
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 an
12 online voters' pamphlet on the internet;
- 13 (2) Requiring the chief election officer to disseminate
14 postcards to voters notifying them of the online
15 pamphlet's website address; and
- 16 (3) Appropriating funds to allow the chief election
17 officer to publish an online voters' pamphlet and
18 distribute the informational postcards for each
19 election.



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

4 "PART . ONLINE VOTERS' PAMPHLET

5 §11-A Definitions. As used in this part, unless the
6 context requires otherwise:

7 "Ballot issue" means a proposed constitutional amendment,
8 county charter amendment, or initiative or referendum issue
9 listed on a ballot at the next applicable election.

10 §11-B Online voters' pamphlet; content; form. (a) The
11 chief election officer, with assistance from the clerk for
12 elections involving county offices and countywide ballot issues,
13 shall be responsible for publication of the online voters'
14 pamphlet for each election.

15 (b) The online voters' pamphlet shall contain:

- 16 (1) Information regarding each ballot issue listed on a
17 ballot in accordance with section 11-112;
- 18 (2) Candidate statements from candidates whose names are
19 listed on a ballot in accordance with section 11-112;
- 20 (3) Contact information for the campaign spending
21 commission;



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

3 (5) Any information, including voter registration
4 information, voting instructions, and voter education,
5 as deemed necessary by the chief election officer.

6 (c) The chief election officer shall determine the format
7 and layout of the online voters' pamphlet.

8 (d) The online voters' pamphlet shall be posted on the
9 public website of the office of elections and links to the
10 online voters' pamphlet shall be posted in a conspicuous
11 location on the office of elections website homepage.

12 **§11-C Online voters' pamphlet postcards; publication;**
13 **distribution.** The chief election officer, with assistance from
14 the clerk for elections involving county offices and countywide
15 ballot issues, shall publish and distribute a postcard
16 containing the website address of the online voters' pamphlet
17 for each election. The chief election officer shall distribute
18 the postcards using any means, as determined by the chief
19 election officer, that will best serve the interests of all
20 registered voters and meet federal or state election



1 requirements. The means of distribution shall include but not
2 be limited to:

- 3 (1) Through postal mail;
- 4 (2) At public libraries, polling places, or absentee
5 polling places;
- 6 (3) In braille, large print, or audio recording;
- 7 (4) In a daily or weekly publication of statewide
8 circulation or countywide circulation in the affected
9 county; or
- 10 (5) In electronic form.

11 The chief election officer shall distribute the postcards no
12 later than days prior to each election.

13 **§11-D Ballot issue; information.** The online voters'
14 pamphlet shall include the following information for each ballot
15 issue:

- 16 (1) The number and title of the ballot issue;
- 17 (2) An explanatory statement prepared by the attorney
18 general for a statewide ballot issue or corporation
19 counsel or county attorney for a countywide ballot
20 issue in accordance with section 11-E;



- 1 (3) A fiscal impact statement prepared by the attorney
2 general for a statewide ballot issue or corporation
3 counsel or county attorney for a countywide ballot
4 issue in accordance with section 11-F;
- 5 (4) The total number of votes cast for and against the
6 ballot issue on the last reading of the ballot issue
7 in the senate and house of representatives for a
8 statewide ballot issue, or county council or charter
9 commission for a countywide ballot issue, as
10 applicable;
- 11 (5) An argument advocating the voters' approval of the
12 ballot issue together with any statement in rebuttal
13 of the opposing argument in accordance with section
14 11-G;
- 15 (6) An argument advocating the voters' rejection of the
16 ballot issue together with any statement in rebuttal
17 of the opposing argument in accordance with section
18 11-G;
- 19 (7) The names of the committee members established under
20 section 11-G(b) for each argument or rebuttal
21 statement; and



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

2 §11-E Ballot issue; explanatory statement. (a) An
3 explanatory statement shall be prepared by the attorney general
4 for each statewide ballot issue or corporation counsel or county
5 attorney for each countywide ballot issue listed on a ballot in
6 accordance with section 11-112. The attorney general,
7 corporation counsel, or county attorney shall write the
8 explanatory statements in clear and concise language and avoid
9 the use of legal and technical terms whenever possible. The
10 chief election officer shall prescribe the content and maximum
11 length of these statements.

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



1 §11-F Ballot issue; fiscal impact statement. (a) A
2 fiscal impact statement shall be prepared by the attorney
3 general for each statewide ballot issue or corporation counsel
4 or county attorney for each countywide ballot issue listed on a
5 ballot in accordance with section 11-112. The attorney general
6 or corporation counsel or county attorney, as applicable, shall
7 consult with appropriate fiscal state or county agencies in
8 preparing the fiscal impact statements. The attorney general,
9 corporation counsel, or county attorney shall write fiscal
10 impact statements in clear and concise language and avoid the
11 use of legal and technical terms whenever possible. Fiscal
12 impact statements may include easily understood graphics. The
13 chief election officer shall prescribe the content and maximum
14 length of these statements.

15 (b) The chief election officer shall receive all fiscal
16 impact statements prepared by the attorney general for statewide
17 ballot issues or corporation counsel or county attorney for
18 countywide ballot issues by a date determined by the chief
19 election officer for each election. The chief election officer
20 may authorize the clerk to receive fiscal impact statements for
21 countywide ballot issues for each respective county, as



1 applicable; provided that these fiscal impact statements are
2 received by the chief election officer by the date determined by
3 the chief election officer for each election.

