A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

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

The legislature further finds that other states publish and distribute voters’ pamphlets to registered voters. Voters’ pamphlets may include candidate information, judicial
performance reviews, descriptions of elected offices, or 
background information on constitutional amendments or ballot 
measures. The purpose of these pamphlets is to allow voters to 
exercise their fundamental right to vote by informing them about 
each of the ballot measures and candidates seeking office, 
reading both sides of an argument to each of the ballot 
measures, and learning where each of the candidates stand on the 
issues that affect the voters.

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

(1) Requiring the chief election officer to publish and 
disseminate a voters' pamphlet; and 

(2) Appropriating funds to allow the chief election 
officer to produce and distribute a voters' pamphlet 
for each election.

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

"PART . VOTERS' PAMPHLET

§11-A Definitions. As used in this part, unless the 
context requires otherwise:
"Ballot issue" means a proposed constitutional amendment, county charter amendment, or initiative or referendum issue listed on a ballot at the next applicable election.

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

(b) The voters' pamphlet shall contain:

(1) Information regarding each ballot issue listed on a ballot in accordance with section 11-112;

(2) Candidate statements from candidates whose names are listed on a ballot in accordance with section 11-112;

(3) Contact information for the campaign spending commission;

(4) Contact information for the political parties that are subject to part V of this chapter; and

(5) Any information, including voter registration information, voting instructions, and voter education, as deemed necessary by the chief election officer.
(c) The chief election officer shall determine the format and layout of the voters' pamphlet; provided that the voters' pamphlet shall include a table of contents. The voters' pamphlet shall be printed in clear, readable type on a size, quality, and weight of paper that best serves voters, as determined by the chief election officer.

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

(1) Through postal mail;

(2) At public libraries, polling places, or absentee polling places;

(3) In braille, large print, or audio recording;
In a daily or weekly publication of statewide circulation or countywide circulation in the affected county; or

(5) In electronic form.

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

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

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

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

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

(4) The total number of votes cast for and against the ballot issue on the last reading of the ballot issue in the senate and house of representatives for a statewide ballot issue, or county council or charter
commission for a countywide ballot issue, as applicable;

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

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

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

(8) The full text of the ballot issue.

§11-E Ballot issue; explanatory statement. (a) An explanatory statement shall be prepared by the attorney general for each statewide ballot issue or corporation counsel or county attorney for each countywide ballot issue listed on a ballot in accordance with section 11-112. The attorney general, corporation counsel, or county attorney shall write the explanatory statements in clear and concise language and avoid
the use of legal and technical terms whenever possible. The
chief election officer shall prescribe the content and maximum
length of these statements.

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

§11-F Ballot issue; fiscal impact statement. (a) A
fiscal impact statement shall be prepared by the attorney
general for each statewide ballot issue or corporation counsel
or county attorney for each countywide ballot issue listed on a
ballot in accordance with section 11-112. The attorney general
or corporation counsel or county attorney, as applicable, shall
consult with appropriate fiscal state or county agencies in
preparing the fiscal impact statements. The attorney general,
corporation counsel, or county attorney shall write fiscal
impact statements in clear and concise language and avoid the
use of legal and technical terms whenever possible. Fiscal
impact statements may include easily understood graphics. The
chief election officer shall prescribe the content and maximum
length of these statements.

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

§11-G Ballot issue; argument statements in support or
opposition; rebuttals; committees. (a) The chief election
officer, in consultation with state and county legislative
bodies and clerks, shall appoint the initial two members of each
argument statement committee. In making these committee
appointments, the chief election officer shall consider legislators and stakeholders known to advocate for or oppose the ballot issue. The initial two members may select up to four additional members, and the committee shall elect a chairperson.

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

(c) After a committee submits its initial argument statement to the chief election officer, the chief election officer shall transmit the statement to the opposite committee. The opposite committee may then prepare a rebuttal statement. Rebuttal statements may not interject new points. All argument and rebuttal statements shall be submitted to the chief election officer.
officer by dates determined by the chief election officer for each election.

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

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

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

(c) All candidate statements shall be submitted to the chief election officer by a date determined by the chief election officer for each election.
§11-I Rejection or dispute of arguments or statements.

