GOV. MSG. NO. 1147

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

JUN 17 2022

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on JUN 17 2022, the following bill was signed into law:

SB2162 SD1 HD1 CD1 RELATING TO RANKED CHOICE VOTING.
**ACT 047**

Sincerely,

David Y. Ige

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor
on JUN 17 2022

THE SENATE
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

ACT 047

S.B. NO. 2162 S.D. 1 H.D. 1 C.D. 1

# A BILL FOR AN ACT

RELATING TO RANKED CHOICE VOTING.

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

SECTION 1. The legislature finds that the current plurality voting method in special elections allows a candidate to win an election without 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 and who are not widely supported by voters. For the winners, this may raise concerns about a lack of public support and confidence that may undermine the ability of the elected to govern effectively.

Ranked-choice voting is an election method that provides voters the ability to rank candidates in order of choice, as a voter's first, second, and later choices. Tabulation begins with each voter's first choice vote. If a candidate receives a majority of votes, that candidate wins. If no candidate receives a majority of votes, the candidate with the fewest votes is eliminated and each vote counting for that candidate counts for the voter's second choice in the subsequent round. That process repeats by eliminating the candidate with the

fewest votes and counting each vote for the highest-ranked remaining candidate in the next round, until two candidates remain, and the candidate with the most votes wins.

The legislature further finds that ranked-choice voting has been used effectively in the United States and around the world. Notably, New York City implemented ranked-choice voting for the 2021 primaries for the election of its mayor, an election process that engaged several million voters. Maine has successfully implemented ranked-choice voting for two election cycles; in 2018 for primary and general elections of state and congressional offices and in 2020 for the United States presidential election. Alaska voters also approved an initiative in 2020 to implement ranked-choice voting in the 2022 election cycle for all federal and state races. Ranked-choice voting has also been implemented in other jurisdictions, including Australia, Ireland, Malta, New Zealand, Northern Ireland, and Scotland.

Furthermore, the legislature finds that the State's voting systems, including optical scanners, can process ranked-choice voting with little or no difficulty.

The purpose of this Act is to implement the use of ranked-choice voting for special elections held for congressional races in the State and vacant county council seats.

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

"**§11- Ranked-choice voting; application; procedure.** (a) Any federal election not held on the date of a regularly scheduled primary or general election and any special election for a vacant seat on a county council shall be conducted by ranked-choice voting.

(b) Except as provided in subsections (c) and (d), the following procedures shall be used to determine the winner of an election conducted by ranked-choice voting:

(1) Tabulation of votes shall proceed in rounds;

(2) In each round, the number of votes for each continuing candidate shall be counted, with each continuing ballot counting as one vote for its highest-ranked continuing candidate for that round;

(3) Inactive ballots shall not be counted for any continuing candidate; and

(4) The round shall end with one of two potential outcomes:

(A) If there are two or fewer continuing candidates, the candidate with the most votes shall be declared the winner of the election; or

(B) If there are more than two continuing candidates, the last-place candidate shall be defeated and a new round shall begin.

(c) A tie under this section between candidates for the most votes in the final round or a tie between last-place candidates in any round shall be decided by lot, and the candidate chosen by lot shall be:

(1) Declared the winner if the tie is between candidates for the most votes in the final round; or

(2) Defeated if the tie is between last-place candidates in any round.

(d) The office of elections may modify a ranked-choice voting ballot and tabulation; provided that:

(1) The number of allowable rankings shall be limited to no fewer than six candidates; and

(2) Two or more candidates may be defeated simultaneously by batch elimination in any round of tabulation.

(e) For the purposes of this section:

"Batch elimination" means the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected.

"Continuing ballot" means a ballot that is not an inactive ballot.

"Continuing candidate" means a candidate who has not been defeated.

"Highest continuing ranking" means the highest ranking on a voter's ballot for a continuing candidate.

"Inactive ballot" means a ballot that does not rank any continuing candidate, contains an overvote at the highest continuing ranking, or contains two or more sequential skipped rankings before its highest continuing ranking.

