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# 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 vote. 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, the office of  
22 elections can establish a primary election process at minimal



1 cost as expenses would be neutralized by eliminating the  
2 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 trustees 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 " ~~[+]~~§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 with~~  
12 ~~the general election]~~ nominated at a primary election and  
13 elected at the general election in every even-numbered year.

14 Except as otherwise provided by this chapter, members shall be  
15 nominated and elected 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       (d) The two candidates receiving the highest number of  
12 votes for each available seat at the primary election shall be  
13 nominated for the general election; provided that if any  
14 candidate receives more than fifty per cent of the total votes  
15 cast for the available seat at the primary election, the chief  
16 election officer shall declare that candidate to be duly and  
17 legally elected.

18       (e) If, after the close of filing of nomination papers,  
19 there are only two qualified candidates for any seat requiring  
20 residency on a particular island, the chief election officer  
21 shall declare those two candidates duly nominated for the



1 general election. The names of those two candidates shall not  
2 appear on the primary election ballot.

3 (f) Each voter registered to vote in the general election  
4 shall be entitled to receive the office of Hawaiian affairs  
5 ballot and to vote for the number of seats available on the  
6 respective islands.

7 (g) If, after the close of filing of nomination papers,  
8 there is only one qualified candidate for any seat requiring  
9 residency on a particular island, the chief election officer  
10 shall declare the candidate to be duly and legally elected. If,  
11 after the close of filing of nomination papers, the number of  
12 qualified candidates for seats without a residency requirement  
13 is equal to or less than the number of the seats to be filled,  
14 the chief election officer shall declare the candidates to be  
15 duly and legally elected.

16 (h) For any at-large seat without a residency requirement,  
17 the qualified candidates receiving the highest number of total  
18 votes at the primary election shall be declared by the chief  
19 election officer duly nominated for the general election;  
20 provided that the general election shall include no more than  
21 twice the number of qualified candidates as seats available."



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

3 "**§13D-5 Term of office; vacancies.** The term of office of  
4 members of the board shall be four years beginning on the day of  
5 ~~[the special election held in conjunction with]~~ the general  
6 election ~~[of the year in]~~ at which they are elected, or if  
7 elected at a primary election, on the day of the general  
8 election immediately following the primary election at which  
9 they are elected, and ending on the day of ~~[the special election~~  
10 ~~held in conjunction with]~~ the second general election after  
11 their election~~[-, except that the term of office of board members~~  
12 ~~elected in 1980 shall be as follows: the four board members~~  
13 ~~elected with the highest number of votes shall serve four years,~~  
14 ~~the remaining members elected shall serve two years]~~. Members  
15 of the board may be re-elected without restriction as to the  
16 number of terms.

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

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



1           (a) Whenever any vacancy in the membership of the board  
2 of trustees occurs, the term of which ends at the next  
3 succeeding [~~special election held in conjunction with the~~]  
4 general election, the vacancy shall be filled by a two-thirds  
5 vote of the remaining members of the board. If the board fails  
6 to fill the vacancy within sixty days after it occurs, the  
7 governor shall fill the vacancy within ninety days after the  
8 vacancy occurs. When island residency is required under section  
9 13D-1, the person so appointed shall reside on the island from  
10 which the vacancy occurred, and shall serve for the duration of  
11 the unexpired term.

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

15           (1) If it occurs not later than on the seventy-fifth day  
16 prior to the next succeeding [~~special election held in~~  
17 ~~conjunction with the~~] general election, the vacancy  
18 shall be filled for the unexpired term at the next  
19 [~~succeeding special election held in conjunction with~~  
20 ~~the~~] general election. The chief election officer  
21 shall issue a proclamation designating the election  
22 for filling the vacancy. All candidates for the



1 unexpired term shall file nomination papers not later  
2 than 4:30 p.m. on the sixtieth day prior to the  
3 [~~special~~] election (but if such day is a Saturday,  
4 Sunday, or holiday then not later than 4:30 p.m. on  
5 the first working day immediately preceding) and shall  
6 be elected in accordance with this title. Pending the  
7 election, the board or the governor shall make a  
8 temporary appointment to fill the vacancy in the  
9 manner prescribed under subsection (a). When island  
10 residency is required under section 13D-1, the person  
11 so appointed shall reside on the island from which the  
12 vacancy occurred, and shall serve for the duration of  
13 the unexpired term and shall serve until the election  
14 of the person duly elected to fill such vacancy.

15 (2) If it occurs after the seventy-fifth day prior to the  
16 next succeeding [~~special election held in conjunction~~  
17 ~~with the~~] general election, the board or the governor  
18 shall make an appointment to fill the vacancy in the  
19 manner prescribed under subsection (a). When island  
20 residency is required under section 13D-1, the person  
21 so appointed shall reside on the island from which the





1           vacancy occurred, and shall serve for the duration of  
2           the unexpired term."

3           SECTION 5. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

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



**Report Title:**

Office of Hawaiian Affairs; Trustees; Election

**Description:**

Provides for the election of the office of Hawaiian affairs board members through a system of nonpartisan primary and general elections to begin with the 2014 elections. (HB1087 HD1)

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

