
A BILL FOR AN ACT

RELATING TO LEGISLATIVE VACANCIES.

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

1 SECTION 1. The legislature finds that an individual state
2 does not have "the power to add or alter the requirements
3 enumerated in the Qualifications Clause" of the United States
4 Constitution. *Schaefer v. Townsend*, 215 F.3d 1031, 1039 (9th
5 Cir. 2000). Specifically a state does not have the power to
6 impose a residency requirement prior to the time imposed by the
7 United States Constitution. *Id* at 1038.

8 Accordingly, the purpose of this Act is to conform the
9 State's process of appointing persons to fill vacancies in the
10 office of United States senator with the qualifications set
11 forth in the United States Constitution by removing the
12 residency requirement for an appointee to fill a vacancy in the
13 office of United States senator.

14 Additionally, this Act also removes the requirement that an
15 appointee to fill a vacancy in the office of United States
16 senator be a member of the same political party as the prior
17 incumbent for a period of at least six months immediately prior
18 to the appointment.



1 SECTION 2. Section 17-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§17-1 United States senator. When a vacancy occurs in
4 the office of United States senator, the vacancy shall be filled
5 for the unexpired term at the following state general election;
6 provided that the vacancy occurs not later than 4:30 p.m. on the
7 sixtieth day prior to the primary for nominating candidates to
8 be voted for at the election; otherwise at the state general
9 election next following. The chief election officer shall issue
10 a proclamation designating the election for filling the vacancy.
11 Pending the election, the governor shall make a temporary
12 appointment to fill the vacancy [~~by selecting a person from a~~
13 ~~list of three prospective appointees submitted by the same~~
14 ~~political party as the prior incumbent. The appointee]~~ and the
15 person so appointed shall serve until the election and
16 qualification of the person duly elected to fill the vacancy and
17 shall be [~~, at the time of appointment, and shall have been, for~~
18 ~~at least six months immediately prior to the appointment,~~] a
19 registered member of the same political party as the [~~prior~~
20 ~~incumbent. The appointee shall be a resident of the State. If~~
21 ~~the prior incumbent was not a member of any political party, the~~
22 ~~governor shall appoint a person who is not and has not been, for~~



H.B. NO. 2344

Report Title:

Legislative Vacancies; Appointments

Description:

Conforms the requirements of filling a United States senate vacancy to the United States Constitution by removing the residency requirement and the submission of a list to the Governor of appointees from the same political party as the incumbent who have been members of that party for six months.

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