

JAN 26 2011

S.B. NO. 1116

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, except
3 the chairperson, by native Hawaiian voters.

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

7 "SA. Qualifications of commission members. (a) No person
8 shall be eligible for election to the commission unless the
9 person meets the following qualifications:

10 (1) The person is:

11 (A) A "native Hawaiian" as defined in section 201 of
12 this Act;

13 (B) A successor to a lessee as defined in section
14 209(a) of this Act; or

15 (C) A descendant of the aboriginal peoples inhabiting
16 the Hawaiian islands previous to 1778 who
17 exercised sovereignty and subsisted at that time
18 and thereafter continued to reside in Hawaii, and



1 the person maintains the person's residence on
2 Hawaiian home lands as defined in section 201 of
3 this Act;

4 (2) The person has attained the age of eighteen years or
5 will have attained that age within one year of the
6 date of the next election of commission members; and

7 (3) The person is otherwise qualified to register to vote
8 in the State.

9 (b) No member of the commission shall hold or be a
10 candidate for any other public office under the state or county
11 governments in accordance with article II, section 7, of the
12 Constitution of the State of Hawaii; nor shall a person be
13 eligible for election to the commission if that person is also a
14 candidate for any other public office under the state or county
15 governments. For the purposes of this subsection, the term
16 "public office" shall not include notaries public, reserve
17 police officers, or officers of emergency organizations for
18 civilian defense or disaster, or disaster relief.

19 **§B. Election of commission members.** (a) Members of the
20 commission shall be elected at a special election held in
21 conjunction with the general election in every even-numbered
22 year.



1 (b) Any person wishing to register as a candidate for the
2 election as a commission member shall submit to an examination
3 under oath by the clerk of the county as to the person's
4 qualifications. In addition, each candidate shall make and
5 subscribe to an application in the form of an affidavit
6 verifying the candidate's qualifications.

7 (c) The chief election officer shall prepare the
8 nomination papers in such a manner that a candidate desiring to
9 file for election to the commission shall be able to specify
10 that the candidate is seeking a seat requiring residency on a
11 particular island.

12 (d) The ballot shall be prepared in such a manner that
13 voters qualified and registered under this Act shall be afforded
14 the opportunity to cast ballots for the candidates seeking
15 election to the seats representing the island on which the voter
16 resides. The ballot shall contain the names of the candidates
17 arranged alphabetically. Each eligible voter shall be entitled
18 to receive the commission ballot and to vote for the number of
19 seats available on the island on which the voter resides.

20 (e) The cost of the election of commission members shall
21 be borne by the department of Hawaiian home lands using the
22 Hawaiian home lands trust fund.



1 SC. Qualification of voters; registration. (a) No person
2 shall be eligible to register as a voter for the election of
3 commission members unless the person meets the following
4 qualifications:

5 (1) The person is:

6 (A) A "native Hawaiian" as defined in section 201 of
7 this Act;

8 (B) A successor to a lessee as defined in section
9 209(a) of this Act; or

10 (C) A descendant of the aboriginal peoples inhabiting
11 the Hawaiian islands previous to 1778 who
12 exercised sovereignty and subsisted at that time
13 and thereafter continued to reside in Hawaii, and
14 the person maintains the person's residence on
15 Hawaiian home lands as defined in section 201 of
16 this Act;

17 (2) The person has attained the age of eighteen years or
18 will have attained that age within one year of the
19 date of the next election of commission members; and

20 (3) The person is otherwise qualified to register to vote
21 in the State.



1 (b) The clerk of each county shall register all persons in
2 the county who are eligible and wish to register as voters for
3 the election of commission members. The register may be
4 maintained in conjunction with the general county register;
5 provided that the clerk shall be able to prepare a separate list
6 of voters for the election of commission members, capable of
7 segregation by precinct and representative district. The
8 maintenance, reproduction, and transmittal of records and
9 affidavits to a central file may be in accordance with section
10 11-14, Hawaii Revised Statutes.

