

JAN 24 2013

A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. Section 11-1, Hawaii Revised Statutes, is
2 amended by deleting the definition of "chief election officer":
3 [~~"Chief election officer", the individual appointed by the~~
4 ~~elections commission pursuant to section 11-1.6 to supervise~~
5 ~~state elections."~~]

6 SECTION 2. Section 11-5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§11-5 Employees.** (a) [~~Pursuant to section 11-1.55, the~~
9 ~~chief election officer]~~ The lieutenant governor may employ a
10 staff to support the supervision of elections with or without
11 regard to chapter 76 at the discretion of the [~~chief election~~
12 ~~officer,~~] lieutenant governor and without regard to chapter 89
13 and section 28-8.3. The [~~office of elections]~~ staff may:

- 14 (1) Supervise state elections;
15 (2) Maximize registration of eligible voters throughout
16 the State;
17 (3) Maintain data concerning registered voters, elections,
18 apportionment, and districting; and



1 (4) Perform other duties as prescribed by law.

2 The [~~chief election officer~~] lieutenant governor or county clerk
3 may employ precinct officials and other election employees as
4 the [~~chief election officer~~] lieutenant governor or county clerk
5 may find necessary, none of whom shall be subject to chapters 76
6 and 89.

7 (b) Notwithstanding chapters 103 and 103D, the [~~chief
8 election officer~~] lieutenant governor may contract with
9 community organizations, school booster clubs, and nonprofit
10 organizations for the provision and compensation of precinct
11 officials and other election related personnel, services, and
12 activities; provided that to be eligible to enter into a
13 contract, the organization or club shall have received a tax
14 clearance certificate from the department of taxation and shall
15 not be a political action committee or organized for a political
16 purpose."

17 SECTION 3. Section 25-1, Hawaii Revised Statutes, is
18 amended by amending subsections (b) and (c) to read as follows:

19 "(b) The reapportionment commission shall be placed within
20 the office of [~~elections~~] the lieutenant governor for
21 administrative purposes only.



1 (c) In each regular session of the legislature that
2 immediately precedes a reapportionment year, the [~~chief election~~
3 ~~officer~~] lieutenant governor shall request an appropriation that
4 is separate from the office of [~~elections~~] the lieutenant
5 governor's operating budget and sufficient to enable the
6 commission to carry out its duties, to be effective in the year
7 in which the reapportionment commission is constituted."

8 SECTION 4. Section 26-1, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Except as otherwise provided by law, the lieutenant
11 governor is designated the secretary of state for
12 intergovernmental relations and shall perform the duties and
13 functions heretofore exercised by the secretary of Hawaii. The
14 duties and functions shall include, but not be limited to,
15 supervision of elections, recordation of all legislative and
16 gubernatorial acts, certification of state documents, and
17 maintenance of an official file of rules adopted by state
18 departments as provided in chapter 91. The lieutenant governor
19 may employ staff as necessary without regard to chapter 76."

20 SECTION 5. Section 28-8.3, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) No department of the State other than the attorney
2 general may employ or retain any attorney, by contract or
3 otherwise, for the purpose of representing the State or the
4 department in any litigation, rendering legal counsel to the
5 department, or drafting legal documents for the department;
6 provided that the foregoing provision shall not apply to the
7 employment or retention of attorneys:

8 (1) By the public utilities commission, the labor and
9 industrial relations appeals board, and the Hawaii
10 labor relations board;

11 (2) By any court or judicial or legislative office of the
12 State; provided that if the attorney general is
13 requested to provide representation to a court or
14 judicial office by the chief justice or the chief
15 justice's designee, or to a legislative office by the
16 speaker of the house of representatives and the
17 president of the senate jointly, and the attorney
18 general declines to provide such representation on the
19 grounds of conflict of interest, the attorney general
20 shall retain an attorney for the court, judicial, or
21 legislative office, subject to approval by the court,
22 judicial, or legislative office;



