

JAN 22 2021

A BILL FOR AN ACT

RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.

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

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PART I

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SECTION 1. The purpose of this Act is to ensure a more democratic election process for the office of Hawaiian affairs board of trustees by establishing district requirements for the four seats without an island residency requirement so that two candidates are required to reside in an urban district and two are required to reside in a rural district.

SECTION 2. Chapter 13D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§13D- Definitions. For the purposes of this chapter, unless the context requires otherwise:

"Rural district" means the second congressional district of the State.

"Urban district" means the first congressional district of the State."



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1 SECTION 3. 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[~~]~~ pursuant to section 13D-4.
6 Of the nine members to be elected one shall reside on the island
7 of Hawaii; one shall reside on the island of Maui; one shall
8 reside on the island of Molokai[~~]~~ or Lanai; one shall reside on
9 the island of Kauai[~~]~~ or Niihau; and one shall reside on the
10 island of Oahu. Of the remaining four members, two shall reside
11 in an urban district of the State and two shall reside in a
12 rural district of the State."

13 SECTION 4. Section 13D-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§13D-2 Qualifications of board members. No person shall
16 be eligible for election or appointment to the board unless the
17 person is Hawaiian and is:

18 (1) [~~qualified~~] Qualified and registered to vote under the
19 provisions of section 13D-3 [~~and~~];



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1 (2) ~~[where]~~ Where residency on a particular island is a
2 requirement, a resident on the island for which seat
3 the person is seeking election or appointment ~~[-]~~; and

4 (3) Where residency in a particular district is a
5 requirement, a resident of the district for which seat
6 the person is seeking election or appointment.

7 No member of the board shall hold or be a candidate for any
8 other public office under the state or county governments in
9 accordance with Article II, section 7 of the Constitution of the
10 State; nor shall a person be eligible for election or
11 appointment to the board if that person is also a candidate for
12 any other public office under the state or county governments.
13 The term "public office", for purposes of this section, shall
14 not include notaries public, reserve police officers, or
15 officers of emergency organizations for civilian defense or
16 disaster, or disaster relief."

17 SECTION 5. Section 13D-4, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§13D-4 Election of board members.** (a) Beginning
20 January 1, 2014, members of the board of trustees shall be
21 nominated at a primary election and elected at the general



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1 election in every even-numbered year. Except as otherwise
2 provided by this chapter, members shall be nominated and elected
3 in the manner prescribed by this title.

4 (b) The chief election officer shall prepare the
5 nomination papers in such a manner that a candidate desiring to
6 file for election to the board shall be able to specify whether
7 the candidate is seeking a seat requiring residency on a
8 particular island or a seat [~~without a residency requirement.~~]
9 requiring residency in an urban district or rural district.

10 (c) The board of trustees ballot shall be prepared in such
11 a manner that every voter qualified and registered under section
12 13D-3 shall be afforded the opportunity to vote for [~~each and~~
13 ~~every candidate~~] certain candidates seeking election to the
14 board[~~], pursuant to subsection (d). The ballot shall contain
15 the names of [~~all~~] board candidates arranged in accordance with
16 section 11-115.~~

17 (d) Each voter registered to vote in the general election
18 shall be entitled to receive the office of Hawaiian affairs
19 ballot and to vote [~~for the number of seats available on the~~
20 ~~respective islands.~~] only for candidates seeking election to a
21 seat on the board that requires residency on the island or in



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1 the district in which the voter also claims residency; provided
2 that candidates from Molokai and Lanai shall be grouped together
3 and residents may vote for a candidate from either island, and
4 candidates from Kauai and Niihau shall be grouped together and
5 residents may vote for a candidate from either island.

6 (e) [~~Any election with only one available seat without a~~
7 ~~residency requirement or for any available seat requiring~~
8 ~~residency on a particular island] Any election for any available
9 seat requiring residency on an island or in a district shall be
10 conducted as follows:~~

11 (1) If, after the close of filing of nomination papers,
12 there is only one qualified candidate for any
13 available seat, the chief election officer shall
14 declare the candidate to be duly and legally elected,
15 and the name of that candidate shall not appear on the
16 primary or the general election ballot;

17 (2) If, after the close of filing nomination papers, there
18 are only two qualified candidates for any available
19 seat, the chief election officer shall declare those
20 two candidates duly nominated for the general



1 election. The names of those two candidates shall not
2 appear on the primary election ballot; and

3 (3) If, at the close of filing of nomination papers, there
4 are three or more qualified candidates for any
5 available seat, the names of those candidates shall be
6 listed on the primary election ballot. The two
7 candidates receiving the highest number of votes for
8 each available seat shall be nominated at the primary
9 election for the general election; provided that if
10 any candidate receives more than fifty per cent of the
11 total votes cast for the available seat at the primary
12 election, the chief election officer shall declare
13 that candidate to be duly and legally elected and the
14 name of that candidate shall not appear on the general
15 election ballot.

