



**GOV. MSG. NO. 584**

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

May 20, 2010

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 20, 2010, the following bill was signed into law:

HB2397 HD1 SD1 CD1

A BILL FOR AN ACT  
RELATING TO PRIMARY ELECTIONS.  
**ACT 126 (10)**

Sincerely,



LINDA LINGLE

Approved by the Governor  
on MAY 20 2010

**ACT 126**

HOUSE OF REPRESENTATIVES  
TWENTY-FIFTH LEGISLATURE, 2010  
STATE OF HAWAII

**H.B. NO.** 2397  
H.D. 1  
S.D. 1  
C.D. 1

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## A BILL FOR AN ACT

RELATING TO PRIMARY ELECTIONS.

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

1           SECTION 1. The legislature finds that provisions within  
2 the National Defense Authorization Act for Fiscal Year 2010,  
3 P.L. 111-84, requires states to mail absentee ballots to  
4 uniformed and overseas voters no later than forty-five days  
5 prior to elections for federal offices. The legislature also  
6 finds that Hawaii law allows only forty-five days between  
7 primary and general elections, making meeting the federal  
8 mailing deadlines an impossibility.

9           Federal law allows for states to request a waiver of the  
10 requirement on an election-by-election basis, if the State can  
11 show that it has alternative means by which it can ensure access  
12 to the ballot for overseas voters. The federal law further  
13 provides that the waiver request must be made more than ninety  
14 days before the general election and that the approval or denial  
15 of the request will occur no later than sixty-five days before  
16 the general election.

17           With this in mind, state election officials sought to  
18 immediately submit the State of Hawaii's waiver application, but



1 they have been informed that the federal government is still  
2 determining the specifics of the waiver application process and,  
3 as such, are not receiving applications at this time.

4 The purpose of this Act is to move Hawaii's primary  
5 election date to the second Saturday in August and to move the  
6 deadline for filing nomination papers to the first Tuesday in  
7 June.

8 SECTION 2. Section 12-2, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§12-2 Primary held when; candidates only those nominated.  
11 The primary shall be held [~~at the polling place for each~~  
12 ~~precinct~~] on the second [~~to the last~~] Saturday of [~~September~~  
13 August] in every even numbered year [~~, provided that in no case~~  
14 ~~shall any primary election precede a general election by less~~  
15 ~~than forty five days]~~.

16 No person shall be a candidate for any general or special  
17 general election unless the person has been nominated in the  
18 immediately preceding primary or special primary."

19 SECTION 3. Section 12-6, Hawaii Revised Statutes, is  
20 amended by amending subsections (a) and (b) to read as follows:

21 "(a) [~~Nomination papers shall be filed as follows:~~



1       ~~(1)~~ For members of Congress, state ~~[, and]~~ offices, county  
2       offices, and the board of trustees for the office of  
3       Hawaiian affairs, nomination papers shall be filed  
4       with the chief election officer, or clerk in case of  
5       county offices, not later than 4:30 p.m. on the  
6       ~~[sixtieth calendar day prior to the primary, special~~  
7       ~~primary, or special election provided that if such day~~  
8       ~~is a Saturday, Sunday, or holiday then not later than~~  
9       ~~4:30 p.m. on the first working day immediately~~  
10       ~~preceding.]~~ first Tuesday in June. However, in the  
11       event of a special primary or special election, the  
12       filing deadline shall be determined in the  
13       proclamation that is issued calling for the election  
14       as provided for by state law or county charter. A  
15       state candidate from the counties of Hawaii, Maui, and  
16       Kauai may file the declaration of candidacy with the  
17       respective clerk. The clerk shall transmit to the  
18       office of the chief election officer the state  
19       candidate's declaration of candidacy without delay.  
20       ~~[However, if a special primary or special election is~~  
21       ~~to be held by a county and the county charter requires~~  
22       ~~that the council shall issue a proclamation calling~~



1 ~~for the election to be held within a specified period~~  
2 ~~of time, and if that requirement would not allow the~~  
3 ~~filing of nomination papers with the appropriate~~  
4 ~~office by the sixtieth calendar day prior to the day~~  
5 ~~for holding the special primary or special election,~~  
6 ~~the council shall establish the deadline for the~~  
7 ~~filing of nomination papers in the proclamation~~  
8 ~~calling for the election, and~~

9 ~~(2) For the board of trustees for the office of Hawaiian~~  
10 ~~affairs, nomination papers shall be filed with the~~  
11 ~~chief election officer, not later than 4:30 p.m. on~~  
12 ~~the sixtieth calendar day prior to the primary~~  
13 ~~election referred to in paragraph (1); provided that~~  
14 ~~if that day is a Saturday, Sunday, or holiday, then~~  
15 ~~not later than 4:30 p.m. on the first working day~~  
16 ~~immediately preceding.~~

17 ~~+] (b) [+]~~ If after the close of filing there are no  
18 candidates who have filed nomination papers for an elective  
19 office for the primary, special primary, or any special election  
20 held in conjunction with the primary election, the chief  
21 election officer or clerk, in the case of a county election,  
22 shall accept nomination papers for that office ~~[not later than~~



1 ~~4:30 p.m. on the fiftieth day prior to the primary, special~~  
2 ~~primary, or special election.]~~ until 4:30 p.m. on the tenth day  
3 after the original close of filing."

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

6 SECTION 5. This Act shall take effect on January 1, 2011.

APPROVED this 20 day of MAY, 2010



GOVERNOR OF THE STATE OF HAWAII

