



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

GOV. MSG. NO. 604

May 2, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

I am transmitting herewith HB2454 HD1 SD2, without my approval, and with the statement of objections relating to the measure.

HB2454 HD1 SD2

A BILL FOR AN ACT RELATING TO
LEGISLATIVE VACANCIES.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO LEGISLATIVE VACANCIES.

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

1 SECTION 1. Section 17-1, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§17-1 United States senator.** When a vacancy occurs in
4 the office of United States senator, the vacancy shall be filled
5 for the unexpired term at the following state general
6 election[~~7~~]; provided that the vacancy occurs not later than
7 4:30 p.m. on the sixtieth day prior to the primary for
8 nominating candidates to be voted for at the election; otherwise
9 at the state general election next following. The chief
10 election officer shall issue a proclamation designating the
11 election for filling the vacancy. Pending the election, the
12 governor shall make a temporary appointment to fill the vacancy
13 [and the] by selecting a person from a list of three prospective
14 appointees submitted by the same political party as the prior
15 incumbent. The person [sø] appointed shall serve until the
16 election and qualification of the person duly elected to fill
17 the vacancy and shall be, at the time of appointment, and shall
18 have been, for at least six months immediately prior to the



1 appointment, a registered member of the same political party as
2 the [senator causing the vacancy.] prior incumbent. If the
3 prior incumbent was not a member of any political party, the
4 governor shall appoint a person who is not and has not been, for
5 at least six months immediately prior to the appointment, a
6 registered member of any political party. All candidates for
7 the unexpired term shall be nominated and elected in accordance
8 with this title."

9 SECTION 2. Section 17-3, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§17-3 State senator.** (a) Whenever any vacancy in the
12 membership of the state senate occurs, the term of which ends at
13 the next succeeding general election[~~the~~]:

14 (1) The governor shall make an appointment within sixty
15 calendar days following the first day of vacancy to
16 fill the vacancy for the unexpired term [~~and the~~
17 ~~appointee shall be of~~] by selecting a person from a
18 list of three prospective appointees submitted by the
19 same political party [or nonpartisanship] as the
20 [person the appointee succeeds.] prior incumbent. The
21 prospective appointees shall be, at the time of
22 appointment, and shall have been, for at least six



1 months immediately prior to the appointment,
2 registered members of the political party. The
3 political party shall submit the list of prospective
4 appointees to the governor within thirty calendar days
5 following the first day of vacancy; and

6 (2) If the prior incumbent was not a member of any
7 political party, the governor, within sixty calendar
8 days following the first day of vacancy, shall appoint
9 a person who is not and has not been, for at least six
10 months immediately prior to the appointment, a
11 registered member of any political party.

12 (b) In the case of a vacancy, the term of which does not
13 end at the next succeeding general election:

14 (1) If it occurs not later than on the tenth day prior to
15 the close of filing for the next succeeding primary
16 election, the vacancy shall be filled for the
17 unexpired term at the next succeeding general
18 election. The chief election officer shall issue a
19 proclamation designating the election for filling the
20 vacancy. All candidates for the unexpired term shall
21 be nominated and elected in accordance with this
22 title. Pending the election, the governor shall make



1 a temporary appointment to fill the vacancy, and the
2 person so appointed shall serve until the election of
3 the person duly elected to fill the vacancy. The
4 ~~[appointee shall be of]~~ governor shall make the
5 appointment from a list of three prospective
6 appointees submitted by the same political party [or
7 nonpartisanship] as the ~~[person the appointee~~
8 ~~succeeds.]~~ prior incumbent. The prospective
9 appointees shall be, at the time of appointment, and
10 shall have been, for at least six months immediately
11 prior to the appointment, registered members of the
12 political party. If the prior incumbent was not a
13 member of any political party, the governor shall
14 appoint a person who is not and has not been, for at
15 least six months immediately prior to the appointment,
16 a registered member of any political party;

- 17 (2) If it occurs later than on the tenth day prior to the
18 close of filing for the next succeeding primary
19 election but not later than on the sixtieth day prior
20 to the next succeeding primary election, or if there
21 are no qualified candidates for any party or
22 nonpartisan candidates qualified for the primary

1 election ballot, nominations for the unexpired term
2 may be filed not later than 4:30 p.m. on the fiftieth
3 day prior to the next succeeding primary election.
4 The chief election officer shall issue a proclamation
5 designating the election for filling the vacancy.
6 Pending the election the governor shall make a
7 temporary appointment to fill the vacancy and the
8 person so appointed shall serve until the election of
9 the person duly elected to fill the vacancy. The
10 ~~[appointee shall be of]~~ governor shall make the
11 appointment from a list of three prospective
12 appointees submitted by the same political party [~~or~~
13 nonpartisanship] as the ~~[person the appointee~~
14 ~~succeeds.]~~ prior incumbent. The prospective
15 appointees shall be, at the time of appointment, and
16 shall have been, for at least six months immediately
17 prior to the appointment, registered members of the
18 political party. If the prior incumbent was not a
19 member of any political party, the governor shall
20 appoint a person who is not and has not been, for at
21 least six months immediately prior to the appointment,
22 a registered member of any political party;

1 (3) If it occurs after the sixtieth day prior to the next
2 succeeding primary but not later than on the fiftieth
3 day prior to the next succeeding general election, or
4 if there are no qualified candidates for any party or
5 nonpartisan candidates in the primary, the vacancy
6 shall be filled for the unexpired term at the next
7 succeeding general election. The chief election
8 officer shall issue a proclamation designating the
9 election for filling the vacancy. Party candidates
10 for the unexpired senate term shall be nominated by
11 the county committees of the parties not later than
12 4:30 p.m. on the fortieth day prior to the general
13 election; nonpartisan candidates may file nomination
14 papers for the unexpired term not later than 4:30 p.m.
15 on the fortieth day prior to the general election with
16 the nonpartisan candidate who is to be nominated to be
17 decided by lot, under the supervision of the chief
18 election officer. The candidates for the unexpired
19 term shall be elected in accordance with this title.
20 Pending the election, the governor shall make a
21 temporary appointment to fill the vacancy, and the
22 person so appointed shall serve until the election of