11 SD. Term of office; vacancies. (a) The term of office of
12 members of the commission shall be four years, beginning on the
13 day of the special election held in conjunction with the general
14 election of the year in which they are elected and ending on the
15 day of the special election held in conjunction with the second
16 general election after their election; except that the term of
17 office of commission members elected in 2012 shall be as
18 follows:

- 19 (1) The four members elected with the highest number of
20 votes shall serve four years; and
21 (2) The remaining members elected shall serve two years.



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

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

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

9 "§17- Hawaiian homes commission; vacancies. (a)

10 Whenever any vacancy in the membership of the Hawaiian homes
11 commission occurs, the term of which ends at the next succeeding
12 special election held in conjunction with the general election,
13 the vacancy shall be filled within sixty days by a two-thirds
14 vote of the remaining members of the commission.

15 (b) In the case of a vacancy, the term of which does not
16 end at the next succeeding special election held in conjunction
17 with the general election:

18 (1) If the vacancy occurs not later than on the sixtieth
19 day prior to the next succeeding special election held
20 in conjunction with the general election, the vacancy
21 shall be filled for the unexpired term at the next
22 succeeding special election held in conjunction with



1 the general election. The chief election officer
2 shall issue a proclamation designating the election
3 for filling the vacancy. All candidates for the
4 unexpired term shall file nomination papers not later
5 than 4:30 p.m. on the fiftieth day prior to the
6 special election (but if such day is a Saturday,
7 Sunday, or holiday then not later than 4:30 p.m. on
8 the first working day immediately preceding) and shall
9 be elected in accordance with the Hawaiian Homes
10 Commission Act of 1920, as amended, and this title.

11 Pending the election, the commission shall make a
12 temporary appointment to fill the vacancy in the
13 manner prescribed under subsection (a). The person so
14 appointed shall reside on the island from which the
15 vacancy occurred, shall serve for the duration of the
16 unexpired term, and shall serve until the election of
17 the person duly elected to fill the vacancy; or

18 (2) If the vacancy occurs after the sixtieth day prior to
19 the next succeeding special election held in
20 conjunction with the general election, the commission
21 shall make an appointment to fill the vacancy in the
22 manner prescribed under subsection (a). The person so



1 appointed shall reside on the island from which the
2 vacancy occurred, and shall serve for the duration of
3 the unexpired term.

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

7 SECTION 4. Section 202, Hawaii Homes Commission Act, as
8 amended, is amended by amending subsection (a) to read as
9 follows:

10 "(a) There shall be a department of Hawaiian home lands
11 which shall be headed by an executive board to be known as the
12 Hawaiian homes commission. The members of the commission shall
13 be ~~[nominated and appointed in accordance with section 26-34,]~~
14 elected in accordance with this Act and chapters 11, 12, 15, 16,
15 17, and 19, Hawaii Revised Statutes. The commission shall be
16 composed of nine members, [as follows: three shall be residents
17 of the city and county of Honolulu; two shall be residents of
18 the county of Hawaii one of whom shall be a resident of east
19 Hawaii and the other a resident of west Hawaii; two shall be
20 residents of the county of Maui one of whom shall be a resident
21 from the island of Molokai; one shall be a resident of the
22 county of Kauai; and the ninth member shall be the chairman of



1 ~~the Hawaiian homes commission. All members shall have been~~
2 ~~residents of the State at least three years prior to their~~
3 ~~appointment and at least four of the members shall be~~
4 ~~descendants of not less than one-fourth part of the blood of the~~
5 ~~racess inhabiting the Hawaiian Islands previous to 1778.] elected~~
6 pursuant to section B(a) of this Act, as follows:

7 (1) Two shall reside, and be registered to vote, on the
8 island of Hawaii; provided that one member shall
9 reside in east Hawaii in one of the districts of Puna,
10 South Hilo, North Hilo, or Hamakua, and the other
11 shall reside in west Hawaii in one of the districts of
12 North Kohala, South Kohala, North Kona, South Kona, or
13 kau;

14 (2) One shall reside, and be registered to vote, on the
15 island of Maui;

16 (3) One shall reside, and be registered to vote, on the
17 island of Molokai;

18 (4) One shall reside, and be registered to vote, on the
19 island of Kauai; and

20 (5) Four shall reside, and be registered to vote, on the
21 island of Oahu.



