



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 8, 2013

GOV. MSG. NO. 1393

The Honorable Donna Mercado Kim,
President and Members
of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,
Speaker and Members of
the House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

Re: Senate Bill No. 3, S.D. 1, H.D. 2, C.D. 1

Senate Bill No. 3, S.D. 1, H.D. 2, C.D. 1, entitled "A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS" will become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to make changes to the Office of Hawaiian Affairs election process by replacing the current special election process held in conjunction with the general election with a system of nonpartisan primary and general elections.

Although this bill will make Office of Hawaiian Affairs elections consistent with other nonpartisan elections, it will not likely resolve the issues of low participation and candidates being elected by a low margin. However, it is a step forward in narrowing the field through a primary election, thereby allowing the general election winner to reflect a larger portion of the votes and reflecting a larger representation of the majority.

For the foregoing reasons, Senate Bill No. 3, S.D. 1, H.D. 2, C.D. 1 will become law as Act 287, Session Laws of Hawaii 2013, effective July 9, 2013, without my signature.

Neil Abercrombie
Secretary,

NEIL ABERCROMBIE
Governor, State of Hawaii

Permitted to become law without the

Governor's signature JUL 9 2013

THE SENATE
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

ACT 287
S.B. NO. 3
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.

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

1 SECTION 1. The board of trustees of the office of Hawaiian
2 affairs is elected through a series of special elections, held in
3 conjunction with the biennial general election process. This
4 special election process differs substantially from other
5 elections because it lacks a primary election.

6 The lack of a primary election may create a large pool of
7 trustee candidates competing in the general election. This may
8 be problematic if more ballots are cast and dispersed among a
9 number of unsuccessful candidates compared to the total number
10 of ballots cast for winners. This outcome has occurred in each
11 at-large trustee seat election since 1998 and has occurred in a
12 number of island representative trustee seat elections.

13 In 2000, the general election ballot listed fifty-one
14 candidates for three trustee at-large seats. The successful
15 candidates won with only 6.8, 5.4, and 4.1 per cent of the total
16 votes cast, respectively, while the rest of the votes were
17 dispersed among the other candidates. Similarly, in 2006, there
18 were fourteen candidates listed for three open trustee seats



1 with the winners receiving 10.7, 9.8, and 8.5 per cent of the
2 total votes cast, respectively. This pattern continued in 2012
3 when the winner out of six candidates vying for one at-large
4 trustee seat received 23.8 per cent of the entire votes. The
5 majority of the votes were cast for and dispersed among the
6 other five candidates.

7 Furthermore, because the pool of trustee candidates is not
8 narrowed by a primary election, incumbent trustees may be
9 provided an unfair advantage. A number of studies have shown
10 that incumbent candidates for any political office hold a
11 distinct advantage over challengers. Under the special election
12 process for the board of trustees of the office of Hawaiian
13 affairs, incumbent candidates may hold an even greater advantage
14 due to the larger number of candidates vying for a few open
15 seats.

16 The legislature finds that implementing a primary election
17 will address this problem by narrowing the pool of trustee
18 candidates eligible in the general election, thereby limiting
19 the dispersion of votes cast among a large pool of candidates.
20 As a result, the successful candidate will receive votes from
21 the majority of the electorate. Furthermore, establishing a
22 primary election process will cost little for the office of



1 elections to implement as costs should be neutralized as a
2 result of eliminating the existing special election process.

3 The purpose of this Act is to repeal the special election
4 process for the election of office of Hawaiian affairs board of
5 trustee members and establish a system of nonpartisan primary
6 and general elections to begin with the 2014 elections.

7 SECTION 2. Section 13D-4, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[~~f~~]\$13D-4[~~+~~] **Election of board members.** [~~Members~~] (a)
10 Beginning January 1, 2014, members of the board of trustees
11 shall be [~~elected at a special election held in conjunction~~
12 ~~with~~] nominated at a primary election and elected at the general
13 election in every even-numbered year. Except as otherwise
14 provided by this chapter, members shall be nominated and elected
15 in the manner prescribed by this title.

16 [~~Nomination papers.~~] (b) The chief election officer shall
17 prepare the nomination papers in such a manner that a candidate
18 desiring to file for election to the board shall be able to
19 specify whether the candidate is seeking a seat requiring
20 residency on a particular island or a seat without [~~such~~] a
21 residency requirement.



1 ~~[Ballot.]~~ (c) The board of trustees ballot shall be
2 prepared in such a manner that every voter qualified and
3 registered under section 13D-3 shall be afforded the opportunity
4 to vote for each and every candidate seeking election to the
5 board. The ballot shall contain the names of all board
6 candidates arranged ~~[alphabetically, provided that the names of~~
7 ~~candidates seeking seats requiring residency on a particular~~
8 ~~island shall also be grouped by island of residency. Each~~
9 ~~eligible voter shall be entitled to receive the board of~~
10 ~~trustees ballot and to vote for the number of seats available.]~~
11 in accordance with section 11-115.

12 (d) Each voter registered to vote in the general election
13 shall be entitled to receive the office of Hawaiian affairs
14 ballot and to vote for the number of seats available on the
15 respective islands.

