
A BILL FOR AN ACT

RELATING TO VOTING.

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

1 SECTION 1. The legislature finds the right to vote in a
2 free and fair election is a citizen's most basic civil right,
3 the one on which many of the other rights of the American people
4 depend. Congress and the states can and should guarantee that
5 every eligible individual is able to vote—and that no one's vote
6 is stolen.

7 SECTION 2. Title 2. Elections - Chapter 11 Elections,
8 General - Part I. General Provisions, Hawaii Revised Statutes,
9 is amended to read as follows:

10 **§11-1 Definitions.** Whenever used in this title, the words
11 and phrases in this title shall, unless the same is inconsistent
12 with the context, be construed as follows:

13 "Official Observer" means a person, political party
14 representative pursuant to HRS §§11-6, and 11-61 through 11-65,
15 or an organization accredited by the Office of Elections to
16 observe an election.

17 **§11-4 Rules.** The chief election officer may make, amend,
18 and repeal rules governing elections held under this title,
19 election procedures, and the selection, establishment, use, and
20 operation of all voting systems now in use or to be adopted in
21 the State, and all other similar matters relating thereto as in



1 the chief election officer's judgment shall be necessary to
2 carry out this title.

3 In making, amending, and repealing rules for voters who
4 cannot vote in person or receive or return ballots by mail, and
5 all other voters, the chief election officer shall provide for
6 voting by these persons in a manner that ensures secrecy of the
7 ballot and precludes tampering with the ballots of these voters
8 and other election frauds. The rules, when adopted in
9 conformity with chapter 91 and upon approval by the [governor]
10 legislature, shall have the force and effect of law.

11 SECTION 3. TITLE 2. ELECTIONS Chapter 11 Elections,
12 General - Part VIIA. Elections by Mail, Hawaii Revised Statutes,
13 is amended to read as follows:

14 **§11-109 Voter service centers; places of deposit.**

15 (a) Voter service centers shall be established at the
16 office of the clerk, and may be established at additional
17 locations within a county as may be designated by a clerk to
18 service the particular needs of a county's voters.

19 (b) Voter service centers shall be open from the tenth
20 business day preceding the day of the election during regular
21 business hours until the time provided in section 11-131 on the
22 date of the election and at the same times statewide.

23 (c) Each voter service center shall provide the services
24 specified in section 11-1 under the definition of "voter service
25 center".

26 (d) The clerks may designate and provide for places of
27 deposit shall be open from the tenth business day preceding [~~to~~
28 ~~be open five business days before~~] the election until 7:00 p.m.



1 on the day of the election; provided that the locations and
2 apparatus for receiving voted ballots can be securely maintained
3 during the period of use for each election, and as may be
4 permitted by the operational hours.

5 (e) The county clerk must prevent overflow of each ballot
6 drop box to allow a voter to deposit his or her ballot securely.
7 Ballots must be removed from a ballot drop box by at least two
8 people, with a record kept of the date and time ballots were
9 removed, and the names of people removing them. Two Official
10 Observers may be present at all drop box pick-ups. Ballots from
11 drop boxes must be returned to the counting center in secured
12 transport containers. A copy of the record must be placed in the
13 container, and one copy must be transported with the ballots to
14 the counting center, where the seal number must be verified by
15 the county clerk or a designated representative. All ballot drop
16 boxes must be secured at 7:00 p.m. on the day of the primary,
17 special election, or general election.

18 (f) Drop-off locations shall be determined by the county
19 clerk. In determining locations, the county clerk shall, at a
20 minimum, consider concentrations of population, geographic
21 areas, voter convenience, 24-hour security, and location to
22 public transportation.

23 (g) Drop boxes shall be monitored by a video security
24 surveillance system, or an internal camera that can capture
25 digital images and/or video. A video security surveillance
26 system can include existing systems on county, city, or private
27 buildings.



1 (h) All drop boxes shall be secured by a lock or sealable
2 with a tamper-evident seal. Only an elections official shall
3 have access to the keys and/or combination of the lock.

