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# A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1           SECTION 1. Section 11-117, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) Any candidate may withdraw not later than 4:30 p.m.  
4 on the day immediately following the close of filing for any  
5 reason and may withdraw after the close of filing up to 4:30  
6 p.m. on the twentieth day prior to an election for reasons of  
7 ill health. When a candidate withdraws for ill health, the  
8 candidate shall give notice in writing to the chief election  
9 officer if the candidate was seeking a congressional or state  
10 office, or the candidate shall give notice in writing to the  
11 county clerk if the candidate was seeking a county office. The  
12 notice shall be accompanied by a statement from a licensed  
13 physician or physician assistant indicating that such ill health  
14 may endanger the candidate's life.

15           Any person who withdraws their nomination papers prior to  
16 the close of filing shall not be considered to have caused a  
17 vacancy that may be filled by a party under section 11-118."



1 SECTION 2. Section 11-118, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§11-118 Vacancies; new candidates; insertion of names on**  
4 **ballots.** (a) In case of death, withdrawal, or disqualification  
5 of any party candidate [~~after filing~~], the vacancy so caused may  
6 be filled by the party. The party shall be notified by the  
7 chief election officer or the clerk in the case of a county  
8 office immediately after the death, withdrawal, or  
9 disqualification.

10 (b) If the party fills the vacancy, and so notifies the  
11 chief election officer or clerk not later than 4:30 p.m. on the  
12 third day after the vacancy occurs, but not later than 4:30 p.m.  
13 on the fiftieth day prior to a primary or special primary  
14 election or not later than 4:30 p.m. on the fortieth day prior  
15 to a special, general, or special general election, the name of  
16 the replacement shall be printed in an available and appropriate  
17 place on the ballot, not necessarily in alphabetical order;  
18 provided that the replacement candidate fills out an application  
19 for nomination papers and signs the proper certifications on the  
20 nomination paper and takes either an oath or affirmation as  
21 provided by law. If the party fails to fill the vacancy



1 pursuant to this subsection, no candidate's name shall be  
2 printed on the ballot for the party for that race.

3 (c) If the ballots have been printed and it is not  
4 reasonably possible to insert an alternate's name, the chief  
5 election officer shall issue a proclamation informing the public  
6 that the votes cast for the vacating candidate shall be counted  
7 and the results interpreted as follows:

8 (1) In a primary or special primary election:

9 (A) In partisan races, if, but for candidate's  
10 vacancy, the vacating candidate would have been  
11 nominated pursuant to section 12-41(a), a vacancy  
12 shall exist in the party's nomination, to be  
13 filled in accordance with subsection (b) [~~-~~]; and

14 (B) In nonpartisan races, if, but for the candidate's  
15 vacancy, the vacating candidate would have  
16 qualified as a candidate for the general or  
17 special general election ballot pursuant to  
18 section 12-41(b), the nonpartisan candidate who  
19 received the next highest number of votes shall  
20 be placed on the ballot provided that the  
21 candidate also meets the requirements of section  
22 12-41(b) [~~-~~];



- 1           (2) In a special, general, or special general election,  
2           if, but for the candidate's vacancy, the vacating  
3           candidate would have been elected, a vacancy shall  
4           exist in the office for which the race in question was  
5           being held, to be filled in the manner provided by law  
6           for vacancies in office arising from the failure of an  
7           elected official to serve the official's full term  
8           because of death, withdrawal, or removal[-]; and
- 9           (3) In any other case where, but for the candidate's  
10          vacancy, the vacating candidate would have been deemed  
11          elected, a vacancy shall exist in the office for which  
12          the candidate has filed, to be filled in the manner  
13          provided by law for vacancies in office arising from  
14          the failure of an elected official to serve the  
15          official's full term in office because of death,  
16          withdrawal, or removal.
- 17          (d) The parties shall adopt rules to comply with this  
18          provision, and those rules shall be submitted to the chief  
19          election officer.
- 20          (e) The chief election officer or county clerk in county  
21          elections may waive any or all of the foregoing requirements in



1 special circumstances as provided in the rules adopted by the  
2 chief election officer.