16 (e) Any election with only one available seat without a
17 residency requirement or for any available seat requiring
18 residency on a particular island shall be conducted as follows:

19 (1) If, after the close of filing of nomination papers,
20 there is only one qualified candidate for any
21 available seat, the chief election officer shall
22 declare the candidate to be duly and legally elected,



1 and the names of that candidates shall not appear on
2 the primary or the general election ballot;
3 (2) If, after the close of filing nomination papers, there
4 are only two qualified candidates for any available
5 seat, the chief election officer shall declare those
6 two candidates duly nominated for the general
7 election. The names of those two candidates shall not
8 appear on the primary election ballot; and
9 (3) If, at the close of filing of nomination papers, there
10 are three or more qualified candidates for any
11 available seat, the names of those candidates shall be
12 listed on the primary election ballot. The two
13 candidates receiving the highest number of votes for
14 each available seat shall be nominated at the primary
15 election for the general election; provided that if
16 any candidate receives more than fifty per cent of the
17 total votes cast for the available seat at the primary
18 election, the chief election officer shall declare
19 that candidate to be duly and legally elected and the
20 name of that candidate shall not appear on the general
21 election ballot.

- 1 (f) Any election with three available seats without a
2 residency requirement shall be conducted as follows:
- 3 (1) If, after the close of filing of nomination papers,
4 there are only three or less qualified candidates for
5 the available seats without a residency requirement,
6 the chief election officer shall declare those
7 candidates to be duly and legally elected and the
8 names of those candidates shall not appear on the
9 primary or general election ballot;
- 10 (2) If, after the close of filing of nomination papers,
11 there are four, five, or six qualified candidates for
12 the available seats without a residency requirement,
13 the chief election officer shall declare those
14 candidates duly nominated for the general election.
15 The names of those candidates shall not appear on the
16 primary election ballot; and
- 17 (3) If, at the close of filing of nomination papers, there
18 are seven or more qualified candidates for the
19 available seats without a residency requirement, the
20 names of those candidates shall be listed on the
21 primary election ballot. The qualified candidates
22 receiving the highest number of total votes at the



1 primary election shall be declared by the chief
2 election officer duly nominated for the general
3 election provided that the general election shall
4 include no more than twice the number of qualified
5 candidates as seats available; provided further that
6 if any candidate receives more than fifty per cent of
7 the total votes cast for the available seats at the
8 primary election, the chief election officer shall
9 declare that candidate to be duly and legally elected
10 and the name of that candidate shall not appear on the
11 general election ballot."

12 SECTION 3. Section 13D-5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§13D-5 Term of office; vacancies.** The term of office of
15 members of the board shall be four years beginning on the day of
16 ~~[the special election held in conjunction with]~~ the general
17 election ~~[of the year in]~~ at which they are elected, or if
18 elected at a primary election, on the day of the general
19 election immediately following the primary election at which
20 they are elected, and ending on the day of ~~[the special election~~
21 ~~held in conjunction with]~~ the second general election after
22 their election~~[-, except that the term of office of board members~~

1 ~~elected in 1980 shall be as follows: the four board members~~
2 ~~elected with the highest number of votes shall serve four years,~~
3 ~~the remaining members elected shall serve two years].~~ Members
4 of the board may be re-elected without restriction as to the
5 number of terms.

6 Any vacancy that may occur through any cause other than the
7 expiration of the term of office shall be filled in accordance
8 with section 17-7."

9 SECTION 4. Section 17-7, Hawaii Revised Statutes, is
10 amended by amending subsections (a) and (b) to read as follows:

11 "(a) Whenever any vacancy in the membership of the board
12 of trustees occurs, the term of which ends at the next
13 succeeding [~~special election held in conjunction with the~~]
14 general election, the vacancy shall be filled by a two-thirds
15 vote of the remaining members of the board. If the board fails
16 to fill the vacancy within sixty days after it occurs, the
17 governor shall fill the vacancy within ninety days after the
18 vacancy occurs. When island residency is required under section
19 13D-1, the person so appointed shall reside on the island from
20 which the vacancy occurred, and shall serve for the duration of
21 the unexpired term.



1 (b) In the case of a vacancy, the term of which does not
2 end at the next succeeding [~~special election held in conjunction~~
3 ~~with the~~] general election:

4 (1) If it occurs not later than on the [~~seventy-fifth~~
5 ninetieth day prior to the next succeeding [~~special~~
6 ~~election held in conjunction with the general~~] primary
7 election, the vacancy shall be filled for the
8 unexpired term at the next succeeding [~~special~~
9 ~~election held in conjunction with the~~] general
10 election. The chief election officer shall issue a
11 proclamation designating the election for filling the
12 vacancy. All candidates for the unexpired term shall
13 file nomination papers not later than [~~4:30 p.m. on~~
14 ~~the sixtieth day prior to the special election (but if~~
15 ~~such day is a Saturday, Sunday, or holiday then not~~
16 ~~later than 4:30 p.m. on the first working day~~
17 ~~immediately preceding) and shall be~~] the date and time
18 specified in section 12-6 and shall be nominated and
19 elected in accordance with this title. Pending the
20 election, the board or the governor shall make a
21 temporary appointment to fill the vacancy in the
22 manner prescribed under subsection (a). When island



1 residency is required under section 13D-1, the person
2 so appointed shall reside on the island from which the
3 vacancy occurred, and shall serve for the duration of
4 the unexpired term and shall serve until the election
5 of the person duly elected to fill such vacancy.

6 (2) If it occurs after the [~~seventy-fifth~~] ninetieth day
7 prior to the next succeeding [~~special election held in~~
8 ~~conjunction with the general~~] primary election, the
9 board or the governor shall make an appointment to
10 fill the vacancy in the manner prescribed under
11 subsection (a). When island residency is required
12 under section 13D-1, the person so appointed shall
13 reside on the island from which the vacancy occurred,
14 and shall serve for the duration of the unexpired
15 term."

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

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

APPROVED this day of , 2013