

JAN 22 2021

A BILL FOR AN ACT

RELATING TO THE ELECTION OF MEMBERS TO THE BOARD OF TRUSTEES OF
THE OFFICE OF HAWAIIAN AFFAIRS.

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

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

3 "**§13D-1 Board of trustees; number; composition.** The board
4 of trustees shall be composed of nine members elected [~~at-large~~]
5 by qualified voters in the State [~~— Of the nine members to be~~
6 ~~elected one shall reside on the island of Hawaii; one shall~~
7 ~~reside on the island of Maui; and one shall reside on the island~~
8 ~~of Molokai; one shall reside on the island of Kauai; and one~~
9 ~~shall reside on the island of Oahu.] and apportioned among the~~
10 four basic island units pursuant to the provisions of article IV
11 of the state constitution."

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

14 "**§13D-2 Qualifications of board members.** No person shall
15 be eligible for election or appointment to the board unless the
16 person is Hawaiian and is: (1) qualified and registered to vote



1 under the provisions of section 13D-3, and (2) ~~[where residency~~
2 ~~on a particular island is a requirement,]~~ a resident ~~[on the~~
3 ~~island for which seat]~~ of the district in which the person is
4 seeking election or appointment. No member of the board shall
5 hold or be a candidate for any other public office under the
6 state or county governments in accordance with Article II,
7 section 7 of the Constitution of the State; nor shall a person
8 be eligible for election or appointment to the board if that
9 person is also a candidate for any other public office under the
10 state or county governments. The term "public office", for
11 purposes of this section, shall not include notaries public,
12 reserve police officers, or officers of emergency organizations
13 for civilian defense or disaster, or disaster relief."

14 SECTION 3. Section 13D-4, Hawaii Revised Statutes, is
15 amended by amending subsections (b) through (f) to read as
16 follows:

17 "(b) The chief election officer shall prepare the
18 nomination papers in such a manner that a candidate desiring to
19 file for election to the board shall be able to specify
20 ~~[whether]~~ the district within which the candidate is seeking a



1 seat ~~[requiring residency on a particular island or a seat~~
2 ~~without a residency requirement]~~.

3 (c) The board of trustees ballot shall be prepared in such
4 a manner that every voter qualified and registered under section
5 13D-3 shall be afforded the opportunity to vote for each and
6 every candidate seeking election to the board~~[-]~~ within each
7 voter's respective district. The ballot shall contain the names
8 of all board candidates arranged in accordance with section
9 11-115.

10 (d) Each voter registered to vote in the general election
11 shall be entitled to receive the office of Hawaiian affairs
12 ballot and to vote for the number of seats available ~~[on the]~~
13 within the respective ~~[islands.]~~ districts.

14 (e) Any election with only one available seat ~~[without a~~
15 ~~residency requirement or for any available seat requiring~~
16 ~~residency on a particular island]~~ shall be conducted as follows:

- 17 (1) If, after the close of filing of nomination papers,
18 there is only one qualified candidate for any
19 available seat, the chief election officer shall
20 declare the candidate to be duly and legally elected,



1 and the name of that candidate shall not appear on the
2 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



1 receiving the highest number of total votes at the
2 primary election shall be declared by the chief
3 election officer duly nominated for the general
4 election provided that the general election shall
5 include no more than twice the number of qualified
6 candidates as seats available; provided further that
7 if any candidate receives more than fifty per cent of
8 the total votes cast for the available seats at the
9 primary election, the chief election officer shall
10 declare that candidate to be duly and legally elected
11 and the name of that candidate shall not appear on the
12 general election ballot."

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

15 "(a) Whenever any vacancy in the membership of the board
16 of trustees occurs, the term of which ends at the next
17 succeeding general election, the vacancy shall be filled by a
18 two-thirds vote of the remaining members of the board. If the
19 board fails to fill the vacancy within sixty days after it
20 occurs, the governor shall fill the vacancy within ninety days
21 after the vacancy occurs. ~~[When island residency is required~~



1 ~~under section 13D-1, the]~~ The person so appointed shall reside
2 ~~[on the island]~~ in the district from which the vacancy occurred,
3 and shall serve for the duration of the unexpired term.