3 (f) For the purposes of this section, "party candidate"  
4 means the person or persons who would be the candidate of the  
5 party under section 12-41(a)."

6 SECTION 3. Section 12-3, Hawaii Revised Statutes, is  
7 amended by amending subsection (f) to read as follows:

8 "(f) Nomination papers which are incomplete and do not  
9 contain all of the certifications, signatures, and requirements  
10 of this section shall be void [~~and will not be accepted for~~  
11 ~~filing by the chief election officer or clerk]."~~

12 SECTION 4. Section 12-8, Hawaii Revised Statutes, is  
13 amended by amending subsections (c), (d), (e), (f), (g), and (h)  
14 to read as follows:

15 "(c) If an objection is filed by an officer of a political  
16 party with the [~~circuit~~] supreme court, the candidate objected  
17 thereto shall be notified of the objection by an officer of the  
18 political party by registered or certified mail.

19 (d) Except for objections by an officer of a political  
20 party filed directly with the [~~circuit~~] supreme court, the chief  
21 election officer or the clerk in the case of county offices  
22 shall have the necessary powers and authority to reach a



1 preliminary decision on the merits of the objection; provided  
2 that nothing in this subsection shall be construed to extend to  
3 the candidate a right to an administrative contested case  
4 hearing as defined in section 91-1(5). The chief election  
5 officer or the clerk in the case of county offices shall render  
6 a preliminary decision not later than five working days after  
7 the objection is filed.

8 (e) If the chief election officer or clerk in the case of  
9 county offices determines that the objection may warrant the  
10 disqualification of the candidate, the chief election officer or  
11 clerk shall file a complaint in the [~~circuit~~] supreme court for  
12 a final determination of the objection; provided that such  
13 complaint shall be filed with the clerk of the [~~circuit~~] supreme  
14 court not later than 4:30 p.m. on the seventh working day after  
15 the objection was filed.

16 (f) If a political party objects to the nomination paper  
17 filed by a candidate because the candidate is not a member of  
18 the party pursuant to the party's rules filed in conformance  
19 with section 11-63, an officer of the party whose name appears  
20 on file with the chief election officer shall file a complaint  
21 in the [~~circuit~~] supreme court for a prompt determination of the  
22 objection; provided that the complaint shall be filed with the



1 clerk of the [~~ircuit~~] supreme court not later than 4:30 p.m. on  
2 the thirtieth working day or the next earliest working day prior  
3 to that election day.

4 (g) If an officer of a political party whose name appears  
5 on file with the chief election officer, the chief election  
6 officer, or clerk in the case of county offices files a  
7 complaint in the [~~ircuit~~] supreme court, the [~~ircuit~~] supreme  
8 court clerk shall issue to the defendants named in the complaint  
9 a summons to appear before the court not later than 4:30 p.m. on  
10 the fifth day after service thereof.

11 (h) The [~~ircuit~~] supreme court shall hear the complaint  
12 in a summary manner and at the hearing the court shall cause the  
13 evidence to be reduced to writing and shall not later than 4:30  
14 p.m. on the fourth day after the return give judgment fully  
15 stating all findings of fact and conclusions of law. The  
16 judgment shall decide the objection presented in the complaint,  
17 and a certified copy of the judgment shall forthwith be served  
18 on the chief election officer or the clerk, as the case may be."

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



1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY: *Namina Noite*

JAN 25 2011





**Report Title:**

Election; Candidate; Party Candidate; Supreme Court

**Description:**

Defines a party candidate and modifies the withdrawal process for a party candidate. Clarifies the filing process of nomination papers, and grants the Supreme Court original jurisdiction to resolve challenges to an individual's candidacy.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