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

(b) A candidate may petition the circuit court of competent jurisdiction for a judicial determination if the candidate believes an argument, rebuttal, or candidate statement submitted for inclusion in the voters' pamphlet defames the candidate. The court shall not enter an order unless it concludes that the statement is untrue and the petitioner has a very substantial likelihood of prevailing in a defamation action. An action under this subsection shall be filed and served no later than days after the deadline for the
submission of the argument, rebuttal, or candidate statement to
the chief election officer. If the chief election officer
notifies a person named or identified in an argument, rebuttal,
or candidate statement of the contents of the statement within
days after the deadline for submission to the chief
election officer, the State shall not be liable for damages
resulting from the publication of the argument, rebuttal, or
candidate statement unless the chief election officer publishes
the statement in violation of the order entered under this
subsection. Nothing in this subsection shall create a duty on
the part of the chief election officer to identify, locate, or
notify the person.

(c) Parties to a dispute under this section may agree to
resolve the dispute by rephrasing the argument, rebuttal, or
candidate statement, even if the deadline for submission to the
chief election officer has lapsed, unless the chief election
officer determines that the process of publication is too far
advanced to permit the change. The chief election officer shall
promptly provide any revision to any committee entitled to
submit a rebuttal statement. If that committee has not yet
submitted its rebuttal statement, its deadline to submit a
rebuttal statement is extended by days. If it has submitted a rebuttal statement, the committee may revise the rebuttal statement to address the change within days of the filing of the revised argument with the chief election officer.

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

§11-J Deceptively similar campaign materials prohibited.

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

(b) The chief election officer shall take reasonable measures to prevent or stop violations of this section,
including petitioning the court for a temporary restraining
order or other appropriate injunctive relief.

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

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

(1) In the case of candidate statements:
   (A) All statements by all candidates who have filed
       for a particular office have been received,
       except those who informed the chief election
       officer that they will not submit statements; or
   (B) The deadline for submission has passed;

(2) In the case of argument statements supporting or
    opposing a ballot issue:
   (A) The argument statements on both sides have been
       received, unless a committee was not appointed
       for one side; or
   (B) The deadline for submission of argument
       statements has passed; and

(3) In the case of rebuttal statements:
(A) The rebuttal statements on both sides have been received, unless a committee was not appointed for one side; or

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

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

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

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

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

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

"§11-184 Election expenses and responsibilities in combined state and county elections. Election expenses in
elections involving both state and county offices shall be
shared as set forth below:

(1) The State shall pay and be responsible for:

(A) Precinct officials;

(B) Instruction of precinct officials when initiated
    or approved by the chief election officer;

(C) Boards of registration;

(D) Polling place costs other than supplies:
    installation rentals, ballot boxes, voting
    booths, custodians, telephones, and maintenance;

(E) Other equipment such as ballot transport
    containers;

(F) Temporary election employees hired to do strictly
    state work; [and]

(G) Compilation, printing, and distribution costs
    associated with a voters' pamphlet pursuant to
    part_____; and

(H) Extraordinary voter registration and voter
    education costs when approved by the chief
    election officer.

(2) The county shall pay and be responsible for:
(A) Normal voter registration, voters list
maintenance, and all printing connected with
voter registration, including printing of the
voters list;

(B) Temporary election employees hired to do strictly
county work;

(C) Maintenance of existing voting machines,
including parts, freight, storage, programming,
and personnel;

(D) Maintenance and storage of voting devices and
other equipment; and

(E) Employees assigned to conduct absentee polling
place functions.

(3) The remaining election expenses shall be divided in
half between the State and the counties. Each county
will pay a proration of expenses as a proportion of
the registered voters at the time of the general
election. These expenses shall include but not be
limited to:

(A) Polling place supplies;
(B) All printing, including ballots, but excluding printing connected with voter registration;

(C) Temporary election employees not including voting machine programmers doing work for both the State and county;

(D) Ballot preparation and packing; and

(E) All other costs for which the State or county are not specifically responsible relating to the operation of voting machines, electronic voting systems, and other voting systems except paper ballots to include but not be limited to real property rentals, equipment rentals, personnel, mileage, telephones, supplies, publicity, computer programming, and freight.

The responsibility for these functions shall be determined by the chief election officer where the responsibility for these functions has not been assigned by the legislature.

Any future expenses not presently incurred under any voting system now in use or to be used shall be assigned to [paragraphs] the expenses under paragraph (1), (2), or (3)
[above] by the chief election officer upon agreement with the clerks or by the legislature."

SECTION 5. 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 chief election officer to publish and distribute a voters' pamphlet for each election starting with the 2020 primary election.

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

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

SECTION 7. 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 8. Statutory material to be repealed is bracketed and struck. New statutory material is underscored.

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

INTRODUCED BY:

[Signatures]

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.

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