
A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION.

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

1 SECTION 1. The purpose of this Act is to authorize the
2 election of the members of the Hawaiian homes commission.

3 SECTION 2. The Hawaiian Homes Commission Act, 1920, is
4 amended by adding four new sections to be appropriately
5 designated and to read as follows:

6 "§A. Qualifications of commission members. (a) No person
7 shall be eligible for election to the commission unless the
8 person:

9 (1) Has attained the age of eighteen years or will have
10 attained that age within one year of the date of the
11 next election of commission members; and

12 (2) Is a qualified voter in the State.

13 (b) No member of the commission shall hold or be a
14 candidate for any other public office under the state or county
15 governments in accordance with article II, section 7, of the
16 Constitution of the State of Hawaii; nor shall a person be
17 eligible for election to the commission if that person is also a
18 candidate for any other public office under the state or county



1 governments. For the purposes of this section, the term "public
2 office" shall not include notaries public, reserve police
3 officers, or officers of emergency organizations for civilian
4 defense or disaster, or disaster relief.

5 §B. Election of commission members. (a) Members of the
6 commission shall be elected at a special election held in
7 conjunction with the general election in every even-numbered
8 year.

9 (b) Any person wishing to register as a candidate for the
10 election as a commission member shall submit to an examination
11 under oath by the office of elections as to the person's
12 qualifications. In addition, each candidate shall make and
13 subscribe to an application in the form of an affidavit
14 verifying the candidate's qualifications.

15 (c) The cost of the election of commission members shall
16 be borne by the department of Hawaiian home lands.

17 §C. Qualification of voters; registration. No person
18 shall be eligible to vote for the election of commission members
19 unless the person:

20 (1) Has attained the age of eighteen years or will have
21 attained that age within one year of the date of the
22 next election of commission members; and



1 (2) Is a qualified voter in the State.

2 §D. Term of office; vacancies. (a) The term of office of
3 members of the commission shall be four years beginning on the
4 day of the special election of the year in which they are
5 elected and ending on the day of the special election day held
6 four years hence; except that the term of office of commission
7 members elected in 2010 shall be as follows:

8 (1) The four members elected with the highest number of
9 votes shall serve four years; and

10 (2) The remaining members elected shall serve two years.

11 Members of the commission may be re-elected without restriction
12 as to the number of terms.

13 (b) Any vacancy that may occur through any cause other
14 than the expiration of the term of office shall be filled in
15 accordance with section 17- , Hawaii Revised Statutes."

16 SECTION 3. Chapter 17, Hawaii Revised Statutes, is amended
17 by adding a new section to be appropriately designated and to
18 read as follows:

19 "§17- Hawaiian homes commission; vacancies. (a)
20 Whenever any vacancy in the membership of the Hawaiian homes
21 commission occurs, the term of which ends at the next succeeding



1 special election, the vacancy shall be filled within sixty days
2 by a two-thirds vote of the remaining members of the commission.

3 (b) In the case of a vacancy, the term of which does not
4 end at the next succeeding special election:

5 (1) If the vacancy occurs not later than on the sixtieth
6 day prior to the next succeeding special election, the
7 vacancy shall be filled for the unexpired term at the
8 next succeeding special election. The chief election
9 officer shall issue a proclamation designating the
10 election for filling the vacancy. All candidates for
11 the unexpired term shall file nomination papers not
12 later than 4:30 p.m. on the fiftieth day prior to the
13 special election (but if that day is a Saturday,
14 Sunday, or holiday then not later than 4:30 p.m. on
15 the first working day immediately preceding) and shall
16 be elected in accordance with the Hawaiian Homes
17 Commission Act of 1920, as amended, and this title.
18 Pending the election, the commission shall make a
19 temporary appointment to fill the vacancy in the
20 manner prescribed under subsection (a). The person
21 appointed shall serve for the duration of the



1 unexpired term and shall serve until the election of
2 the person duly elected to fill the vacancy; or
3 (2) If the vacancy occurs after the sixtieth day prior to
4 the next succeeding special election, the commission
5 shall make an appointment to fill the vacancy in the
6 manner prescribed under subsection (a). The person so
7 appointed shall serve for the duration of the
8 unexpired term.

