
A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. The legislature finds that the primary election
2 of 2008 highlighted a lack of clarity in election laws regarding
3 withdrawals of candidates, leading to a situation where
4 candidates were disqualified from running for office and
5 controversy was created in the wake of the withdrawal, with an
6 uncontested race and an appointment to fill the vacancy creating
7 controversy and skepticism in our elections system.

8 The legislature also finds that with the increased use of
9 absentee and early voting, the time period between the primary
10 election and the general election is shortened as a practical
11 matter. This lack of time between the two elections effectively
12 hinders an electorate from becoming informed about the
13 candidates running for a particular office, granting an even
14 greater advantage to an incumbent and effectively robs the
15 electorate of a true choice in our democratic system of
16 government.

17 The purpose of this Act is to: (1) clarify what happens in
18 the event of a withdrawal in an election; (2) move the primary



1 election date to the second Saturday in August; and (3) make
2 these changes effective after the 2010 elections.

3 SECTION 2. Section 11-117, Hawaii Revised Statutes, is
4 amended to amend subsection (a) to read as follows:

5 "**§11-117 Withdrawal of candidates due to illness;**
6 **disqualification; death; notice.** (a) Any candidate may
7 withdraw [~~not later than 4:30 p.m. on the day immediately~~
8 ~~following the close]~~ no later than 24 hours prior to the day of
9 filing for any reason and may withdraw after the close of filing
10 up to 4:30 p.m. on the twentieth day prior to an election for
11 reasons of ill health. When a candidate withdraws for ill
12 health, the candidate shall give notice in writing to the chief
13 election officer if the candidate was seeking a congressional or
14 state office, or the candidate shall give notice in writing to
15 the county clerk if the candidate was seeking a county office.
16 The notice shall be accompanied by a statement from a licensed
17 physician indicating that such ill health may endanger the
18 candidate's life. When a candidate withdraws for a reason other
19 than ill health, the candidate shall withdraw by giving a
20 notarized and written notice to the chief election officer and
21 section 12-6 shall govern the subsequent effects of the
22 withdrawal.



1 (b) On receipt of the notice of death, withdrawal due to
2 illness pursuant to subsection (a), or upon determination of
3 disqualification, the chief election officer or the clerk shall
4 inform the chairperson of the political party of which the
5 person deceased, withdrawing due to illness pursuant to
6 subsection (a), or disqualified was a candidate. When a
7 candidate dies, withdraws due to illness pursuant to subsection
8 (a), or is disqualified after the close of filing and the
9 ballots have been printed, the chief election officer or the
10 clerk may order the candidate's name stricken from the ballot or
11 order that a notice of the death, withdrawal due to illness
12 pursuant to subsection (a), or disqualification be prominently
13 posted at the appropriate polling places on election day.

14 (c) In no case shall the filing fee be refunded after
15 filing."

16 SECTION 3. Section 11-118, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "**§11-118 Vacancies; new candidates; insertion of names on**
19 **ballots.** (a) In case of death, withdrawal due to illness
20 pursuant to section 11-117, or disqualification of any party
21 candidate after filing, the vacancy so caused may be filled by
22 the party. The party shall be notified by the chief election



1 officer or the clerk in the case of a county office immediately
2 after the death, withdrawal due to illness pursuant to section
3 11-117, or disqualification."

4 SECTION 4. Section 12-2, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§12-2 Primary held when; candidates only those nominated.**

7 The primary shall be held at the polling place for each precinct
8 on the second to the last Saturday of [~~September~~] August in
9 every even numbered year; provided that in no case shall any
10 primary election precede a general election by less than forty-
11 five days.

12 No person shall be a candidate for any general or special
13 general election unless the person has been nominated in the
14 immediately preceding primary or special primary. "

15 SECTION 5. Section 12-6, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§12-6 Nomination papers: time for filing; fees.** (a)

18 Nomination papers shall be filed as follows:

- 19 (1) For members of Congress, state, and county offices,
20 nomination papers shall be filed with the chief
21 election officer, or clerk in case of county offices,
22 not later than 4:30 p.m. on the [~~sixtieth~~] seventieth



1 calendar day prior to the primary, special primary, or
2 special election provided that if such day is a
3 Saturday, Sunday, or holiday then not later than 4:30
4 p.m. on the first working day immediately preceding.

5 A state candidate from the counties of Hawaii, Maui,
6 and Kauai may file the declaration of candidacy with
7 the respective clerk. The clerk shall transmit to the
8 office of the chief election officer the state
9 candidate's declaration of candidacy without delay.