- 1 (3) By the legislative reference bureau;
- 2 (4) By any compilation commission that may be constituted
- 3 from time to time;
- 4 (5) By the real estate commission for any action involving
- 5 the real estate recovery fund;
- 6 (6) By the contractors license board for any action
- 7 involving the contractors recovery fund;
- 8 (7) By the office of Hawaiian affairs;
- 9 (8) By the department of commerce and consumer affairs for
- 10 the enforcement of violations of chapters 480 and
- 11 485A;
- 12 (9) As grand jury counsel;
- 13 (10) By the Hawaiian home lands trust individual claims
- 14 review panel;
- 15 (11) By the Hawaii health systems corporation, or its
- 16 regional system boards, or any of their facilities;
- 17 (12) By the auditor;
- 18 (13) By the office of ombudsman;
- 19 (14) By the insurance division;
- 20 (15) By the University of Hawaii;
- 21 (16) By the Kahoolawe island reserve commission;
- 22 (17) By the division of consumer advocacy;



1 [~~(18)~~ By the office of elections;

2 ~~(19)]~~ (18) By the campaign spending commission;

3 [~~(20)]~~ (19) By the Hawaii tourism authority, as provided in

4 section 201B-2.5;

5 [~~(21)]~~ (20) By the division of financial institutions for any

6 action involving the mortgage loan recovery fund; or

7 [~~(22)]~~ (21) By a department, in the event the attorney

8 general, for reasons deemed by the attorney general to

9 be good and sufficient, declines to employ or retain

10 an attorney for a department; provided that the

11 governor waives the provision of this section."

12 SECTION 6. Section 89-6, Hawaii Revised Statutes, is

13 amended by amending subsection (f) to read as follows:

14 "(f) The following individuals shall not be included in

15 any appropriate bargaining unit or be entitled to coverage under

16 this chapter:

- 17 (1) Elected or appointed official;
- 18 (2) Member of any board or commission; provided that
- 19 nothing in this paragraph shall prohibit a member of a
- 20 collective bargaining unit from serving on a governing
- 21 board of a charter school, on the state public charter



- 1 school commission, or as a charter school authorizer
2 established under chapter 302D;
- 3 (3) Top-level managerial and administrative personnel,
4 including the department head, deputy or assistant to
5 a department head, administrative officer, director,
6 or chief of a state or county agency or major
7 division, and legal counsel;
- 8 (4) Secretary to top-level managerial and administrative
9 personnel under paragraph (3);
- 10 (5) Individual concerned with confidential matters
11 affecting employee-employer relations;
- 12 (6) Part-time employee working less than twenty hours per
13 week, except part-time employees included in unit (5);
- 14 (7) Temporary employee of three months' duration or less;
- 15 (8) Employee of the executive office of the governor or a
16 household employee at Washington Place;
- 17 (9) Employee of the executive office of the lieutenant
18 governor;
- 19 (10) Employee of the executive office of the mayor;
- 20 (11) Staff of the legislative branch of the State;



1 (12) Staff of the legislative branches of the counties,
2 except employees of the clerks' offices of the
3 counties;

4 (13) Any commissioned and enlisted personnel of the Hawaii
5 national guard;

6 (14) Inmate, kokua, patient, ward, or student of a state
7 institution;

8 (15) Student help;

9 (16) Staff of the Hawaii labor relations board; or

10 (17) Employees of the Hawaii national guard youth challenge
11 academy[; ~~or~~

12 ~~(18) Employees of the office of elections.]."~~

13 SECTION 7. Section 11-1.5, Hawaii Revised Statutes, is
14 repealed.

15 [~~"§11-1.5 Office of elections established. (a) There is~~
16 ~~established an office of elections to provide support to the~~
17 ~~chief election officer. The office shall be placed within the~~
18 ~~department of accounting and general services for administrative~~
19 ~~purposes. The chief election officer shall be the administrator~~
20 ~~of the office of elections. Except for exercising the right to~~
21 ~~vote, the full-time employees of the office of elections shall~~



1 ~~not support, advocate, or aid in the election or defeat of any~~
2 ~~candidate for public office.~~

3 ~~(b) The office of elections shall provide staff support to~~
4 ~~the elections commission, as requested by the elections~~
5 ~~commission."]~~

6 SECTION 8. Section 11-1.55, Hawaii Revised Statutes, is
7 repealed.

8 [~~["§11-1.55] Exemptions. The office of elections shall be~~
9 ~~exempt from section [26-35(a)(1), (4), and (5)] and shall:~~