4 SECTION 4. Title 2. Elections Chapter 16 - Voting Systems -
5 Part III. Paper Ballot Voting System, Hawaii Revised Statutes,
6 is amended to read as follows:

7 **§16-25 Order and method of counting.** Each ballot shall be
8 counted and finished as to all the candidates thereon before
9 counting a second and subsequent ballots. The ballots shall be
10 counted by teams in the following manner only: by one election
11 official announcing the vote in a loud clear voice, one election
12 official tallying the vote, one election official watching the
13 election official announcing the vote and one election official
14 watching the election official tallying the vote. The election
15 official doing the announcing or tallying and the election
16 official watching that official shall not be of the same
17 political party. Two Official Observers, not of the same
18 political party, shall be present at all times to observe the
19 counting of paper ballots.

20 SECTION 5. Title 2. Elections Chapter 16 - Voting Systems -
21 Part IV. Electronic Voting System, Hawaii Revised Statutes, is
22 amended to read as follows:

23 **§16-42 Electronic voting requirements.**

24 (a) When used at primary or special primary elections, the
25 automatic tabulating equipment of the electronic voting system
26 shall count only votes for the candidates of one party, or
27 nonpartisans. In all elections, the equipment shall reject all



1 votes for an office when the number of votes therefor exceeds
2 the number that the voter is entitled to cast.

3 No electronic voting system shall be used in any election
4 unless it generates a paper ballot or voter verifiable paper
5 audit trail that may be inspected and corrected by the voter
6 before the vote is cast, and unless every paper ballot or voter
7 verifiable paper audit trail is retained as the definitive
8 record of the vote cast.

9 No electronic voting system or tabulator shall be used if
10 tabulators, voter assistance terminals (VAT), memory cards, and
11 flash drives cannot be securely stored, or the VAT and tabulator
12 cannot be air gapped from internet, wifi and bluetooth access.

13 (b) The chief election officer may rely on electronic
14 tallies created directly by electronic voting systems, in lieu
15 of counting the paper ballots by hand or with a mechanical
16 tabulation system if:

17 (1) The electronic voting system is subject to
18 inspection, audit, and experimental testing, by qualified
19 observers, before and after the election, pursuant to
20 administrative rules adopted by the chief election officer under
21 chapter 91;

22 (2) No upgrades, patches, fixes, or alterations shall
23 be applied to the system through thirty days after the election;

24 (3) The chief election officer conducts a post-
25 election, pre-certification audit of a random sample of not less
26 than ten per cent of the precincts employing the electronic
27 voting system, to verify that the electronic tallies generated



1 by the system in those precincts equal hand tallies of the paper
2 ballots generated by the system in those precincts; and

3 (4) If discrepancies appear in the pre-certification
4 audits in paragraph (3), the chief election officer, pursuant to
5 administrative rules, shall immediately conduct an expanded
6 audit to determine the extent of misreporting in the system.

7 **§16-43 Ballot handling.** In every case where the ballots
8 are handled by election officials or election employees for
9 disposition upon completion of the tabulation, they shall be
10 handled in the presence of not less than two officials two
11 Official Observers, not of the same political party, at all
12 times assigned in accordance with section 16-45.

13 **§16-45 Official observers.** Official observers shall be
14 designated by the chief election officer or the clerk in county
15 elections to be present at the counting centers and selected in
16 the following manner:

17 (1) No less than one official observer designated by each
18 political party;

19 (2) No less than one official observer from the news
20 media;

21 (3) Additional official observers as space and facilities
22 permit designated by the chief election officer in state
23 elections and the clerk in county elections.

24 (4) There shall be sufficient official observers to ensure
25 two-person observation at each counting station within the
26 counting center.

27 The chief election officer or clerk shall give all official
28 observers reasonable notice of the time and place where the

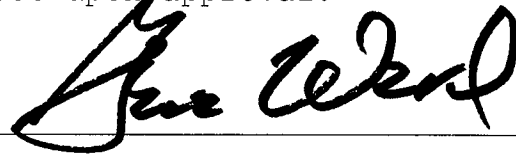


1 ballots shall be counted. No person shall be permitted in the
2 counting center without the written authorization of the chief
3 election officer or clerk.

4 SECTION 6. Statutory material to be repealed is bracketed and
5 stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon approval.
7

INTRODUCED BY:



JAN 25 2021



H.B. NO. 853

Report Title:

Voting; Places of deposit; Election fraud

Description:

Defines official observes. Updates procedures to ensure ballots are properly handled and counted. Promotes fair election process. Provides for places of deposit to be open ten business days prior to election day.

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