9 (c) All appointments made by the commission under this
10 section shall be made without consideration of the appointee's
11 party preference or nonpartisanship status."

12 SECTION 4. Section 202, Hawaiian Homes Commission Act,
13 1920, is amended to read as follows:

14 "**§202. Department officers, staff, commission, members,**
15 **compensation.** (a) There shall be a department of Hawaiian home
16 lands [~~which~~] that shall be headed by an executive board to be
17 known as the Hawaiian homes commission. The members of the
18 commission shall be [~~nominated and appointed in accordance with~~
19 ~~section 26—34, Hawaii Revised Statutes.~~] elected in
20 accordance with this Act. The commission shall be composed of
21 nine members, [~~as follows: three shall be residents of the city~~
22 ~~and county of Honolulu; two shall be residents of the county of~~



1 ~~Hawaii one of whom shall be a resident of east Hawaii and the~~
2 ~~ether a resident of west Hawaii; two shall be residents of the~~
3 ~~county of Maui one of whom shall be a resident from the island~~
4 ~~of Molokai; one shall be a resident of the county of Kauai; and~~
5 ~~the ninth member shall be the chairman of the Hawaiian homes~~
6 ~~commission. All members shall have been residents of the State~~
7 ~~at least three years prior to their appointment and at least~~
8 ~~four of the members shall be descendants of not less than one-~~
9 ~~fourth part of the blood of the races inhabiting the Hawaiian~~
10 ~~Islands previous to 1778.] elected pursuant to section B of this~~
11 ~~Act. The tenth member shall be the director of Hawaiian home~~
12 ~~lands who shall serve as an ex officio nonvoting member. The~~
13 ~~members of the commission shall serve without pay, but shall~~
14 ~~receive actual expenses incurred by them in the discharge of~~
15 ~~their duties as [such] members. [The governor shall appoint the~~
16 ~~chairman] The members shall select a chairperson of the~~
17 ~~commission from among the members thereof. The commission shall~~
18 ~~appoint the director of the department who shall be compensated~~
19 ~~in accordance with section 26-52, Hawaii Revised Statutes.~~

20 The commission may delegate to the [~~chairman such~~] director
21 ~~duties, powers, and authority or so much thereof, as may be~~
22 ~~lawful or proper for the performance of the functions vested in~~



1 the commission. The [~~chairman of the commission~~] director shall
2 serve in a full-time capacity [~~He shall, in such capacity,~~]
3 and shall perform [~~such~~] the duties, and exercise [~~such~~] the
4 powers and authority, or so much thereof, as may be delegated to
5 [~~him~~] the director by the commission [~~as herein provided above~~].

6 (b) [~~The provisions of section~~] Section 76-16, Hawaii
7 Revised Statutes, shall apply to the positions of first deputy
8 and private secretary to the [~~chairman of the commission~~]
9 director. The department may hire temporary staff on a
10 contractual basis not subject to chapters 76 [~~and~~], 78, and 89,
11 Hawaii Revised Statutes, when the services to be performed will
12 assist in carrying out the purposes of the Act. These positions
13 may be funded through appropriations for capital improvement
14 program projects and by the administration account, operating
15 fund, or native Hawaiian rehabilitation fund. No contract shall
16 be for a period longer than two years, but individuals hired
17 under contract may be employed for a maximum of six years;
18 provided that the six-year limitation shall not apply if the
19 department, with the approval of the governor, determines that
20 [~~such~~] those contract individuals are needed to provide critical
21 services for the efficient functioning of the department. All



1 other positions in the department shall be subject to chapter
2 76, Hawaii Revised Statutes.

3 All vacant and new civil service positions covered by
4 chapter 76, Hawaii Revised Statutes, shall be filled in
5 accordance with section 76-22.5, Hawaii Revised Statutes[+
6 ~~provided that the provisions of these sections shall be~~
7 ~~applicable first to qualified persons of Hawaiian extraction]."~~

8 SECTION 5. Section 12-5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§12-5 **Nomination papers: number of signers.** (a)
11 Nomination papers for candidates for members of Congress,
12 governor, lieutenant governor, [and] the board of education, the
13 office of Hawaiian affairs, and the Hawaiian homes commission
14 shall be signed by not less than twenty-five registered voters
15 of the State or of the Congressional district or school board
16 district from which the candidates are running in the case of
17 candidates for the United States House of Representatives or for
18 the board of education.

