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# A BILL FOR AN ACT

RELATING TO STATE GOVERNMENT.

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

1           SECTION 1. The legislature finds that in February 2021,  
2 the United States Census Bureau announced that it will likely  
3 delay delivery of the 2020 census results to the fifty states by  
4 as much as six months or more. This will significantly delay  
5 the reapportionment of federal, state, and county districts for  
6 elective office and make it harder for prospective candidates of  
7 all parties to run for office and ensure voters' proper  
8 representation in 2022.

9           The legislature further finds that after experiencing  
10 delays in preparing the reapportionment plan following the 2010  
11 census, the State of Hawaii 2011 reapportionment commission  
12 final report and reapportionment plan made recommendations to  
13 improve the reapportionment process for the future. These  
14 recommendations include:

15           (1) That the legislature initiate changes in law to  
16           clarify the term "permanent residents" for  
17           reapportionment;



- 1           (2) That future reapportionment commissions obtain private  
2           outside counsel to be funded by the legislature;
- 3           (3) That the legislature initiate changes in law to  
4           clarify whether a state senate election held to fill a  
5           vacancy created when an incumbent resigns is a  
6           "regular election" for the purpose of computing senate  
7           staggered terms; and
- 8           (4) That the legislature and chief election officer  
9           consider methods to streamline public notice of the  
10          proposed and final plans to utilize advances in  
11          technology for viewing plans online and at public  
12          offices around the State in conjunction with  
13          publication of notice.

14          The legislature also finds that to best address the  
15          unprecedented delays at the United States Census Bureau, ensure  
16          adequate time for candidates to run for office, and ensure  
17          voters' proper representation, it is in the public interest to  
18          implement the most important recommendations made in the 2011  
19          reapportionment commission final report.



1 Accordingly, the purpose of this Act is to:

2 (1) Permit public notice in a short form for proposed,  
3 revised, and final reapportionment plans, subject to  
4 specific requirements;

5 (2) Temporarily amend the start date for the availability  
6 of nomination papers for the 2022 primary election;

7 (3) Define "permanent resident" for reapportionment  
8 purposes; and

9 (4) Authorize and appropriate funds for the  
10 reapportionment commission to retain outside legal  
11 counsel.

12 SECTION 2. Section 1-28.5, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§1-28.5 Publication of notice.** (a) Notwithstanding any  
15 other statute, law, charter provision, ordinance, or rule to the  
16 contrary, whenever a government agency is required to give  
17 public notice or to publish notice, the notice shall be given  
18 only as follows:

19 (1) For statewide publication:

20 (A) In a daily or weekly publication of statewide  
21 circulation; or



1 (B) By publication in separate daily or weekly  
2 publications whose combined circulation is  
3 statewide; and

4 (2) For county-wide publication, by publication in a daily  
5 or weekly publication in the affected county.

6 Additional supplemental notice may also be given through  
7 Hawaii FYI, the State's interactive computer system.

8 (b) For purposes of this section, the comptroller pursuant  
9 to chapter 103D shall determine a publication for all government  
10 agencies to enable the public to go to one source of publication  
11 for published public notice on each island.

12 (c) Whenever a public notice is published in a newspaper  
13 or other publication described in subsection (a), proof of the  
14 publication shall be the affidavit of the printer, publisher,  
15 principal clerk, or business manager of the newspaper or other  
16 publication or of the designated agent of the group that  
17 published the notice.

18 (d) This section shall not apply to notices required by  
19 chapters 103D, 103F, 127A, and 523A.

20 (e) For purposes of publishing a proposed, revised, or  
21 final reapportionment plan pursuant to section 25-2, public



1 notice is permitted in a short form; provided that each short  
2 form public notice shall include the following information:

- 3       (1) Whether the reapportionment plan has been either  
4           proposed or adopted;
- 5       (2) The online location to view the reapportionment plan,  
6           maps, and other relevant information;
- 7       (3) A list of the location of each public office where the  
8           hard copies of the reapportionment plan, maps, and  
9           other relevant documents are available; and
- 10       (4) The public hearing dates and other necessary  
11           information.

12       [~~(e)~~] (f) For purposes of this section, "government  
13 agency" means each department, board, commission, or officer of  
14 the State or any of its political subdivisions."