4 (b) In the case of a vacancy, the term of which does not
5 end at the next succeeding general election:

6 (1) If it occurs not later than on the ninetieth day prior
7 to the next succeeding primary election, the vacancy
8 shall be filled for the unexpired term at the next
9 succeeding general election. The chief election
10 officer shall issue a proclamation designating the
11 election for filling the vacancy. All candidates for
12 the unexpired term shall file nomination papers not
13 later than the date and time specified in section 12-6
14 and shall be nominated and elected in accordance with
15 this title. Pending the election, the board or the
16 governor shall make a temporary appointment to fill
17 the vacancy in the manner prescribed under subsection
18 (a). ~~[When island residency is required under section~~

19 ~~13D-1, the]~~ The person so appointed shall reside ~~[on~~
20 ~~the island]~~ in the district from which the vacancy
21 occurred, and shall serve for the duration of the



1 unexpired term and shall serve until the election of
2 the person duly elected to fill such vacancy.

3 (2) If it occurs after the ninetieth day prior to the next
4 succeeding primary election, the board or the governor
5 shall make an appointment to fill the vacancy in the
6 manner prescribed under subsection (a). [~~When island~~
7 ~~residency is required under section 13D-1, the~~] The
8 person so appointed shall reside [~~on the island~~] in
9 the district from which the vacancy occurred, and
10 shall serve for the duration of the unexpired term."

11 SECTION 5. Section 25-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§25-2 Duties.** (a) Legislative reapportionment. The
14 commission shall reapportion the members of each house of the
15 legislature on the basis, method, and criteria prescribed by the
16 Constitution of the United States and article IV of the Hawaii
17 State Constitution. Pursuant thereto, the commission shall
18 conduct public hearings and consult with the apportionment
19 advisory council of each basic island unit. Not more than one
20 hundred days from the date on which all members are certified,
21 the commission shall cause to be given in each basic island



1 unit, public notice of a legislative reapportionment plan
2 prepared and proposed by the commission. At least one public
3 hearing on the proposed reapportionment plan shall be held in
4 each basic island unit after initial public notice of the plan.
5 At least twenty days' notice shall be given of the public
6 hearing. The notice shall include a statement of the substance
7 of the proposed reapportionment plan, and of the date, time, and
8 place where interested persons may be heard thereon. The notice
9 shall be given at least once in the basic island unit where the
10 hearing will be held. All interested persons shall be afforded
11 an opportunity to submit data, views, or arguments, orally or in
12 writing, for consideration by the commission. After the last of
13 the public hearings, but in no event later than one hundred
14 fifty days from the date on which all members of the commission
15 are certified, the commission shall determine whether or not the
16 plan is in need of correction or modification, make the
17 correction or modification, if any, and file with the chief
18 election officer, a final legislative reapportionment plan.
19 Within fourteen days after the filing of the final
20 reapportionment plan, the chief election officer shall cause
21 public notice to be given of the final legislative



1 reapportionment plan which, upon public notice, shall become
2 effective as of the date of filing and govern the election of
3 members of the next five succeeding legislatures.

4 (b) Office of Hawaiian affairs board of trustees. The
5 commission shall reapportion the members of the office of
6 Hawaiian affairs board of trustees on the basis, method, and
7 criteria prescribed by article IV of the Hawaii State
8 Constitution. Pursuant thereto, the commission shall conduct
9 public hearings and consult with the apportionment advisory
10 council of each basic island unit. Not more than one hundred
11 days from the date on which all members are certified, the
12 commission shall cause to be given in each basic island unit,
13 public notice of an office of Hawaiian affairs board of trustees
14 reapportionment plan prepared and proposed by the commission.
15 At least one public hearing on the proposed reapportionment plan
16 shall be held in each basic island unit after initial public
17 notice of the plan. At least twenty days' notice shall be given
18 of the public hearing. The notice shall include a statement of
19 the substance of the proposed reapportionment plan, and of the
20 date, time, and place where interested persons may be heard
21 thereon. The notice shall be given at least once in the basic