19 (b) Nomination papers for candidates for either branch of
20 the legislature and for county office shall be signed by not
21 less than fifteen registered voters of the district or county or



1 subdivision thereof for which the person nominated is a
2 candidate.

3 ~~[(c) Nomination papers for candidates for members of the~~
4 ~~board of trustees of the office of Hawaiian affairs shall be~~
5 ~~signed by not less than twenty five persons registered as~~
6 ~~prescribed under section 11-15(b).]~~

7 ~~[(d)]~~ (c) No signatures shall be required on nomination
8 papers for candidates filing to run in a special primary or
9 special election to fill a vacancy."

10 SECTION 6. Section 12-6, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§12-6 Nomination papers: time for filing; fees. (a)

13 Nomination papers shall be filed as follows:

14 (1) For members of Congress, state, and county offices,
15 and the Hawaiian homes commission, nomination papers
16 shall be filed with the chief election officer, or
17 county clerk in case of county offices, not later than
18 4:30 p.m. on the sixtieth calendar day prior to the
19 primary, special primary, or special election provided
20 that if ~~[such]~~ that day is a Saturday, Sunday, or
21 holiday then not later than 4:30 p.m. on the first
22 working day immediately preceding. A state candidate



1 from the counties of Hawaii, Maui, and Kauai may file
2 the declaration of candidacy with the respective
3 county clerk. The county clerk shall transmit to the
4 office of the chief election officer the state
5 candidate's declaration of candidacy without delay.
6 However, if a special primary or special election is
7 to be held by a county and the county charter requires
8 that the council shall issue a proclamation calling
9 for the election to be held within a specified period
10 of time, and if that requirement would not allow the
11 filing of nomination papers with the appropriate
12 office by the sixtieth calendar day prior to the day
13 for holding the special primary or special election,
14 the council shall establish the deadline for the
15 filing of nomination papers in the proclamation
16 calling for the election; and

- 17 (2) For the board of trustees for the office of Hawaiian
18 affairs, nomination papers shall be filed with the
19 chief election officer, not later than 4:30 p.m. on
20 the sixtieth calendar day prior to the primary
21 election referred to in paragraph (1); provided that
22 if that day is a Saturday, Sunday, or holiday, then



1 not later than 4:30 p.m. on the first working day
2 immediately preceding.

3 [+](b)[+] If after the close of filing there are no
4 candidates who have filed nomination papers for an elective
5 office for the primary, special primary, or any special election
6 held in conjunction with the primary election, the chief
7 election officer or county clerk, in the case of a county
8 election, shall accept nomination papers for that office not
9 later than 4:30 p.m. on the fiftieth day prior to the primary,
10 special primary, or special election.

11 [+](c)[+] There shall be deposited with each nomination
12 paper a filing fee on account of the expenses attending the
13 holding of the primary, special primary, or special election
14 which shall be paid into the treasury of the State, or county,
15 as the case may be, as a realization:

- 16 (1) For United States senators and United States
17 representatives--\$75;
- 18 (2) For governor and lieutenant governor--\$750;
- 19 (3) For mayor--\$500; and
- 20 (4) For all other offices--\$250.

21 [+](d)[+] Upon the receipt by the chief election officer
22 or the county clerk of the nomination paper of a candidate, the



1 day, hour, and minute when it was received shall be endorsed
2 thereon.

3 [+] (e) [+] Upon the showing of a certified copy of an
4 affidavit which has been filed with the campaign spending
5 commission pursuant to section 11-208 by a candidate who has
6 voluntarily agreed to abide by spending limits, the chief
7 election officer or county clerk shall discount the filing fee
8 of the candidate by the following amounts:

- 9 (1) For the office of governor and lieutenant governor--
10 \$675;
11 (2) For the office of mayor--\$450; and
12 (3) For all other offices--\$225.