1 The members of the commission shall serve without pay, but shall
2 receive actual expenses incurred by them in the discharge of
3 their duties as ~~[such]~~ members. The ~~[governor]~~ members of the
4 commission shall ~~[appoint]~~ elect the ~~[chairman]~~ chairperson of
5 the commission from among ~~[the]~~ its members ~~[thereof]~~.

6 The commission may delegate to the ~~[chairman]~~ chairperson
7 such duties, powers, and authority or so much thereof, as may be
8 lawful or proper for the performance of the functions vested in
9 the commission. The ~~[chairman]~~ chairperson of the commission
10 shall serve in a full-time capacity. ~~[He]~~ The chairperson
11 shall, in such capacity, perform such duties, and exercise such
12 powers and authority, or so much thereof, as may be delegated to
13 him by the commission as herein provided above."

14 SECTION 5. Section 11-15, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) Any person qualified to and desiring to register as a
17 voter for the election of members of the board of trustees of
18 the office of Hawaiian affairs or members of the Hawaiian homes
19 commission shall make and subscribe to an application in the
20 form of an affidavit ~~[which]~~ that shall state that the person is
21 Hawaiian and ~~[which]~~ shall contain the information required
22 under subsection (a). The affidavit shall also apply to all



1 elections, primary, special primary, general, special general,
2 special, or county, held in the State, under all voting systems
3 used within the State, so far as applicable and not inconsistent
4 with this title."

5 SECTION 6. Section 11-25, Hawaii Revised Statutes, is
6 amended by amending subsections (a) and (b) to read as follows:

7 "(a) Challenging prior to election day. Any registered
8 voter may challenge the right of a person to be or to remain
9 registered as a voter in any precinct for any cause not
10 previously decided by the board of registration or the supreme
11 court in respect to the same person; provided that in an
12 election of members of the [~~board~~]:

13 (1) Board of trustees of the office of Hawaiian affairs,
14 the voter making the challenge must be registered to
15 vote in that election[~~-~~]; and

16 (2) Hawaiian homes commission, the voter making the
17 challenge shall be registered to vote in that
18 election.

19 The challenge shall be in writing, setting forth the grounds
20 upon which it is based, and be signed by the person making the
21 challenge. The challenge shall be delivered to the clerk who
22 shall forthwith serve notice thereof on the person challenged.



1 The clerk [~~shall~~], as soon as possible, shall investigate and
2 rule on the challenge.

3 (b) Challenging on election day. Any voter rightfully in
4 the polling place may challenge the right to vote of any person
5 who comes to the precinct officials for voting purposes. The
6 challenge shall be on the grounds that the voter is not the
7 person the voter alleges to be, or that the voter is not
8 entitled to vote in that precinct; provided that only in an
9 election of members of the board of trustees of the office of
10 Hawaiian affairs [~~7~~] or members of the Hawaiian homes commission,
11 a person registered to vote in that election may also challenge
12 on the grounds that the voter is not [~~Hawaiian~~] eligible to
13 vote in the particular election. No other or further challenge
14 shall be allowed. Any person thus challenged shall first be
15 given the opportunity to make the relevant correction pursuant
16 to section 11-21. The challenge shall be considered and decided
17 immediately by the precinct officials and the ruling shall be
18 announced."

19 SECTION 7. Section 12-5, Hawaii Revised Statutes, is
20 amended by amending subsection (c) to read as follows:

21 "(c) Nomination papers for candidates for members of the
22 board of trustees of the office of Hawaiian affairs and for



1 members of the Hawaiian homes commission shall be signed by not
2 less than twenty-five persons registered as prescribed under
3 section 11-15(b)."