10 However, if a special primary or special election is
11 to be held by a county and the county charter requires
12 that the council shall issue a proclamation calling
13 for the election to be held within a specified period
14 of time, and if that requirement would not allow the
15 filing of nomination papers with the appropriate
16 office by the [~~sixtieth~~] seventieth calendar day prior
17 to the day for holding the special primary or special
18 election, the council shall establish the deadline for
19 the filing of nomination papers in the proclamation
20 calling for the election; and

- 21 (2) For the board of trustees for the office of Hawaiian
22 affairs, nomination papers shall be filed with the



1 chief election officer, not later than 4:30 p.m. on
2 the [~~sixtieth~~] seventieth calendar day prior to the
3 primary election referred to in paragraph (1);
4 provided that if that day is a Saturday, Sunday, or
5 holiday, then not later than 4:30 p.m. on the first
6 working day immediately preceding.

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

15 (c) If any candidate for Congress, state or county office
16 should withdraw their nomination papers at least 24 hours prior
17 to the filing deadline, and create an uncontested race as a
18 result of the withdrawal, the filing deadline for that office
19 shall be extended by five calendar days, provided that if such
20 day is a Saturday, Sunday or a holiday, then not later than 4:30
21 p.m. on the first working day after the Saturday, Sunday, or
22 holiday. This subsection shall also apply where an incumbent



1 does not file nomination papers for re-election and causes an
2 unopposed race for the remaining candidate. No extension of the
3 filing deadline shall be granted if a race remains contested
4 after the withdrawal. In no case shall an extension for filing
5 fall later than the fiftieth calendar day prior to the primary,
6 special primary, or special election.

7 (d) In the case where any candidate for Congress, state or
8 county office should withdraw their nomination papers less than
9 24 hours prior to the filing deadline, and create an uncontested
10 race as a result of the withdrawal, the filing deadline for that
11 office shall not be extended and a political party shall be
12 disallowed from filing the vacancy pursuant to section 11-118.
13 In the case where any subsequent office is left with an
14 uncontested election as a result of a candidate attempting to
15 file for a candidacy vacated less than 24 hours prior to the
16 filing deadline, the filing deadline for that office shall not
17 be extended and a political party shall be disallowed from
18 filing the vacancy pursuant to section 11-118. In the case
19 where an office is left without a candidate as a result of a
20 candidate attempting to file for a candidacy vacated less than
21 24 hours prior to the filing deadline, the filing deadline for
22 that office shall be extended for five calendar days, provided



1 that if such day is a Saturday, Sunday or a holiday, then not
2 later than 4:30 p.m. on the first working day after the
3 Saturday, Sunday, or holiday. In no case shall an extension for
4 filing fall later than the fiftieth calendar day prior to the
5 primary, special primary, or special election.

6 ~~[(e)]~~ (e) There shall be deposited with each nomination
7 paper a filing fee on account of the expenses attending the
8 holding of the primary, special primary, or special election
9 which shall be paid into the treasury of the State, or county,
10 as the case may be, as a realization:

11 (1) For United States senators and United States
12 representatives--\$75;

13 (2) For governor and lieutenant governor--\$750;

14 (3) For mayor--\$500; and

15 (4) For all other offices--\$250.

16 ~~[(d)]~~ (f) Upon the receipt by the chief election officer or the
17 clerk of the nomination paper of a candidate, the day,
18 hour, and minute when it was received shall be
19 endorsed thereon.

20 ~~[(e)]~~ (g) Upon the showing of a certified copy of an affidavit
21 which has been filed with the campaign spending
22 commission pursuant to section 11-208 by a candidate



1 who has voluntarily agreed to abide by spending
2 limits, the chief election officer or clerk shall
3 discount the filing fee of the candidate by the
4 following amounts:

- 5 (1) For the office of governor and lieutenant governor--
6 \$675;
7 (2) For the office of mayor--\$450; and
8 (3) For all other offices--\$225.

9 ~~(f)~~ (h) The chief election officer or clerk shall waive the
10 filing fee in the case of a person who declares, by
11 affidavit, that the person is indigent and who has
12 filed a petition signed by currently registered voters
13 who constitute at least one-half of one per cent of
14 the total voters registered at the last preceding
15 general election in the respective district or
16 districts which correspond to the specific office for
17 which the indigent person is a candidate. This
18 petition shall be submitted on the form prescribed and
19 provided by the chief election officer together with
20 the nomination paper required by this chapter."

21 SECTION 6. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect on January 1, 2011.

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INTRODUCED BY:

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JAN 23 2009



Report Title:

Elections

Description:

Clarifies situation in event of a withdrawal. Moves primary election date back to the second Saturday in August. Effective January 1, 2011.