13 [+] (f) [+] The chief election officer or county clerk shall
14 waive the filing fee in the case of a person who declares, by
15 affidavit, that the person is indigent and who has filed a
16 petition signed by currently registered voters who constitute at
17 least one-half of one per cent of the total voters registered at
18 the last preceding general election in the respective district
19 or districts which correspond to the specific office for which
20 the indigent person is a candidate. This petition shall be
21 submitted on the form prescribed and provided by the chief



1 election officer together with the nomination paper required by
2 this chapter."

3 SECTION 7. Section 26-17, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§26-17~~ Department of Hawaiian home lands. The department
6 of Hawaiian home lands shall be headed by an executive board to
7 be known as the Hawaiian homes commission.

8 The commission shall be composed of nine elected members
9 and a tenth appointed by the chairperson to serve as the
10 director, who shall be an ex-officio, nonvoting member. The
11 [~~appointment,~~] election, tenure, and removal of the elected
12 members and the filling of vacancies on the commission shall be
13 in accordance with section [~~26-34 and~~] 17- and section
14 [~~202(a)~~] B of the Hawaiian Homes Commission Act of 1920, as
15 amended. [~~The governor shall appoint the chairperson of the~~
16 ~~commission from among the members thereof.~~]

17 The commission may delegate to the [~~chairperson~~] director
18 of Hawaiian home lands such duties, powers, and authority, or so
19 much thereof as may be lawful or proper, for the performance of
20 the functions vested in the commission.

21 The [~~chairperson of the board~~] director of Hawaiian home
22 lands shall serve in a [~~full-time~~] full-time capacity and shall



1 perform [such] the duties, and exercise [such] the powers and
2 authority, or so much thereof as may be delegated to the
3 [chairperson] director of Hawaiian home lands by the [~~board.~~]
4 commission.

5 The department shall administer the Hawaiian Homes
6 Commission Act of 1920 as set forth in the Constitution of the
7 State and by law.

8 The functions and authority heretofore exercised by the
9 Hawaiian homes commission as heretofore constituted are
10 transferred to the department of Hawaiian home lands established
11 by this chapter."

12 SECTION 8. Section 26-34, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The members of each board and commission established
15 by law except the Hawaiian homes commission shall be nominated
16 and, by and with the advice and consent of the senate, appointed
17 by the governor. Unless otherwise provided by this chapter or
18 by law hereafter enacted, the terms of the members shall be for
19 four years; provided that the governor may reduce the terms of
20 those initially appointed so as to provide, as nearly as can be,
21 for the expiration of an equal number of terms at intervals of
22 one year for each board and commission. Unless otherwise



1 provided by law, each term shall commence on July 1 and expire
2 on June 30, except that the terms of the chairpersons of the
3 board of agriculture, and the board of land and natural
4 resources [~~and the Hawaiian homes commission~~] shall commence on
5 January 1 and expire on December 31. No person shall be
6 appointed consecutively to more than two terms as a member of
7 the same board or commission; provided that [membership]:

8 (1) Membership on any board or commission shall not exceed
9 eight consecutive years~~[.]~~; and

10 (2) These term limitations shall not apply to the Hawaiian
11 homes commission."

12 SECTION 9. The terms of the appointed members of the
13 Hawaiian homes commission shall expire on the day of the special
14 election to elect members of the commission.

15 SECTION 10. The amendments made by this Act to the
16 Hawaiian Homes Commission Act, 1920, as amended, are declared to
17 be severable and, if any section, sentence, clause, or phrase,
18 or the application thereof to any person or circumstance is held
19 ineffective because there is a requirement of having the consent
20 of the United States to take effect, then that portion shall
21 take effect only upon the granting of consent by the United



1 States, and the effectiveness of the remainder of these
2 amendments of the application thereof shall not be affected.

3 SECTION 11. In codifying the new sections added by section
4 2 and referenced in sections 4 and 7 of this Act, the revisor of
5 statutes shall substitute appropriate section numbers for the
6 letters used in designating the new sections in this Act.

7 SECTION 12. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 13. This Act shall take effect upon its approval.

10

INTRODUCED BY:

Calvin K. Jay
(By Request)



Report Title:

Hawaiian Homes Commission; Elected Commissioners

Description:

Provides for election of members to the Hawaiian Homes Commission. Specifies qualification for eligibility and length of term of office. Provides for filling vacancies with special election.

