

# VETO

THE SENATE  
TWENTY-FOURTH LEGISLATURE, 2007  
STATE OF HAWAII

S.B. NO. 1063  
S.D. 1  
H.D. 1

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## A BILL FOR AN ACT VETO OVERRIDE

ACT No. 57

Approved: Chy

Dated: May 1, 2007

RELATING TO LEGISLATIVE VACANCIES.

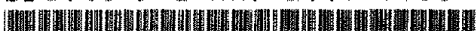
### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the current method  
2 of filling vacancies in the state legislature and the United  
3 States Senate may result in an appointment that compromises the  
4 integrity of the election process or that provides ineffective  
5 representation of the district's interests. Currently, the  
6 governor appoints an individual to fill an unexpired legislative  
7 vacancy, subject only to age and residency requirements for the  
8 appointee, and membership of the appointee, at the time of  
9 appointment, in the political party of the prior incumbent.

10 To guarantee fairness in filling legislative vacancies, the  
11 appointment process must:

- 12 (1) Be free of political gamesmanship or controversy;  
13 (2) Ensure the integrity of the legislative process; and  
14 (3) Provide for effective representation for the residents  
15 of the legislative district of the prior incumbent.

16 It is understandable that a governor may reasonably want to  
17 appoint an individual whose views on key issues are "in



1 alignment with" the governor's positions, presumably a more  
2 difficult task when the prior incumbent was a member of a  
3 different political party than the governor. However, the  
4 present appointment process allows the governor to essentially  
5 disregard the interests of the prior incumbent's constituents  
6 and appoint an individual whose primary qualification seems to  
7 be sharing similar political opinions on key issues with the  
8 governor. An appointment based solely upon political  
9 considerations is viewed with skepticism, may seriously damage  
10 the public's trust and confidence in the legislative process,  
11 and casts an "aura of mistrust" around the appointee. The  
12 appointee becomes an ineffective advocate for constituent  
13 interests and is likely to be unproductive in the legislature.  
14 Skepticism and mistrust are even stronger when a governor is  
15 offered and rejects a list of potential appointees deemed  
16 qualified by the political party of the prior incumbent.

17 The legislature further finds that the current method of  
18 filling legislative vacancies must be amended to preserve the  
19 integrity of the election process and to assure the public in  
20 general and residents of the prior incumbent's district in  
21 particular that appointments to fill legislative vacancies are  
22 not based upon political considerations or self-interest.



1 Because state law requires the appointee to be from the same  
2 party as the prior legislator, it is reasonable and logical to  
3 direct the appropriate political party to submit to the governor  
4 a list of individuals whom the appropriate political party deems  
5 qualified to fill the vacancy and require the governor to choose  
6 the appointee from the list. The political party of the prior  
7 incumbent has a responsibility to the residents of the district  
8 to provide the governor with a list of qualified candidates who  
9 will be effective in serving the district.

10 In addition, the legislature finds that requiring the  
11 governor to make a timely choice from the list submitted by the  
12 appropriate political party would eliminate unnecessary delay in  
13 filling the vacancy and would ensure that residents of the prior  
14 incumbent's district are not without representation during  
15 critical legislative proceedings.

16 The legislature believes that requiring the political party  
17 of the prior incumbent to provide the governor with a list of  
18 qualified nominees from which to choose would not unreasonably  
19 restrict the pool of qualified candidates for the vacancy.  
20 Rather, such a process would eliminate skepticism and mistrust  
21 and increase public trust and confidence in the appurtenant  
22 process.



1           The purpose of this Act is to establish a process to fill  
2 legislative vacancies that is fair and timely and ensures that  
3 the legislative district of the prior incumbent is represented  
4 by an individual who is qualified to serve the interests of that  
5 district. Specifically, this Act requires the political party  
6 of a prior incumbent to submit to the governor a list of  
7 qualified candidates from which the governor is required to  
8 choose an appointee to fill the unexpired term of a legislative  
9 vacancy.

