

STAND. COM. REP. NO. 1613

Honolulu, Hawaii

April 5, 2013

RE: S.B. No. 3
S.D. 1
H.D. 2

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 3, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS, "

begs leave to report as follows:

The purpose of this measure is to increase fairness in the Office of Hawaiian Affairs elections by providing for the election of the Office of Hawaiian Affairs board members through a nonpartisan primary and general election process to commence with the 2014 elections.

The Hawaiian Affairs Caucus, Maunaloa Hawaiian Civic Club, and numerous concerned individuals supported this measure. The Office of Hawaiian Affairs Beneficiary Advocacy and Empowerment Committee opposed this measure. The Office of Elections, Kauai County Elections Division of the Office of the County Clerk, and Association of Hawaiian Civic Clubs submitted comments.

Your committee has amended this measure by:

- (1) Stipulating that for elections with only one at-large seat or for elections for seats with a residency requirement:

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- (A) If there is only one candidate for any available seat after the close of filing for nomination papers, the candidate will be deemed elected;
 - (B) If there are two candidates for any available seat after the close of filing for nomination papers, the names of both candidates will automatically be placed on the ballot at the general election without a primary contest; and
 - (C) If there are three or more candidates for any available seat after the close of filing for nomination papers, there will be a primary contest for the available seat and the names of the two candidates receiving the most votes in the primary will be placed on the ballot at the general election, unless one of those candidates receives more than 50 percent of the vote in which case the candidate will be deemed elected as of the primary;
- (2) Stipulating that for elections with three available at-large seats:
- (A) If there are three or fewer candidates for the available seats after the close of filing nomination papers, the candidates will be deemed elected;
 - (B) If there are four, five or six candidates for the available seats after the close of filing of nomination papers, the names of all candidates will automatically be placed on the ballot at the general election without a primary contest; and
 - (C) If there are seven or more candidates after the close of filing of nomination papers, there will be a primary contest for the available seats and the names of the six candidates receiving the most votes at the primary will be placed on the ballot for the general election, unless one of those candidates receives more than 50 percent of the vote in which case the candidate will be deemed elected as of the primary and not more than double the number of candidates for the available seats will advance to the general election;



- (3) Ensuring that the placement of the candidates names on the Office of Hawaiian Affairs ballots is done as in all other elections in accordance with section 11-115, Hawaii Revised Statutes; and
- (4) Establishing that in the case of a vacancy, the term of which does not end at the next general election, the vacancy shall be filled in the following manner:
 - (A) If the vacancy occurs 90 days prior to the next primary election, the vacancy shall be filled for the unexpired term at the next general election and all candidates for the unexpired term shall file nomination papers not later than the date and time specified in accordance with Hawaii law governing the filing of nomination papers for elected office; and
 - (B) If the vacancy occurs within 90 days of the next primary election, the vacancy shall be filled by the Office of Hawaiian Affairs board for the remainder of the term by a vote of two-thirds of the remaining board of trustees, and if the board fails to fill the vacancy within 60 days after it occurs, the Governor shall fill the vacancy within 90 days after the vacancy occurs.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3, S.D. 1, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