"Last-place candidate" means the candidate with the fewest votes in a round of ranked-choice voting tabulation.

"Mathematically impossible to be elected", with respect to a candidate, means that:

(1) The candidate cannot be elected because the candidate's vote total in a round of the ranked-choice voting tabulation, plus all votes that could possibly be transferred to the candidate in future rounds from candidates with an equal or lower number of votes, would not be enough to surpass the candidate with the next-higher vote total in the round; or

(2) The candidate has a lower vote total than a candidate described in paragraph (1).

"Overvote" means a circumstance in which a voter has ranked more than one candidate at the same ranking on a ballot.

"Ranked-choice voting" means the method of casting and tabulating votes in which voters rank candidates in order of preference, tabulation proceeds in sequential rounds in which last-place candidates are defeated, and the candidate with the most votes in the final round is elected.

"Ranking" means the number assigned on a ballot by a voter to a candidate to express the voter's preference for that candidate, in which the lowest number is the highest ranking, and the highest number is the lowest ranking.

"Round" means an instance of the sequence of voting tabulation steps established in subsection (b).

"Skipped ranking" means a circumstance in which a voter has left a ranking blank and ranks a candidate at a subsequent ranking."

SECTION 3. Section 11-91, Hawaii Revised Statutes, is amended to read as follows:

"**§11-91 Proclamation.** (a) No later than 4:30 p.m. on the tenth day before the close of filing in elections involving state offices, the chief election officer shall issue an election proclamation. In elections involving only county offices the clerk shall issue the proclamation. In elections involving both state and county offices the proclamation may be issued jointly.

(b) The proclamation shall contain a statement of the purposes for which the election is to be held, and a designation of the offices and the terms thereof for which candidates are to be nominated or elected. It may also contain any other relevant matter including an offer of rewards for the detection and conviction of offenders against the election laws. The chief election officer or clerk shall cause the election proclamation

to be published at least once in a newspaper of general circulation and no later than on the tenth day before the close of filing.

(c) For any election conducted by ranked-choice voting pursuant to section 11- , the election proclamation shall include a statement that votes shall be cast and tabulated using ranked-choice voting and shall provide an explanation of ranked-choice voting."

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 of candidates is [~~less~~] fewer 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~~] that 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 as allowed in this title.

(g) The ballot may include information necessary to use ranked-choice voting as described in section 11- ."

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

"**§11-151 Vote count.** [~~Each~~] Except for contests conducted by ranked-choice voting pursuant to section 11- , 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) For votes cast using the electronic voting system, the ballots shall be taken in the sealed ballot containers to the counting center according to the procedure and schedule adopted by the chief election officer to promote the security of the ballots. For all votes cast in an election, in the presence of official observers, counting center employees may start to count the ballots before election day, as specified in section 11-108.

(b) In an election conducted by ranked-choice voting, votes shall be counted as provided in section 11- ."

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 a state election, or county clerk in a county election, shall compile, certify, and release the election results by district and precinct 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 records and resultant overage and underage report;

(3) The audit results of the manual audit team;

(4) The results of any mandatory recount of votes conducted pursuant to section 11-158; 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 number of~~] <u>who receive the most</u> votes in any election district shall be declared to be elected[~~.~~]<u>; provided that candidates for offices elected by ranked-choice voting shall be declared to be elected pursuant to section 11- .</u> Unless otherwise provided, the term of office shall begin or end as of the close of voter

service centers 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. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on January 1, 2023.

# S.B. NO. 2162 S.D. 1 H.D. 1 C.D. 1

APPROVED this 17 day of June, 2022

GOVERNOR OF THE STATE OF HAWAII

# THE SENATE OF THE STATE OF HAWAI'I

Date: May 3, 2022
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2022.

President of the Senate

Clerk of the Senate

SB No. 2162, SD 1, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 03, 2022
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2022.

Scott K. Saiki
Speaker
House of Representatives

Brian L. Takeshita
Chief Clerk
House of Representatives