16 (f) ~~[Any election with three available seats without a~~
17 ~~residency requirement shall be conducted as follows:~~

18 ~~(1) If, after the close of filing of nomination papers,~~
19 ~~there are only three or less qualified candidates for~~
20 ~~the available seats without a residency requirement,~~
21 ~~the chief election officer shall declare those~~



1 ~~candidates to be duly and legally elected and the~~
2 ~~names of those candidates shall not appear on the~~
3 ~~primary or general election ballot;~~

4 ~~(2) If, after the close of filing of nomination papers,~~
5 ~~there are four, five, or six qualified candidates for~~
6 ~~the available seats without a residency requirement,~~
7 ~~the chief election officer shall declare those~~
8 ~~candidates duly nominated for the general election.~~

9 ~~The names of those candidates shall not appear on the~~
10 ~~primary election ballot; and~~

11 ~~(3) If, at the close of filing of nomination papers, there~~
12 ~~are seven or more qualified candidates for the~~
13 ~~available seats without a residency requirement, the~~
14 ~~names of those candidates shall be listed on the~~
15 ~~primary election ballot. The qualified candidates~~
16 ~~receiving the highest number of total votes at the~~
17 ~~primary election shall be declared by the chief~~
18 ~~election officer duly nominated for the general~~
19 ~~election provided that the general election shall~~
20 ~~include no more than twice the number of qualified~~
21 ~~candidates as seats available; provided further that~~



1 ~~if any candidate receives more than fifty per cent of~~
2 ~~the total votes cast for the available seats at the~~
3 ~~primary election, the chief election officer shall~~
4 ~~declare that candidate to be duly and legally elected~~
5 ~~and the name of that candidate shall not appear on the~~
6 ~~general election ballot.]~~

7 For any election with two available seats requiring
8 residency in an urban district or a rural district, only one
9 candidate from an urban district and one candidate from a rural
10 district may be elected."

11 SECTION 6. Section 13D-5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§13D-5 Term of office; vacancies. [+(a)+] The term of
14 office of members of the board shall be four years beginning on
15 the day of the general election at which they are elected, or if
16 elected at a primary election, on the day of the general
17 election immediately following the primary election at which
18 they are elected, and ending on the day of the second general
19 election after their election[-], except as provided in
20 Act _____, Session Laws of Hawaii 2021, for the reduced term of
21 one member who shall serve until the day of the general election



1 of 2024. All members elected at the general election of 2024,
2 and thereafter, shall serve for four years. Members of the
3 board may be reelected without restriction as to the number of
4 terms.

5 [†] (b) [†] Any vacancy that may occur through any cause
6 other than the expiration of the term of office shall be filled
7 in accordance with section 17-7."

8 SECTION 7. Section 17-7, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

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

12 (1) If it occurs not later than on the ninetieth day prior
13 to the next succeeding primary election, the vacancy
14 shall be filled for the unexpired term at the next
15 succeeding general election. The chief election
16 officer shall issue a proclamation designating the
17 election for filling the vacancy. All candidates for
18 the unexpired term shall file nomination papers not
19 later than the date and time specified in section 12-6
20 and shall be nominated and elected in accordance with
21 this title. Pending the election, the board or the



1 governor shall make a temporary appointment to fill
2 the vacancy in the manner prescribed under subsection
3 (a). When island, urban district, or rural district
4 residency is required under section 13D-1, the person
5 so appointed shall reside on the island or within the
6 district from which the vacancy occurred, and shall
7 serve for the duration of the unexpired term and shall
8 serve until the election of the person duly elected to
9 fill such vacancy.

10 (2) If it occurs after the ninetieth day prior to the next
11 succeeding primary election, the board or the governor
12 shall make an appointment to fill the vacancy in the
13 manner prescribed under subsection (a). When island,
14 urban district, or rural district residency is
15 required under section 13D-1, the person so appointed
16 shall reside on the island or within the district from
17 which the vacancy occurred, and shall serve for the
18 duration of the unexpired term."

19 **PART II**

20 SECTION 8. Of the members who are elected to an at-large
21 seat without an island residency requirement for the board of



1 trustees of the office of Hawaiian affairs in the general
 2 election of 2022, the member who receives the lowest number of
 3 votes shall serve a term of two years. If one or more members
 4 are elected to an at-large seat without a residency requirement
 5 for the board of trustees of the office of Hawaiian affairs in
 6 the general election of 2022, shall serve a term of two years;
 7 provided that after the general election of 2024, all members
 8 shall serve a term of four years.

9 PART III

10 SECTION 9. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 10. This Act shall take effect upon its approval;
 13 provided that part I of this Act shall take effect on January 1,
 14 2024.

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INTRODUCED BY:  _____



S.B. NO. 890

Report Title:

OHA Board of Trustees; Election

Description:

Requires that, beginning 1/1/2024, of the four seats on the OHA board of trustees without an island residency requirement, two shall require residency in an urban district and two shall require residency in a rural district. Requires one urban district candidate and one rural district candidate to be elected in any election cycle. Limits voting for board of trustees seats with a residency requirement to voters who have residency on the same island or in the same district. Changes the term of the member who receives the lowest number of votes in the 2022 general election to serve a term of two years and a term of four years after the general election of 2024.

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