- 10 ~~(1) Make direct communications with the governor and~~
11 ~~legislature;~~
- 12 ~~(2) Make all decisions regarding employment, appointment,~~
13 ~~promotion, transfer, demotion, discharge, and job~~
14 ~~descriptions of all officers and employees of or under~~
15 ~~the jurisdiction of the office of elections without~~
16 ~~the approval of the comptroller; and~~
- 17 ~~(3) Purchase all supplies, equipment, or furniture without~~
18 ~~the approval of the comptroller.~~

19 ~~The office of elections shall follow all applicable~~
20 ~~personnel laws."]~~

21 SECTION 9. Section 11-1.6, Hawaii Revised Statutes, is
22 repealed.



1 ~~["§11-1.6 Appointment of the chief election officer;~~
2 ~~requirements; term; restrictions; salary; reappointment;~~
3 ~~removal. (a) The chief election officer shall be appointed by~~
4 ~~the elections commission, without regard to chapter 76. The~~
5 ~~appointment shall not be subject to the advice and consent of~~
6 ~~the senate. In the event of a vacancy, the elections commission~~
7 ~~shall meet expeditiously to select and appoint a new chief~~
8 ~~election officer to serve the remainder of the unexpired term.~~

9 ~~(b) The person appointed to be chief election officer~~
10 ~~shall be a citizen of the United States, a resident of the~~
11 ~~State, and a registered voter of the State.~~

12 ~~(c) The chief election officer shall serve for a term of~~
13 ~~four years. The term shall begin on February 1 following the~~
14 ~~appointment.~~

15 ~~(d) The chief election officer shall devote full time to~~
16 ~~the duties of the office and shall hold no other public office~~
17 ~~during the individual's term of office. Except for exercising~~
18 ~~the right to vote, the individual shall not support, advocate,~~
19 ~~or aid in the election or defeat of any candidate for public~~
20 ~~office. The chief election officer shall refrain from financial~~
21 ~~and business dealings that tend to reflect adversely on the~~
22 ~~individual's impartiality, interfere with the proper performance~~



1 ~~of election duties, or exploit the individual's position.~~
2 ~~Subject to the requirements above, the individual may hold and~~
3 ~~manage investments, including real estate, and engage in other~~
4 ~~remunerative activity, but shall not serve as an officer,~~
5 ~~director, manager, advisor, or employee of any business.~~

6 ~~(e) The chief election officer shall be paid a salary not~~
7 ~~to exceed eighty-seven per cent of the salary of the director of~~
8 ~~human resources development.~~

9 ~~(f) The chief election officer may petition the elections~~
10 ~~commission for reappointment. The elections commission may~~
11 ~~reappoint an incumbent chief election officer based on the~~
12 ~~performance of the chief election officer. The elections~~
13 ~~commission may authorize the chief election officer to hold~~
14 ~~office until a successor is appointed.~~

15 ~~(g) The chief election officer may be removed by the~~
16 ~~elections commission at any time for good cause."]~~

17 SECTION 10. Section 11-7, Hawaii Revised Statutes, is
18 repealed.

19 ~~["§11-7] Elections commission. (a) There is established~~
20 ~~an elections commission within the department of accounting and~~
21 ~~general services for administrative purposes. The elections~~



1 ~~commission shall consist of nine members who shall be selected~~
2 ~~as follows:~~

3 ~~(1) The president of the senate shall select two elections~~
4 ~~commission members;~~

5 ~~(2) The speaker of the house of representatives shall~~
6 ~~select two elections commission members;~~

7 ~~(3) The senators belonging to a party or parties different~~
8 ~~from the president of the senate shall designate one~~
9 ~~senator to select two elections commission members;~~

10 ~~(4) The representatives belonging to a party or parties~~
11 ~~different from the speaker of the house of~~
12 ~~representatives shall designate one representative to~~
13 ~~select two elections commission members; and~~

14 ~~(5) One member, who shall serve as chairperson of the~~
15 ~~elections commission, shall be selected by the members~~
16 ~~of the elections commission selected pursuant to~~
17 ~~paragraphs (1) to (4);~~

18 ~~provided that each group of four elections commission members~~
19 ~~selected by each house shall include one elections commission~~
20 ~~member from each of the four counties.~~