10           SECTION 2. Section 17-1, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "**§17-1 United States senator.** When a vacancy occurs in  
13 the office of United States senator, the vacancy shall be filled  
14 for the unexpired term at the following state general  
15 election[~~7~~]; provided that the vacancy occurs not later than  
16 4:30 p.m. on the sixtieth day prior to the primary for  
17 nominating candidates to be voted for at the election; otherwise  
18 at the state general election next following. The chief  
19 election officer shall issue a proclamation designating the  
20 election for filling the vacancy. Pending the election, the  
21 governor shall make a temporary appointment to fill the vacancy  
22 [~~and the~~] by selecting a person from a list of three prospective



1 appointees submitted by the same political party as the prior  
 2 incumbent. The [person so appointed] appointee shall serve  
 3 until the election and qualification of the person duly elected  
 4 to fill the vacancy and shall be, at the time of appointment,  
 5 and shall have been, for at least six months immediately prior  
 6 to the appointment, a [registered] member of the same political  
 7 party as the [senator causing the vacancy.] prior incumbent.  
 8 The appointee shall be a resident of the state. If the prior  
 9 incumbent was not a member of any political party, the governor  
 10 shall appoint a person who is not and has not been, for at least  
 11 six months immediately prior to the appointment, a member of any  
 12 political party. All candidates for the unexpired term shall be  
 13 nominated and elected in accordance with this title."

14 SECTION 3. Section 17-3, Hawaii Revised Statutes, is  
 15 amended to read as follows:

16 "**§17-3 State senator.** (a) Whenever any vacancy in the  
 17 membership of the state senate occurs, the term of which ends at  
 18 the next succeeding general election[~~, the~~]:

19 (1) The governor shall make an appointment within sixty  
 20 calendar days following the first day of vacancy to  
 21 fill the vacancy for the unexpired term [and the  
 22 appointee shall be of] by selecting a person from a



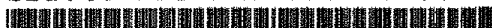
1 list of three prospective appointees submitted by the  
2 same political party [~~or nonpartisanship~~] as the  
3 [~~person the appointee succeeds.~~] prior incumbent. The  
4 appointee shall be at the time of appointment, and for  
5 at least six months immediately prior to the  
6 appointment, a member of the political party. The  
7 appointee shall, at the time of appointment, be a  
8 resident of the same senate district as the prior  
9 incumbent. The political party shall submit the list  
10 of prospective appointees to the governor within  
11 thirty calendar days following the first day of  
12 vacancy; and

13 (2) If the prior incumbent was not a member of any  
14 political party, the governor shall, within sixty  
15 calendar days following the first day of vacancy,  
16 appoint a person who is at the time of appointment a  
17 resident of the same senate district as the prior  
18 incumbent and who is not, and has not been for at  
19 least six months prior to the appointment, a member of  
20 any political party.

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



1 (1) If it occurs not later than on the tenth day prior to  
2 the close of filing for the next succeeding primary  
3 election, the vacancy shall be filled for the  
4 unexpired term at the next succeeding general  
5 election. The chief election officer shall issue a  
6 proclamation designating the election for filling the  
7 vacancy. All candidates for the unexpired term shall  
8 be nominated and elected in accordance with this  
9 title. Pending the election, the governor shall make  
10 a temporary appointment to fill the vacancy, and the  
11 person so appointed shall serve until the election of  
12 the person duly elected to fill the vacancy. The  
13 ~~[appointee shall be of]~~ governor shall make the  
14 appointment from a list of three prospective  
15 appointees submitted by the same political party ~~[or~~  
16 ~~nonpartisanship]~~ as the ~~[person the appointee~~  
17 ~~succeeds-]~~ prior incumbent. The appointee shall be,  
18 at the time of the appointment, and shall have been,  
19 for at least six months immediately prior to the  
20 appointment, a member of the political party. The  
21 appointee shall, at the time of appointment, be a  
22 resident of the same senate district as the prior



1 incumbent. If the prior incumbent was not a member of  
2 any political party, the governor shall appoint a  
3 person who is at the time of appointment a resident of  
4 the same senate district as the prior incumbent and is  
5 not and has not been, for at least six months  
6 immediately prior to the appointment, a member of any  
7 political party;

- 8 (2) If it occurs later than on the tenth day prior to the  
9 close of filing for the next succeeding primary  
10 election but not later than on the sixtieth day prior  
11 to the next succeeding primary election, or if there  
12 are no qualified candidates for any party or  
13 nonpartisan candidates qualified for the primary  
14 election ballot, nominations for the unexpired term  
15 may be filed not later than 4:30 p.m. on the fiftieth  
16 day prior to the next succeeding primary election.  
17 The chief election officer shall issue a proclamation  
18 designating the election for filling the vacancy.  
19 Pending the election the governor shall make a  
20 temporary appointment to fill the vacancy and the  
21 person [se] appointed shall serve until the election  
22 of the person duly elected to fill the vacancy. The





