

---

# 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 "[~~+~~]\$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.

**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. (CD1)

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