1 island unit where the hearing will be held. All interested
2 persons shall be afforded an opportunity to submit data, views,
3 or arguments, orally or in writing, for consideration by the
4 commission. After the last of the public hearings, but in no
5 event later than one hundred fifty days from the date on which
6 all members of the commission are certified, the commission
7 shall determine whether or not the plan is in need of correction
8 or modification, make the correction or modification, if any,
9 and file with the chief election officer, a final office of
10 Hawaiian affairs board of trustees reapportionment plan. Within
11 fourteen days after the filing of the final reapportionment
12 plan, the chief election officer shall cause public notice to be
13 given of the final office of Hawaiian affairs board of trustees
14 reapportionment plan which, upon public notice, shall become
15 effective as of the date of filing and govern the election of
16 members of the next five years.

17 ~~[(b)]~~ (c) Congressional reapportionment. At times that
18 may be required by the Constitution and that may be required by
19 law of the United States, the commission shall redraw
20 congressional district lines for the districts from which the
21 members of the United States House of Representatives allocated



1 to this State shall be elected. The commission shall first
2 determine the total number of members to which the State is
3 entitled and shall then apportion those members among single
4 member districts so that the average number of persons in the
5 total population counted in the last preceding United States
6 census per member in each district shall be as nearly equal as
7 practicable. In effecting the reapportionment and districting,
8 the commission shall be guided by the following criteria:

9 (1) No district shall be drawn so as to unduly favor a
10 person or political party;

11 (2) Except in the case of districts encompassing more than
12 one island, districts shall be contiguous;

13 (3) Insofar as practicable, districts shall be compact;

14 (4) Where possible, district lines shall follow permanent
15 and easily recognized features such as streets,
16 streams, and clear geographical features, and when
17 practicable, shall coincide with census tract
18 boundaries;

19 (5) Where practicable, state legislative districts shall
20 be wholly included within congressional districts; and



1 (6) Where practicable, submergence of an area in a larger
2 district wherein substantially different socio-
3 economic interests predominate shall be avoided.

4 Not more than one hundred days from the date on which all
5 members are certified, the commission shall cause public notice
6 to be given of a congressional reapportionment plan prepared and
7 proposed by the commission. The commission shall conduct public
8 hearings on the proposed plan in the manner prescribed under
9 subsection (a). At least one public hearing shall be held in
10 each basic island unit after initial public notice of the plan.
11 After the last of the public hearings, but in no event later
12 than one hundred fifty days from the date on which all members
13 of the commission are certified, the commission shall determine
14 whether or not the plan is in need of correction or
15 modification, make the correction or modification, if any, and
16 file with the chief election officer, a final congressional
17 reapportionment plan. Within fourteen days after filing of the
18 final reapportionment plan, the chief election officer shall
19 cause public notice to be given of the final congressional
20 reapportionment plan which, upon public notice, shall become
21 effective as of the date of filing and govern the election of



S.B. NO. 195

1 members of the United States House of Representatives allocated
2 to this State for the next five succeeding congresses."

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval
6 and upon ratification of a constitutional amendment amending the
7 requirements of the reapportionment commission to establish a
8 reapportionment plan to draw district lines for the members of
9 the office of Hawaiian affairs board of trustees.

10

INTRODUCED BY:

Karl Rhoads



S.B. NO. 195

Report Title:

Office of Hawaiian Affairs; Members; Board of Trustees;
Elections; Reapportionment Commission

Description:

Amends the process for electing members to the Office of Hawaiian Affairs Board of Trustees. Requires the Reapportionment Commission to establish a reapportionment plan based on basic island units for the members of the Board of Trustees of the Office of Hawaiian Affairs so that they are elected according to their respective districts, rather than an at-large statewide election for each seat.

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