21 ~~(b) The chairperson of the elections commission under~~
22 ~~subsection (a) (5) shall be selected by a two-thirds vote.~~



1 ~~(c) A vacancy in the elections commission shall be filled~~
2 ~~in the same manner as the original appointment as specified in~~
3 ~~subsection (a) within fifteen days. A vacancy in the elections~~
4 ~~commission shall be filled with a person from the same county as~~
5 ~~the departing elections commission member. Elections commission~~
6 ~~member vacancies not filled within the times specified shall be~~
7 ~~filled promptly thereafter by the chief justice of the supreme~~
8 ~~court.~~

9 ~~(d) The elections commission shall act by majority vote of~~
10 ~~its membership and shall establish its own procedures, except as~~
11 ~~may be provided by law.~~

12 ~~(e) Notwithstanding section 26-34, elections commission~~
13 ~~member appointments shall not be subject to senatorial~~
14 ~~confirmation.~~

15 ~~(f) The term of the elections commissioners shall be four~~
16 ~~years, except that with respect to the terms of the initial~~
17 ~~elections commission members, one member selected from each of~~
18 ~~subsection (a)(1) to (4) shall serve for a term of two years.~~

19 ~~(g) The elections commissioners shall serve without~~
20 ~~compensation, but shall be reimbursed for reasonable expenses,~~
21 ~~including travel expenses, necessary for the performance of~~
22 ~~their duties."]~~



1 SECTION 11. Section 11-7.5, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§11-7.5] Duties of the elections commission. The~~
4 ~~duties of the elections commission are to:~~

- 5 ~~(1) Hold public hearings;~~
- 6 ~~(2) Investigate and hold hearings for receiving evidence~~
7 ~~of any violations and complaints;~~
- 8 ~~(3) Adopt rules pursuant to chapter 91;~~
- 9 ~~(4) Employ, without regard to chapter 76, a full-time~~
10 ~~chief election officer, pursuant to section 11-1.6;~~
11 ~~and~~
- 12 ~~(5) Advise the chief election officer on matters relating~~
13 ~~to elections."]~~

14 SECTION 12. Section 11-8, Hawaii Revised Statutes, is
15 repealed.

16 ~~["§11-8] Elections commission; political activities. (a)~~
17 ~~No elections commission member shall take an active part in~~
18 ~~political management or in political campaigns.~~

19 ~~(b) Each elections commission member shall retain the~~
20 ~~right to:~~

- 21 ~~(1) Register and vote as the elections commission member~~
22 ~~chooses in any election;~~



1 ~~(2) Participate in the nonpartisan activities of a civic,~~
2 ~~community, social, labor, or professional~~
3 ~~organization, or of a similar organization;~~

4 ~~(3) Be a member of a political party or other political~~
5 ~~organization and participate in its activities to the~~
6 ~~extent consistent with law;~~

7 ~~(4) Make a financial contribution to a political party or~~
8 ~~organization;~~

9 ~~(5) Serve as an election judge or clerk or in a similar~~
10 ~~position to perform nonpartisan election duties, as~~
11 ~~prescribed by law; and~~

12 ~~(6) Otherwise participate fully in public affairs, except~~
13 ~~as prohibited by law, in a manner which does not~~
14 ~~materially compromise the elections commission~~
15 ~~member's efficiency or integrity as an elections~~
16 ~~commission member or the neutrality, efficiency, or~~
17 ~~integrity of the elections commission.~~

18 ~~(c) An elections commission member may request an advisory~~
19 ~~opinion from the state ethics commission to determine whether a~~
20 ~~particular activity constitutes or would constitute a violation~~
21 ~~of the code of ethics or this section."]~~



1 SECTION 13. Section 11-8.5, Hawaii Revised Statutes, is
2 repealed.

3 ~~["[§11-8.5] Elections review program. The elections~~
4 ~~commission shall develop and implement an elections review~~
5 ~~program to:~~

6 ~~(1) Review the operation and performance of elections;~~

7 ~~(2) Make recommendations to the chief election officer on~~
8 ~~methods to improve elections;~~

9 ~~(3) Establish policies for the administration of an~~
10 ~~elections observer program, to include ensuring the~~
11 ~~validity and reliability of election results;~~

