument, rebuttal, or candidate statement submitted to the  
5 chief election officer for publication in the voters' pamphlet  
6 shall not be available for public inspection or copying until:

7 (1) In the case of candidate statements:

8 (A) All statements by all candidates who have filed  
9 for a particular office have been received,  
10 except those who informed the chief election  
11 officer that they will not submit statements; or

12 (B) The deadline for submission has passed;

13 (2) In the case of argument statements supporting or  
14 opposing a ballot issue:

15 (A) The argument statements on both sides have been  
16 received, unless a committee was not appointed  
17 for one side; or

18 (B) The deadline for submission of argument  
19 statements has passed; and

20 (3) In the case of rebuttal statements:



1           (A) The rebuttal statements on both sides have been  
2           received, unless a committee was not appointed  
3           for one side; or

4           (B) The deadline for submission of rebuttal  
5           statements has passed.

6           (b) Nothing in this section shall prohibit the chief  
7           election officer from releasing information in accordance with  
8           chapter 92F.

9           **§11-L Rules.** The chief election officer shall adopt rules  
10          in accordance with chapter 91 to implement this part."

11          SECTION 3. Section 11-2, Hawaii Revised Statutes, is  
12          amended by amending subsection (d) to read as follows:

13               "(d) The chief election officer shall be responsible for  
14          public education with respect to voter registration and  
15          information[~~-~~] and the publication and distribution of a voters'  
16          pamphlet in accordance with part \_\_\_\_\_."

17          SECTION 4. Section 11-184, Hawaii Revised Statutes, is  
18          amended to read as follows:

19               "**§11-184 Election expenses and responsibilities in**  
20          **combined state and county elections.** Election expenses in



1 elections involving both state and county offices shall be  
2 shared as set forth below:

- 3 (1) The State shall pay and be responsible for:
- 4 (A) Precinct officials;
  - 5 (B) Instruction of precinct officials when initiated  
6 or approved by the chief election officer;
  - 7 (C) Boards of registration;
  - 8 (D) Polling place costs other than supplies:  
9 installation rentals, ballot boxes, voting  
10 booths, custodians, telephones, and maintenance;
  - 11 (E) Other equipment such as ballot transport  
12 containers;
  - 13 (F) Temporary election employees hired to do strictly  
14 state work; [~~and~~]
  - 15 (G) Compilation, printing, and distribution costs  
16 associated with a voters' pamphlet pursuant to  
17 part ; and
  - 18 [~~(G)~~] (H) Extraordinary voter registration and voter  
19 education costs when approved by the chief  
20 election officer.

21 (2) The county shall pay and be responsible for:





- 1           (A) Normal voter registration, voters list
- 2                   maintenance, and all printing connected with
- 3                   voter registration, including printing of the
- 4                   voters list;
- 5           (B) Temporary election employees hired to do strictly
- 6                   county work;
- 7           (C) Maintenance of existing voting machines,
- 8                   including parts, freight, storage, programming,
- 9                   and personnel;
- 10          (D) Maintenance and storage of voting devices and
- 11                   other equipment; and
- 12          (E) Employees assigned to conduct absentee polling
- 13                   place functions.
- 14          (3) The remaining election expenses shall be divided in
- 15                   half between the State and the counties. Each county
- 16                   will pay a proration of expenses as a proportion of
- 17                   the registered voters at the time of the general
- 18                   election. These expenses shall include but not be
- 19                   limited to:
- 20           (A) Polling place supplies;



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- 1 (B) All printing, including ballots, but excluding
- 2 printing connected with voter registration;
- 3 (C) Temporary election employees not including voting
- 4 machine programmers doing work for both the State
- 5 and county;
- 6 (D) Ballot preparation and packing; and
- 7 (E) All other costs for which the State or county are
- 8 not specifically responsible relating to the
- 9 operation of voting machines, electronic voting
- 10 systems, and other voting systems except paper
- 11 ballots to include but not be limited to real
- 12 property rentals, equipment rentals, personnel,
- 13 mileage, telephones, supplies, publicity,
- 14 computer programming, and freight.

15 The responsibility for [~~the above~~] these

16 functions shall be determined by the chief election

17 officer where the responsibility for [~~such~~] these

18 functions has not been assigned by the legislature.

19 Any future expenses not presently incurred under any voting

20 system now in use or to be used shall be assigned to

21 [~~paragraphs~~] the expenses under paragraph (1), (2), or (3)



1 [above] by the chief election officer upon agreement with the  
2 clerks or by the legislature."

3 SECTION 5. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2019-2020 and  
6 the same sum or so much thereof as may be necessary for fiscal  
7 year 2020-2021 for the chief election officer to publish and  
8 distribute a voters' pamphlet for each election starting with  
9 the 2020 primary election.

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

12 SECTION 6. If any provision of this Act, or the  
13 application thereof to any person or circumstance, is held  
14 invalid, the invalidity does not affect other provisions or  
15 applications of the Act that can be given effect without the  
16 invalid provision or application, and to this end the provisions  
17 of this Act are severable.

18 SECTION 7. In codifying the new sections added by section  
19 2 of this Act, the revisor of statutes shall substitute  
20 appropriate section numbers for the letters used in designating  
21 the new sections in this Act.



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

3 SECTION 9. This Act shall take effect on July 1, 2019.  
4

INTRODUCED BY:

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# S.B. NO. 958

**Report Title:**

Elections; Voters' Pamphlet; Office of Elections; Chief Election Officer; Appropriation

**Description:**

Requires the chief election officer, with assistance from the county clerks for elections involving county offices and countywide ballot issues, to publish and distribute a voters' pamphlet. Appropriates moneys to allow the chief election officer to produce and distribute a voters' pamphlet for each election.

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

