

JAN 18 2023

A BILL FOR AN ACT

RELATING TO CAST BALLOTS.

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

1 SECTION 1. The legislature finds that voters eligible to
2 vote who cast their ballot and subsequently become ineligible to
3 vote due to death or other reasons should have their vote
4 counted. A person voting by mail expects their ballot to be
5 tabulated when they place it in the mail or deposit it at a
6 place of deposit. If the voter is eligible to vote at the time
7 the ballot is cast, subsequent events that may make the voter
8 ineligible are irrelevant.

9 The legislature further finds that Act 10, Session Laws of
10 Hawaii 2019 (Act 10), repealed the law that invalidated the cast
11 ballots of absentee voters who died prior to the opening of the
12 polls on election day. Act 10 also added language to the
13 absentee voter and military-overseas voter laws providing that
14 these voters' ballots would remain valid even if the voter
15 became ineligible to vote after casting their ballot. However,
16 the State's vote by mail process commenced with the 2020
17 election without similar language establishing procedures for



1 validating mail-in ballots cast by eligible voters who
2 thereafter became ineligible, including those who became
3 ineligible by death.

4 The purpose of this Act is to guarantee the vote of
5 eligible voters who cast their ballot and then subsequently die
6 or otherwise become ineligible before election day.

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

10 "§11- Validity of cast mail-in ballot where voter later
11 becomes ineligible. The mail-in ballot of any voter who was
12 eligible to vote at the time the ballot was cast shall not be
13 deemed invalid solely because the voter became ineligible to
14 vote, including by death of the voter, after casting the ballot.
15 For the purposes of this section, "cast" means that the voter
16 has:

17 (1) Returned the return identification envelope containing
18 the optional secrecy envelope or secrecy sleeve with
19 the marked ballot in any manner permitted pursuant to
20 section 11-104(c); or
21 (2) Completed voting in person at a voter service center."



SECTION 3. Section 15-13.5, Hawaii Revised Statutes, is amended to read as follows:

"§15-13.5 ~~[Eligibility of voter after absentee ballot cast.]~~ Validity of cast absentee ballot where voter later becomes ineligible. The absentee ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote, including by death of the voter, after casting the ballot. For the purposes of this section, "cast" means that the voter has:

- (1) Deposited the absentee ballot in the mail for ballots mailed in accordance with section 15-9;
- (2) Delivered the absentee ballot to the appropriate county clerk or polling place in accordance with section 15-9; or
- (3) Completed voting in person at an absentee polling place."

SECTION 4. Section 15D-10.5, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~15D-10.5[~~§~~] ~~Eligibility of covered voter after ballot cast.]~~ Validity of cast ballot where covered voter later becomes



1 ineligible. The military-overseas ballot of any covered voter
2 who was eligible to vote at the time the ballot was cast in
3 accordance with this chapter shall not be deemed invalid solely
4 because the covered voter became ineligible to vote, including
5 by death of the voter, after casting the ballot."

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.

9
INTRODUCED BY: Kal Nehal



S.B. NO. 19

Report Title:

Cast Ballots; Elections; Ineligible Voters

Description:

Guarantees the vote of eligible voters who cast their ballot and then subsequently die or otherwise become ineligible before election day.

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