12 ~~(4) Conduct a biennial evaluation of the operation of~~
13 ~~elections;~~

14 ~~(5) Submit the findings and recommendations from the~~
15 ~~biennial evaluation to the legislature, not less than~~
16 ~~twenty days prior to the convening of each regular~~
17 ~~session held in odd-numbered years; and~~

18 ~~(6) Adopt rules in accordance with chapter 91 to carry out~~
19 ~~the purposes of this section."]~~

20 SECTION 14. Section 11-9, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§11-9] Exemptions. The elections commission shall be~~
2 ~~exempt from section [26-35(a)(1), (4), and (5)] and shall:~~

- 3 ~~(1) Make direct communications with the governor and~~
4 ~~legislature;~~
- 5 ~~(2) Make all decisions regarding employment, appointment,~~
6 ~~promotion, transfer, demotion, discharge, and job~~
7 ~~descriptions of all officers and employees of or under~~
8 ~~the jurisdiction of the elections commission without~~
9 ~~the approval of the comptroller; and~~
- 10 ~~(3) Purchase all supplies, equipment, or furniture without~~
11 ~~the approval of the comptroller.~~

12 ~~The elections commission shall follow all applicable~~
13 ~~personnel laws."]~~

14 SECTION 15. As the context requires, the revisor of
15 statutes shall replace the term "chief election officer," or
16 like term, with the term "lieutenant governor," or like term,
17 wherever it may appear in the Hawaii Revised Statutes.

18 SECTION 16. All rights, powers, functions, and duties of
19 the office of elections are transferred to the office of the
20 lieutenant governor.

21 All officers and employees whose functions are transferred
22 by this Act shall be transferred with their functions and shall



1 continue to perform their regular duties upon their transfer,
2 subject to the state personnel laws and this Act.

3 No officer or employee of the State having tenure shall
4 suffer any loss of salary, seniority, prior service credit,
5 vacation, sick leave, or other employee benefit or privilege as
6 a consequence of this Act, and such officer or employee may be
7 transferred or appointed to a civil service position without the
8 necessity of examination; provided that the officer or employee
9 possesses the minimum qualifications for the position to which
10 transferred or appointed; and provided that subsequent changes
11 in status may be made pursuant to applicable civil service and
12 compensation laws.

13 An officer or employee of the State who does not have
14 tenure and who may be transferred or appointed to a civil
15 service position as a consequence of this Act shall become a
16 civil service employee without the loss of salary, seniority,
17 prior service credit, vacation, sick leave, or other employee
18 benefits or privileges and without the necessity of examination;
19 provided that such officer or employee possesses the minimum
20 qualifications for the position to which transferred or
21 appointed.



1 If an office or position held by an officer or employee
2 having tenure is abolished, the officer or employee shall not
3 thereby be separated from public employment, but shall remain in
4 the employment of the State with the same pay and classification
5 and shall be transferred to some other office or position for
6 which the officer or employee is eligible under the personnel
7 laws of the State as determined by the head of the department or
8 the governor.

9 SECTION 17. All appropriations, records, equipment,
10 machines, files, supplies, contracts, books, papers, documents,
11 maps, and other personal property heretofore made, used,
12 acquired, or held by the office of elections relating to the
13 functions transferred to the office of the lieutenant governor
14 shall be transferred with the functions to which they relate.

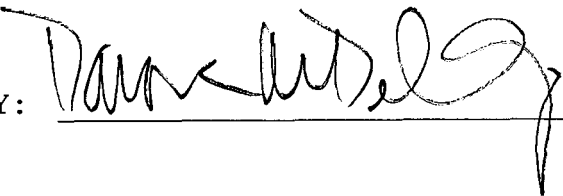
15 SECTION 18. All acts passed by the legislature during the
16 regular session of 2013, whether enacted before or after the
17 effective date of this Act, shall be amended to conform to this
18 Act unless the acts specifically provide that this Act is being
19 amended.

20 SECTION 19. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 20. This Act shall take effect upon its approval.

2

INTRODUCED BY: 



S.B. NO. 92

Report Title:

Elections Governance; Lieutenant Governor

Description:

Transfers the responsibility of supervising elections from the office of elections to the office of the lieutenant governor. Eliminates the office of elections and the elections commission.

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