1 ~~[appointee shall be of]~~ governor shall make the  
2 appointment from a list of three prospective  
3 appointees submitted by the same political party [~~or~~  
4 nonpartisanship] as the ~~[person the appointee~~  
5 ~~succeeds.]~~ prior incumbent. The appointee shall be,  
6 at the time of the appointment, and shall have been,  
7 for at least six months immediately prior to the  
8 appointment, a member of the political party. The  
9 appointee shall, at the time of appointment, be a  
10 resident of the same senate district as the prior  
11 incumbent. If the prior incumbent was not a member of  
12 any political party, the governor shall appoint a  
13 person who is at the time of appointment a resident of  
14 the same senate district as the prior incumbent and is  
15 not and has not been, for at least six months  
16 immediately prior to the appointment, a member of any  
17 political party;

- 18 (3) If it occurs after the sixtieth day prior to the next  
19 succeeding primary but not later than on the fiftieth  
20 day prior to the next succeeding general election, or  
21 if there are no qualified candidates for any party or  
22 nonpartisan candidates in the primary, the vacancy



1 shall be filled for the unexpired term at the next  
2 succeeding general election. The chief election  
3 officer shall issue a proclamation designating the  
4 election for filling the vacancy. Party candidates  
5 for the unexpired senate term shall be nominated by  
6 the county committees of the parties not later than  
7 4:30 p.m. on the fortieth day prior to the general  
8 election; nonpartisan candidates may file nomination  
9 papers for the unexpired term not later than 4:30 p.m.  
10 on the fortieth day prior to the general election with  
11 the nonpartisan candidate who is to be nominated to be  
12 decided by lot, under the supervision of the chief  
13 election officer. The candidates for the unexpired  
14 term shall be elected in accordance with this title.  
15 Pending the election, the governor shall make a  
16 temporary appointment to fill the vacancy, and the  
17 person [øø] appointed shall serve until the election  
18 of the person duly elected to fill [such] the vacancy.  
19 The ~~[appointee shall be of]~~ governor shall make the  
20 appointment from a list of three prospective  
21 appointees submitted by the same political party [øø  
22 nonpartisanship] as the ~~[person the appointee~~



1 ~~succeeds.]~~ prior incumbent. The appointee shall be,  
2 at the time of the appointment, and shall have been,  
3 for at least six months immediately prior to the  
4 appointment, a member of the political party. The  
5 appointee shall, at the time of appointment, be a  
6 resident of the same senate district as the prior  
7 incumbent. If the prior incumbent was not a member of  
8 any political party, the governor shall appoint a  
9 person who is at the time of appointment a resident of  
10 the same senate district as the prior incumbent and is  
11 not and has not been, for at least six months  
12 immediately prior to the appointment, a member of any  
13 political party;

- 14 (4) If it occurs after the fiftieth day prior to the next  
15 succeeding general election or if no candidates are  
16 nominated, the governor shall make an appointment to  
17 fill the vacancy for the unexpired term [~~and the~~  
18 ~~appointee shall be of]~~ by selecting a person from a  
19 list of three prospective appointees submitted by the  
20 same political party [~~or nonpartisanship]~~ as the  
21 [~~person the appointee succeeds.]~~ prior incumbent. The  
22 appointee shall be, at the time of the appointment,



1           and shall have been, for at least six months  
2           immediately prior to the appointment, a member of the  
3           political party. The appointee shall, at the time of  
4           appointment, be a resident of the same senate district  
5           as the prior incumbent. If the prior incumbent was  
6           not a member of any political party, the governor  
7           shall appoint a person who is at the time of  
8           appointment a resident of the same senate district as  
9           the prior incumbent and is not and has not been, for  
10           at least six months immediately prior to the  
11           appointment, a member of any political party."

12           SECTION 4. Section 17-4, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           "**§17-4 State representatives.** (a) Whenever any vacancy  
15 in the membership of the state house of representatives occurs,  
16 the governor shall make an appointment within sixty calendar  
17 days following the first day of vacancy to fill the vacancy for  
18 the unexpired term [~~and the appointee shall be of~~] by selecting  
19 a person from a list of three prospective appointees submitted  
20 by the same political party [~~or nonpartisanship~~] as the [person  
21 ~~the appointee succeeds.]~~ prior incumbent. The appointee shall  
22 be, at the time of appointment, and shall have been, for at



1 least six months immediately prior to the appointment, a member  
2 of the political party. The appointee shall, at the time of  
3 appointment, be a resident of the same state representative  
4 district as the prior incumbent. The political party shall  
5 submit the list of prospective appointees to the governor within  
6 thirty calendar days following the first day of vacancy.

7 (b) If the prior incumbent was not a member of any  
8 political party, the governor, within sixty calendar days  
9 following the first day of vacancy, shall appoint a person who  
10 is at the time of appointment a resident of the same state  
11 representative district as the prior incumbent and is not and  
12 has not been, for at least six months immediately prior to the  
13 appointment, a member of any political party."

14 SECTION 5. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

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