4 §11-G Ballot issue; argument statements in support or
5 opposition; rebuttals; committees. (a) The chief election
6 officer, in consultation with state and county legislative
7 bodies and clerks, shall appoint the initial two members of each
8 argument statement committee. In making these committee
9 appointments, the chief election officer shall consider
10 legislators and stakeholders known to advocate for or oppose the
11 ballot issue. The initial two members may select up to four
12 additional members, and the committee shall elect a chairperson.

13 (b) Committees shall write and submit argument statements
14 advocating the approval or rejection of each statewide or
15 countywide ballot issue and rebuttals of those argument
16 statements. The committees shall obtain the explanatory and
17 fiscal impact statements prepared in accordance with sections
18 11-E and 11-F, respectively, before preparing their argument
19 statements. The committees shall write the argument statements
20 in clear and concise language and avoid the use of legal and
21 technical terms whenever possible. The content and maximum



1 length of these argument statements shall be prescribed by the
2 chief election officer.

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

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

17 **§11-H Candidate statements.** (a) Candidates whose names
18 are listed on a ballot in accordance with section 11-112 may
19 write and submit a statement and photograph advocating their
20 candidacy. The content and maximum length of the candidate
21 statement shall be prescribed by the chief election officer.



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

6 (c) All candidate statements shall be submitted to the
7 chief election officer by a date determined by the chief
8 election officer for each election.

9 **§11-I Rejection or dispute of arguments or statements.**

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



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



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

15 (d) In any action under this section, the committee or
16 candidate shall be named as a defendant and may be served with
17 process by certified mail directed to the address contained in
18 the chief election officer's records for that party. The chief
19 election officer shall be a nominal party to an action brought
20 under subsection (b) solely for the purpose of determining the



1 content of the online voters' pamphlet. The circuit court shall
2 give these actions priority on its calendar.

3 **§11-J Deceptively similar campaign materials prohibited.**

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

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

12 **§11-K Public inspection; arguments and statements. (a)**

13 An argument, rebuttal, or candidate statement submitted to the
14 chief election officer for publication in the online voters'
15 pamphlet shall not be available on the office of elections'
16 website until:

17 (1) In the case of candidate statements:

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



1 (B) The deadline for submission has passed;
2 (2) In the case of argument statements supporting or
3 opposing a ballot issue:

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

7 (B) The deadline for submission of argument
8 statements has passed; and

9 (3) In the case of rebuttal statements:

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

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

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

18 §11-L Rules. The chief election officer shall adopt rules
19 in accordance with chapter 91 to implement this part."

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



1 "(d) The chief election officer shall be responsible for
2 public education with respect to voter registration and
3 information[-] and the publication and distribution of online
4 voters' pamphlets and online voters' pamphlet postcards in
5 accordance with part ."

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

8 "**§11-184 Election expenses and responsibilities in**
9 **combined state and county elections.** Election expenses in
10 elections involving both state and county offices shall be
11 shared as set forth below:

- 12 (1) The State shall pay and be responsible for:
- 13 (A) Precinct officials;
- 14 (B) Instruction of precinct officials when initiated
15 or approved by the chief election officer;
- 16 (C) Boards of registration;
- 17 (D) Polling place costs other than supplies:
18 installation rentals, ballot boxes, voting
19 booths, custodians, telephones, and maintenance;
- 20 (E) Other equipment such as ballot transport
21 containers;



- 1 (F) Temporary election employees hired to do strictly
2 state work; [and]
- 3 (G) Compilation, printing, internet web hosting, and
4 distribution costs associated with online voters'
5 pamphlets and online voters' pamphlet postcards
6 pursuant to part _____; and
- 7 [~~G~~] (H) Extraordinary voter registration and voter
8 education costs when approved by the chief
9 election officer.
- 10 (2) The county shall pay and be responsible for:
- 11 (A) Normal voter registration, voters list
12 maintenance, and all printing connected with
13 voter registration, including printing of the
14 voters list;
- 15 (B) Temporary election employees hired to do strictly
16 county work;
- 17 (C) Maintenance of existing voting machines,
18 including parts, freight, storage, programming,
19 and personnel;
- 20 (D) Maintenance and storage of voting devices and
21 other equipment; and



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

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

9 (A) Polling place supplies;

10 (B) All printing, including ballots, but excluding
11 printing connected with voter registration;

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

15 (D) Ballot preparation and packing; and

16 (E) All other costs for which the State or county are
17 not specifically responsible relating to the
18 operation of voting machines, electronic voting
19 systems, and other voting systems except paper
20 ballots to include but not be limited to real
21 property rentals, equipment rentals, personnel,



1 mileage, telephones, supplies, publicity,
2 computer programming, and freight.

3 The responsibility for [~~the above~~] these
4 functions shall be determined by the chief election
5 officer where the responsibility for [~~such~~] these
6 functions has not been assigned by the legislature.

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

12 SECTION 5. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2019-2020 and
15 the same sum or so much thereof as may be necessary for fiscal
16 year 2020-2021 for the chief election officer to publish an
17 online voters' pamphlet and publish and distribute postcards
18 notifying voters of the pamphlet's website address for each
19 election starting with the 2020 primary election.

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



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

7 SECTION 7. In codifying the new sections added by section
8 2 of this Act, the revisor of statutes shall substitute
9 appropriate section numbers for the letters used in designating
10 the new sections in this Act.

11 SECTION 8. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

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



Report Title:

Elections; Online Voters' Pamphlet; Postcards; 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 an online voters' pamphlet on the Office of Elections' public website and publish and distribute postcards notifying voters of the online voters' pamphlet website address. Appropriates moneys to allow the chief election officer to produce and distribute an online voters' pamphlet and voters' pamphlet postcards for each election. (SD1)

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

