
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 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 shall be nominated at the primary
13 election 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. If, after the close of filing of nomination
18 papers, there are only two qualified candidates for any seat
19 requiring residency on a particular island, the chief election
20 officer shall declare those two candidates duly nominated for
21 the general election. The names of those two candidates shall
22 not appear on the primary election ballot.



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

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

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

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



1 "**§13D-5 Term of office; vacancies.** The term of office of
2 members of the board shall be four years beginning on the day of
3 ~~[the special election held in conjunction with]~~ the general
4 election ~~[of the year in]~~ at which they are elected, or if
5 elected at a primary election, on the day of the general
6 election immediately following the primary election at which
7 they are elected, and ending on the day of ~~[the special election~~
8 ~~held in conjunction with]~~ the second general election after
9 their election~~[-; except that the term of office of board members~~
10 ~~elected in 1980 shall be as follows: the four board members~~
11 ~~elected with the highest number of votes shall serve four years;~~
12 ~~the remaining members elected shall serve two years]~~. Members
13 of the board may be re-elected without restriction as to the
14 number of terms.

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

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

20 "(a) Whenever any vacancy in the membership of the board
21 of trustees occurs, the term of which ends at the next
22 succeeding ~~[special election held in conjunction with the]~~



1 general election, the vacancy shall be filled by a two-thirds
2 vote of the remaining members of the board. If the board fails
3 to fill the vacancy within sixty days after it occurs, the
4 governor shall fill the vacancy within ninety days after the
5 vacancy occurs. When island residency is required under section
6 13D-1, the person so appointed shall reside on the island from
7 which the vacancy occurred, and shall serve for the duration of
8 the unexpired term.

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

12 (1) If it occurs not later than on the seventy-fifth day
13 prior to the next succeeding [~~special election held in~~
14 ~~conjunction with the~~] general election, the vacancy
15 shall be filled for the unexpired term at the next
16 succeeding [~~special election held in conjunction with~~
17 ~~the~~] general election. The chief election officer
18 shall issue a proclamation designating the election
19 for filling the vacancy. All candidates for the
20 unexpired term shall file nomination papers not later
21 than 4:30 p.m. on the sixtieth day prior to the
22 special election (but if such day is a Saturday,



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

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

21 SECTION 5. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



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

2



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. (SD1)

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