4 SECTION 8. Section 12-6, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) For members of Congress, state offices, county
7 offices, the Hawaiian homes commission, and the board of
8 trustees for the office of Hawaiian affairs, nomination papers
9 shall be filed with the chief election officer, or clerk in case
10 of county offices, not later than 4:30 p.m. on the first Tuesday
11 in June. However, in the event of a special primary or special
12 election, the filing deadline shall be determined in the
13 proclamation that is issued calling for the election as provided
14 for by state law or county charter. A state candidate from the
15 counties of Hawaii, Maui, and Kauai may file the declaration of
16 candidacy with the respective clerk. The clerk shall transmit
17 to the office of the chief election officer the state
18 candidate's declaration of candidacy without delay."

19 SECTION 9. Section 26-17, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "**§26-17 Department of Hawaiian home lands.** The department
2 of Hawaiian home lands shall be headed by an executive board to
3 be known as the Hawaiian homes commission.

4 The commission shall be composed of nine members. The
5 [~~appointment,~~] election, tenure, and removal of the members and
6 the filling of vacancies on the commission shall be in
7 accordance with section [~~26-34~~] 17- and section [~~202(a)~~] B of
8 the Hawaiian Homes Commission Act of 1920, as amended. The
9 [~~governor~~] members shall appoint the chairperson of the
10 commission from among [~~the~~] its members [~~thereof~~].

11 The commission may delegate to the chairperson such duties,
12 powers, and authority, or so much thereof as may be lawful or
13 proper, for the performance of the functions vested in the
14 commission.

15 The chairperson [~~of the board~~] shall serve in a full-time
16 capacity and shall perform such duties, and exercise such powers
17 and authority, or so much thereof as may be delegated to the
18 chairperson by the [~~board.~~] commission.

19 The department shall administer the Hawaiian Homes
20 Commission Act of 1920 as set forth in the Constitution of the
21 State and by law.



1 The functions and authority heretofore exercised by the
2 Hawaiian homes commission as heretofore constituted are
3 transferred to the department of Hawaiian home lands established
4 by this chapter."

5 SECTION 10. Section 26-34, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) The members of each board and commission established
8 by law, except the Hawaiian homes commission, shall be nominated
9 and, by and with the advice and consent of the senate, appointed
10 by the governor. Unless otherwise provided by this chapter or
11 by law hereafter enacted, the terms of the members shall be for
12 four years; provided that the governor may reduce the terms of
13 those initially appointed so as to provide, as nearly as can be,
14 for the expiration of an equal number of terms at intervals of
15 one year for each board and commission. Unless otherwise
16 provided by law, each term shall commence on July 1 and expire
17 on June 30, except that the terms of the chairpersons of the
18 board of agriculture, the board of land and natural resources,
19 and the Hawaiian homes commission shall commence on January 1
20 and expire on December 31. No person shall be appointed
21 consecutively to more than two terms as a member of the same



1 board or commission; provided that membership on any board or
2 commission shall not exceed eight consecutive years."

3 SECTION 11. The terms of the appointed members of the
4 Hawaiian homes commission shall expire on the day of the special
5 election to elect members of the commission.

6 SECTION 12. The provisions of the amendments made by this
7 Act to the Hawaiian Homes Commission Act, 1920, as amended, are
8 declared to be severable and, if any section, sentence, clause,
9 or phrase, or the application thereof to any person or
10 circumstances is held ineffective because there is a requirement
11 of having the consent of the United States to take effect, then
12 that portion shall take effect only upon the granting of consent
13 by the United States and effectiveness of the remainder of these
14 amendments or the application thereof shall not be affected.

15 SECTION 13. In codifying the new sections added by section
16 2 and referenced in section 4 and 9 of this Act, the revisor of
17 statutes shall substitute appropriate section numbers for the
18 letters used in designating the new sections in this Act.

19 SECTION 14. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 15. This Act shall take effect upon its approval.

2

INTRODUCED BY: *Patil*



Report Title:

Hawaiian Homes Commission; Elected Members

Description:

Authorizes the election of the members of the Hawaiian homes commission by Hawaiian voters.

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

