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

4           "§11-           Automatic recount of votes; when required. (a)  
5 The chief election officer, or the county clerk in the case of  
6 county elections, shall conduct a recount of all votes cast for  
7 any office at any election if the official canvass of all of the  
8 returns for that office reveals that the difference in the  
9 number of votes cast for a candidate apparently qualified for  
10 the general election ballot or elected to office and the number  
11 of votes cast for the closest apparently defeated opponent is  
12 one-half per cent or less of the total number of votes cast for  
13 the candidate apparently qualified for the general election  
14 ballot or elected to office.

15           (b) No cost of a mandatory recount under this section may  
16 be charged to any candidate.



1        (c) All mandatory recounts of votes under this section  
2 shall be completed and the results publicly announced no later  
3 than on the fifteenth day following the election.

4        (d) The chief election officer shall adopt rules pursuant  
5 to chapter 91 for the mandatory recount of votes under this  
6 section; provided that the rules shall:

7        (1) Authorize candidates affected by the recount, or their  
8 designated representatives, to attend and witness the  
9 recount; and

10       (2) Require notification of the parties described in  
11 paragraph (1) of the time and place of the recount no  
12 later than one day prior to the date of the recount."

13       SECTION 2. Section 11-155, Hawaii Revised Statutes, is  
14 amended to read as follows:

15       **"§11-155 Certification of results of election.** On receipt  
16 of certified tabulations from the election officials concerned,  
17 the chief election officer or county clerk in county elections  
18 shall compile, certify, and release the election results after  
19 the expiration of the time for bringing an election contest.  
20 The certification shall be based on a comparison and  
21 reconciliation of the following:



- 1 (1) The results of the canvass of ballots conducted
- 2 pursuant to chapter 16;
- 3 (2) The audit of pollbooks (and related record books) and
- 4 resultant overage and underage report;
- 5 (3) The audit results of the manual audit team;
- 6 (4) The results of the absentee ballot reconciliation
- 7 report compiled by the clerks; [~~and~~]
- 8 (5) The results of any mandatory recount of votes
- 9 conducted pursuant to section 11- ; and
- 10 [~~+5~~] (6) All logs, tally sheets, and other documents
- 11 generated during the election and in the canvass of
- 12 the election results.

13 A certificate of election or a certificate of results declaring  
14 the results of the election as of election day shall be issued  
15 pursuant to section 11-156; provided that in the event of an  
16 overage or underage, a list of all precincts in which an overage  
17 or underage occurred shall be attached to the certificate. The  
18 number of candidates to be elected receiving the highest number  
19 of votes in any election district shall be declared to be  
20 elected. Unless otherwise provided, the term of office shall  
21 begin or end as of the close of polls on election day. The



1 position on the question receiving the appropriate majority of  
2 the votes cast shall be reflected in a certificate of results  
3 issued pursuant to section 11-156."

4 SECTION 3. Section 11-173.5, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) In primary and special primary election contests, and  
7 county election contests held concurrently with a regularly  
8 scheduled primary or special primary election, the complaint  
9 shall be filed in the office of the clerk of the supreme court  
10 not later than 4:30 p.m. on the sixth day after a primary or  
11 special primary election, or county election contests held  
12 concurrently with a regularly scheduled primary or special  
13 primary election, and shall be accompanied by a deposit for  
14 costs of court as established by rules of the supreme court[-];  
15 provided that, notwithstanding the foregoing, a complaint  
16 pertaining to votes subject to a mandatory recount pursuant to  
17 section 11- shall be filed no later than 4:30 p.m. on the  
18 fifth day after the public announcement of the results of the  
19 mandatory recount pursuant to section 11- (d). The clerk  
20 shall issue to the defendants named in the complaint a summons



1 to appear before the supreme court not later than 4:30 p.m. on  
2 the fifth day after service thereof."

3 SECTION 4. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

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

8 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

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# H.B. NO. 428

**Report Title:**

Elections; Mandatory Recount of Votes

**Description:**

Requires an automatic recount of election votes when the difference between the two candidates with the highest number of votes is less than 0.5 (one half of one) per cent of the apparently prevailing candidate's vote total.

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