15       SECTION 3. Section 12-2.5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17       "**§12-2.5 Nomination papers; when available.** Nomination  
18 papers shall be made available from the first working day of  
19 [~~February~~] \_\_\_\_\_ in every even-numbered year; provided that  
20 in the case of a special primary or special election, nomination



1 papers shall be made available at least ten days [~~prior to~~]  
2 before the close of filing."

3 SECTION 4. Section 25-2, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Legislative reapportionment. The commission shall  
6 reapportion the members of each house of the legislature on the  
7 basis, method, and criteria prescribed by the Constitution of  
8 the United States and article IV of the Hawaii State  
9 Constitution. For purposes of legislative reapportionment, in  
10 determining the permanent resident population, a "permanent  
11 resident" is as defined by Solomon v. Abercrombie, 126 Haw. 283  
12 (2012). Pursuant thereto, the commission shall conduct public  
13 hearings and consult with the apportionment advisory council of  
14 each basic island unit. [~~Not~~] No more than one hundred days  
15 from the date on which all members are certified, the commission  
16 shall cause to be given in each basic island unit, public notice  
17 subject to section 1-28.5 of a legislative reapportionment plan  
18 prepared and proposed by the commission. At least one public  
19 hearing on the proposed reapportionment plan shall be held in  
20 each basic island unit after initial public notice of the plan.  
21 At least twenty days' notice shall be given of the public



1 hearing. The notice shall include a statement of the substance  
2 of the proposed reapportionment plan, and of the date, time, and  
3 place where interested persons may be heard thereon. The notice  
4 shall be given at least once in the basic island unit where the  
5 hearing will be held. All interested persons shall be afforded  
6 an opportunity to submit data, views, or arguments, orally or in  
7 writing, for consideration by the commission. After the last of  
8 the public hearings, but in no event later than one hundred  
9 fifty days from the date on which all members of the commission  
10 are certified, the commission shall determine whether [~~or not~~]  
11 the plan is in need of correction or modification, make the  
12 correction or modification, if any, and file with the chief  
13 election officer, a final legislative reapportionment plan.  
14 Within fourteen days after the filing of the final  
15 reapportionment plan, the chief election officer shall cause  
16 public notice subject to section 1-28.5 to be given of the final  
17 legislative reapportionment plan which, upon public notice,  
18 shall become effective as of the date of filing and govern the  
19 election of members of the next five succeeding legislatures."

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  
19 the grounds of conflict of interest, the attorney  
20 general shall retain an attorney for the court,



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



- 1 (16) By the division of consumer advocacy;
- 2 (17) By the office of elections;
- 3 (18) By the campaign spending commission;
- 4 (19) By the reapportionment commission;
- 5 [~~(19)~~] (20) By the Hawaii tourism authority, as provided in
- 6 section 201B-2.5;
- 7 [~~(20)~~] (21) By the division of financial institutions;
- 8 [~~(21)~~] (22) By the office of information practices; or
- 9 [~~(22)~~] (23) By a department, if the attorney general, for
- 10 reasons deemed by the attorney general to be good and
- 11 sufficient, declines to employ or retain an attorney
- 12 for a department; provided that the governor waives
- 13 the provision of this section."

14 SECTION 6. There is appropriated out of the general  
 15 revenues of the State of Hawaii the sum of \$ or so  
 16 much thereof as may be necessary for fiscal year 2021-2022 for  
 17 the reapportionment commission to support its expenses,  
 18 including the retention of outside legal counsel.

19 The sum appropriated shall be expended by the office of  
 20 elections for the purposes of this Act.



1 SECTION 7. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on July 1, 2021;  
4 provided that section 3 of this measure shall be repealed on  
5 November 9, 2022; provided further that section 12-2.5, Hawaii  
6 Revised Statutes, shall be reenacted in the form in which it  
7 read on the day before the effective date of this Act.



**Report Title:**

Legislative Reapportionment; Permanent Residents; Short Form  
Public Notice Requirements; Appropriation

**Description:**

Establishes public notice requirements for short form public notices of reapportionment plans. Temporarily amends the start of filing nomination papers for the 2022 election. Defines "permanent resident" for legislative reapportionment purposes. Authorizes and appropriates funds for the reapportionment commission to retain outside legal counsel. (HD1)

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

