

ACT 141

H.B. NO. 1471

A Bill for an Act Relating to Elections.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to make the office of elections and the elections appointment panel permanent. This Act also renames the elections appointment panel as the elections appointment and review panel. In addition, this Act requires that panel to establish an elections review program to:

- (1) Establish performance standards for, and conduct biennial performance evaluations of, the operation of elections, and the performance of the chief election officer pursuant to article IV, section 3 of the State Constitution; and
- (2) Review the operation of elections and the performance of the chief election officer, including complaints filed against the same, and make recommendations to the chief election officer on methods to improve the operation of elections and the chief election officer's performance.

SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§11- Elections review program. The elections appointment and review panel shall develop and implement an elections review program, the purposes of which shall be to:

- (1) Establish performance standards for the operation of elections and the performance of the chief election officer. The performance standards shall provide the criteria by which the operation of elections and the performance of the chief election officer will be evaluated;
- (2) Review the operation of elections and the performance of the chief election officer;
- (3) Make recommendations to the chief election officer on methods to improve the operation of elections;
- (4) Establish policies for the administration of an elections observer program, to include ensuring the validity and reliability of election results;
- (5) Conduct a biennial performance evaluation of the operation of elections and the performance of the chief election officer;
- (6) Submit the findings and recommendations from the biennial performance evaluation to the legislature, not less than twenty days prior to the convening of each regular session held in odd-numbered years; and
- (7) Adopt rules in accordance with chapter 91 to carry out the purposes of this section.”

PART I

SECTION 3. Section 15 of Act 27, Special Session Laws of Hawaii 1995, as amended by Act 13, Session Laws of Hawaii 1996, is amended to read as follows:

“SECTION 15. This Act shall take effect on July 1, 1995[; provided that on June 30, 1999, this Act shall be repealed and sections 11-1, 11-2, 11-5, 11-191, 11-194, 11-195, 11-216, 12-8, and 26-1, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the effective date of this Act].”

PART II

SECTION 4. Section 11-1, Hawaii Revised Statutes, is amended by amending the definition of “chief election officer” to read as follows:

““Chief election officer”, the individual appointed by the elections appointment and review panel pursuant to section 11-1.6 to supervise state elections.”

SECTION 5. Section 11-1.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§11-1.5]]~~ **Office of elections established.** (a) There is established an office of elections to provide support to the chief election officer. The office shall be attached to the office of the lieutenant governor for purposes of administration. The chief election officer shall be the administrator of the office of elections. Except for exercising the right to vote, the full-time employees of the office of elections shall not support, advocate, or aid in the election or defeat of any candidate for public office.

(b) The office of elections shall provide staff support to the elections appointment and review panel, as requested by the panel.”

SECTION 6. Section 11-1.6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) The chief election officer shall be appointed by the elections appointment and review panel, without regard to chapters 76 and 77. [The elections appointment panel shall select and appoint the chief election officer in an odd-numbered year.] The appointment shall not be subject to the advice and consent of the senate. In the event of a vacancy, the panel shall meet expeditiously to select and appoint a new chief election officer to serve the remainder of the unexpired term.

(b) The person [so] appointed to be chief election officer shall be a citizen of the United States, a resident of the State, and a registered voter of the State.”

2. By amending subsection (f) to read:

“(f) The chief election officer may [be reappointed by] petition the panel[.] for reappointment. The panel may reappoint an incumbent chief election officer based on the performance evaluation of the chief election officer conducted by the panel. The [chief election officer] panel may authorize the chief election officer to hold office until a successor is appointed.”

PART III

SECTION 7. Section 11-2.5, Hawaii Revised Statutes, is amended as follows:

1. By amending its title and subsections (a) to (d) to read:

“**[§11-2.5] Elections appointment and review panel established; composition; term; removal; operations.** (a) [There] Notwithstanding any law to the contrary, there is established an elections appointment and review panel, consisting of five members who shall [be assembled every four years beginning July 1, 1995, whose sole purpose is to] select and appoint the chief election officer[.]; review the operation of elections; evaluate the performance of the chief election officer as required by section 11- ; and perform such other duties as may be required by law.

(b) The [governor shall appoint the five] members of the elections appointment and review panel[. Four of the five members] shall be [selected from lists, each consisting of five nominees, submitted by the following] appointed as follows:

- (1) [The] One member to be appointed by the president of the senate;
- (2) [The] One member to be appointed by the speaker of the house of representatives;
- [(3) The members of the senate belonging to the party or parties different from that of the president of the senate; and
- (4) The members of the house of representatives belonging to the party or parties different from that of the speaker of the house of representatives.

The governor shall select one person from each of these four lists. The fifth member shall be]

- (3) One member to be appointed by the minority leader of the senate;
- (4) One member to be appointed by the minority leader of the house of representatives; and
- (5) One member to be selected with the governor's complete discretion.

The appointments shall not require the advice and consent of the senate.

(c) The term of each member shall be [four] six years[.]; provided that:

(1) The first term for the members appointed by the president of the senate, the minority leader of the house of representatives, and the governor, shall be six years and shall commence upon the appointment of the first member to the elections appointment and review panel and shall expire six years from that date, and

(2) The first term of the remaining members shall be four years and shall commence upon the appointment of the first member to the elections appointment and review panel and shall expire four years from that date.

No person shall be appointed consecutively to more than two terms as a member of the panel. Vacancies shall be filled for the remainder of any unexpired term in the same manner as the original appointment. Any member of the panel whose term has expired and who is not disqualified for membership may continue in office as a holdover member until a successor is appointed; provided that a holdover member shall not hold office for more than six months after expiration of the member's term of office.

(d) The governor may remove or suspend any member of the panel[,] for cause, upon the filing of a written finding with the panel and upon service of a copy of the written finding on the member removed or suspended[.]; provided that any vacancy due to removal or suspension shall be filled by the respective appointing authority established in subsection (b)."

2. By amending subsection (h) to read:

"(h) The elections appointment and review panel shall be attached to the office of the lieutenant governor for purposes of administration."

SECTION 8. Section 11-2.6, Hawaii Revised Statutes, is amended as follows:

1. By amending its title to read:

"[[§11-2.6]] Elections appointment and review panel; political activities."

2. By amending subsection (b) to read:

"(b) Each panel member shall retain the right to:

- (1) Register and vote as the panel member chooses in any election;
- (2) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;
- (3) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;
- (4) Make a financial contribution to a political party or organization;
- (5) Serve as an election judge or clerk or in a similar position to perform nonpartisan election duties as prescribed by law; and
- (6) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the panel member's efficiency or integrity as a panel member or the neutrality, efficiency, or integrity of the elections appointment and review panel."

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 10. This Act shall take effect on June 29, 1999.

(Approved June 28, 1999.)

Note

1. Edited pursuant to HRS §23G-16.5.