1 the person duly elected to fill ~~[such]~~ the vacancy.
2 The ~~[appointee shall be of]~~ governor shall make the
3 appointment from a list of three prospective
4 appointees submitted by the same political party ~~[or~~
5 ~~nonpartisanship]~~ as the ~~[person the appointee~~
6 ~~succeeds.]~~ prior incumbent. The prospective
7 appointees shall be, at the time of appointment, and
8 shall have been, for at least six months immediately
9 prior to the appointment, registered members of the
10 political party. If the prior incumbent was not a
11 member of any political party, the governor shall
12 appoint a person who is not and has not been, for at
13 least six months immediately prior to the appointment,
14 a registered member of any political party; and
15 (4) If it occurs after the fiftieth day prior to the next
16 succeeding general election or if no candidates are
17 nominated, the governor shall make an appointment to
18 fill the vacancy for the unexpired term ~~[and the~~
19 ~~appointee shall be of]~~ by selecting a person from a
20 list of three prospective appointees submitted by the
21 same political party ~~[or nonpartisanship]~~ as the
22 ~~[person the appointee succeeds.]~~ prior incumbent. The



1 prospective appointees shall be, at the time of
2 appointment, and shall have been, for at least six
3 months immediately prior to the appointment,
4 registered members of the political party. If the
5 prior incumbent was not a member of any political
6 party, the governor shall appoint a person who is not
7 and has not been, for at least six months immediately
8 prior to the appointment, a registered member of any
9 political party."

10 SECTION 3. Section 17-4, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§17-4 State representatives.** (a) Whenever any vacancy
13 in the membership of the state house of representatives occurs,
14 the governor shall make an appointment within sixty calendar
15 days following the first day of vacancy to fill the vacancy for
16 the unexpired term [~~and the appointee shall be of~~] by selecting
17 a person from a list of three prospective appointees submitted
18 by the same political party [~~or nonpartisanship~~] as the [person
19 the appointee succeeds.] prior incumbent. The prospective
20 appointees shall be, at the time of appointment, and shall have
21 been, for at least six months immediately prior to the
22 appointment, registered members of the political party. The



1 political party shall submit the list of prospective appointees
2 to the governor within thirty calendar days following the first
3 day of vacancy.

4 (b) If the prior incumbent was not a member of any
5 political party, the governor, within sixty calendar days
6 following the first day of vacancy, shall appoint a person who
7 is not and has not been, for at least six months immediately
8 prior to the appointment, a registered member of any political
9 party."

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon approval.

1 political party shall submit the list of prospective appointees
2 to the governor within thirty calendar days following the first
3 day of vacancy.

4 (b) If the prior incumbent was not a member of any
5 political party, the governor, within sixty calendar days
6 following the first day of vacancy, shall appoint a person who
7 is not and has not been, for at least six months immediately
8 prior to the appointment, a registered member of any political
9 party."

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon approval.

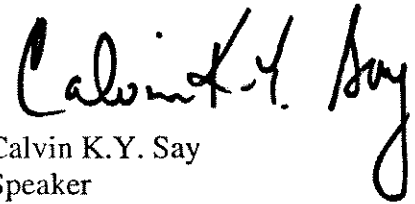
APPROVED this day of , 2006

GOVERNOR OF THE STATE OF HAWAII

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 17, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Third Legislature of the State of Hawaii, Regular Session of 2006.



Calvin K.Y. Say
Speaker
House of Representatives

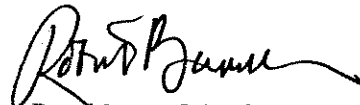


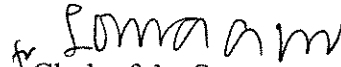
Patricia Mau-Shimizu
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: April 11, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.


President of the Senate


Clerk of the Senate

EXECUTIVE CHAMBERS

HONOLULU

May 2, 2006

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2454

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2454, entitled "A Bill for an Act Relating to Legislative Vacancies."

The purpose of this bill is to require the Governor, in filling vacancies in the State Legislature and the United States Senate, to select a replacement from a list of three prospective appointees nominated by the political party of the prior incumbent.

The goal of the present law is to fill vacancies in the State Legislature and the United States Senate in a timely manner when such vacancies occur. These vacancies in elective office are appropriately filled by the Governor, who is elected by the public at large, and as such is accountable to them. The process for filling vacancies in the United States Senate and the Hawaii State Legislature has been in place since 1970 and has not been shown to have compromised the integrity of the election process.

This bill places the ability for determining who may be appointed by the Governor with the political party leadership of the vacating office holder. This is in spite of the fact that these individuals are not elected by the public and, as such, are not accountable to them.

Additionally, the bill, without any stated rationale, narrows the field of qualified candidates that the political party can consider to those who have been registered members of that party for at least six months prior to the appointment. Such a provision fails to recognize that this may unreasonably

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 2454
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restrict the pool of potential candidates as the majority of people who personally and philosophically associate themselves with a political party and vote along party lines may not meet this requirement.

The Governor's ability and responsibility to select the most qualified person to fill a vacancy should not be so narrowly restricted.

For the foregoing reasons, I am returning House Bill No. 2454 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "L. Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii