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# A BILL FOR AN ACT

RELATING TO THE ELECTION OF THE PRESIDENT.

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

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

3 "§12-1 Application of chapter. All candidates for  
4 elective office, except as provided in section 14-21, shall be  
5 nominated in accordance with this chapter and not otherwise.  
6 This chapter is applicable to the presidential preference  
7 primary, but in no way shall it supersede section 11-113  
8 concerning the names that will appear on the general election  
9 ballot."

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

12 "§12-2 Primary held when; candidates only those nominated.  
13 The primary shall be held on the second Saturday of August in  
14 every even numbered year[-]; provided that the presidential  
15 preference primary shall be held on the first Tuesday after the  
16 first Monday in March in any year that is evenly divisible by  
17 the number four and at which delegations to national party



1 conventions are to be chosen; provided further that the parties  
2 shall be allowed to opt out of the presidential preference  
3 primary six months before the election date.

4 No person shall be a candidate for any general or special  
5 general election unless the person has been nominated in the  
6 immediately preceding primary or special primary[-]; provided  
7 that, consistent with section 11-113, a presidential preference  
8 primary election candidate who is not the winner of the  
9 presidential preference primary election shall not be precluded  
10 from appearing on the general election ballot."

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

13 **"§12-2.5 Nomination papers; when available.** Nomination  
14 papers shall be made available from the first working day of  
15 February in every even-numbered year; provided that in the case  
16 of a special primary or special election, nomination papers  
17 shall be made available at least ten days prior to the close of  
18 filing[-]; provided further that nomination papers for a  
19 presidential preference primary election shall only be for  
20 political parties recognized under section 11-61 and shall



1 become available        days before the presidential preference  
2 primary election to which they correspond."

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

5        "§12-4 **Nomination papers; qualifications of signers.** (a)

6 No person shall sign the nomination papers of more than one  
7 candidate, partisan or nonpartisan, for the same office, unless  
8 there is more than one office in a class in which case no person  
9 shall sign papers for more than the actual number of offices in  
10 a class. Nomination papers shall be construed in this regard  
11 according to priority of filing, and the name of any person  
12 appearing thereon shall be counted only so long as this  
13 provision is not violated, and not thereafter.

14        (b) Names on nomination papers shall not be counted,  
15 unless the signer is a registered voter and is eligible to vote  
16 for the candidate. The chief election officer or clerk shall  
17 use the most currently compiled general county register  
18 available at the time the nomination paper is presented for  
19 filing to determine the eligibility of the registered voters to  
20 sign for the candidate. Voter registration affidavits that have  
21 not been entered into the voter register by the clerk shall not



1 be considered or accepted for this check. At the time of  
2 filing, the chief election officer or clerk may reject the  
3 candidate's nomination paper for lack of sufficient signers who  
4 are eligible to vote for the candidate.

5 (c) Any registered voter who, after signing a nomination  
6 paper, seeks to withdraw the voter's signature shall do so by  
7 providing written notice to the chief election officer, or clerk  
8 in the case of a county office, any time before the filing of  
9 the candidate's nomination paper; provided that the notice is  
10 received by the chief election officer, or clerk in the case of  
11 a county office, no later than 4:30 p.m. on the fourth business  
12 day prior to the close of filing pursuant to section 12-6. The  
13 written notice shall include the voter's name, residence  
14 address, the month and date portions of the voter's date of  
15 birth, the voter's signature, the name of the candidate, and a  
16 statement that the voter wishes to remove the voter's signature  
17 from the candidate's nomination paper; provided that the written  
18 notice shall not require the voter's social security number or  
19 any portion thereof and the year portion of the voter's date of  
20 birth. Any request by a registered voter to remove the voter's  
21 signature from a candidate's nomination paper that is received



1 by the chief election officer, or clerk in the case of a county  
2 office, after the candidate's nomination paper has been filed or  
3 after 4:30 p.m. on the fourth business day prior to the close of  
4 filing shall not be accepted.

5 (d) Within twenty-four hours upon receipt of a written  
6 notice pursuant to subsection (c), the chief election officer,  
7 or clerk in the case of a county office, shall send written  
8 notice via registered mail to the candidate that the voter  
9 requested to have the voter's signature removed from the  
10 candidate's nomination paper and that the signature of the voter  
11 shall not be counted.

12 (e) This section shall apply to candidates seeking to  
13 appear on the presidential preference primary ballot for a  
14 political party recognized under section 11-61."

15 SECTION 5. Section 12-5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§12-5 Nomination papers: number of signers.** (a)  
18 Nomination papers for candidates for president shall be signed  
19 by not less than one hundred voters of the State.

20 [~~a~~] (b) Nomination papers for candidates for members of  
21 Congress, governor, and lieutenant governor shall be signed by



1 not less than twenty-five registered voters of the State or of  
2 the Congressional district from which the candidates are running  
3 in the case of candidates for the United States House of  
4 Representatives.

5 ~~[(b)]~~ (c) Nomination papers for candidates for either  
6 branch of the legislature and for county office shall be signed  
7 by not less than fifteen registered voters of the district or  
8 county or subdivision thereof for which the person nominated is  
9 a candidate.

10 ~~[(e)]~~ (d) Nomination papers for candidates for members of  
11 the board of trustees of the office of Hawaiian affairs shall be  
12 signed by not less than twenty-five persons registered to vote.

13 ~~[(d)]~~ (e) No signatures shall be required on nomination  
14 papers for candidates filing to run in a special primary or  
15 special election to fill a vacancy."

16 SECTION 6. Section 12-6, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§12-6 Nomination papers: time for filing; fees. (a)  
19 For members of Congress, state offices, county offices, and the  
20 board of trustees for the office of Hawaiian affairs, nomination  
21 papers shall be filed with the chief election officer, or clerk



1 in case of county offices, [~~not~~] no later than 4:30 p.m. on the  
2 first Tuesday in June[-]; provided that nomination papers for  
3 presidential candidates shall be filed with the chief election  
4 officer no later than 4:30 p.m. on the eighty-fifth day prior to  
5 the date of the primary election. However, in the event of a  
6 special primary or special election, the filing deadline shall  
7 be determined in the proclamation that is issued calling for the  
8 election as provided for by state law or county charter. A  
9 state candidate from the counties of Hawaii, Maui, and Kauai may  
10 file the declaration of candidacy with the respective clerk.  
11 The clerk shall transmit to the office of the chief election  
12 officer the state candidate's declaration of candidacy without  
13 delay.

14 (b) If after the close of filing there are no candidates  
15 who have filed nomination papers for an elective office for the  
16 primary, special primary, or any special election held in  
17 conjunction with the primary election, the chief election  
18 officer or clerk, in the case of a county election, shall accept  
19 nomination papers for that office until 4:30 p.m. on the tenth  
20 day after the original close of filing.



1           [+] (c) [+] There shall be deposited with each nomination  
2 paper a filing fee on account of the expenses attending the  
3 holding of the primary, special primary, or special election,  
4 which shall be paid into the treasury of the State, or county,  
5 as the case may be, as a realization:

6           (1) For president of the United States--\$3,000;

7           [~~(1)~~] (2) For United States senators and United States  
8 representatives--\$75;

9           [~~(2)~~] (3) For governor and lieutenant governor--\$750;

10          [~~(3)~~] (4) For mayor--\$500; and

11          [~~(4)~~] (5) For all other offices--\$250.

12          [+] (d) [+] Upon the receipt by the chief election officer  
13 or the clerk of the nomination paper of a candidate, the day,  
14 hour, and minute when it was received shall be endorsed thereon.

15          (e) Upon the showing of a certified copy of an affidavit  
16 ~~[which]~~ that has been filed with the campaign spending  
17 commission pursuant to section 11-423 by a candidate who has  
18 voluntarily agreed to abide by spending limits, the chief  
19 election officer or clerk shall discount the filing fee of the  
20 candidate by the following amounts:



1        (1) For the office of president of the United States--

2                \$2,675;

3        [~~1~~] (2) For the office of governor and lieutenant  
4                governor--\$675;

5        [~~2~~] (3) For the office of mayor--\$450; and

6        [~~3~~] (4) For all other offices--\$225.

7        [~~1~~] (f) [~~1~~] The chief election officer or clerk shall waive  
8 the filing fee in the case of a person who declares, by  
9 affidavit, that the person is indigent and who has filed a  
10 petition signed by currently registered voters who constitute at  
11 least one-half of one per cent of the total voters registered at  
12 the last preceding general election in the respective district  
13 or districts which correspond to the specific office for which  
14 the indigent person is a candidate. This petition shall be  
15 submitted on the form prescribed and provided by the chief  
16 election officer together with the nomination paper required by  
17 this chapter."

18        SECTION 7. Section 12-7, Hawaii Revised Statutes, is  
19 amended to read as follows:

20        "**§12-7 Filing of oath.** The name of no candidate for any  
21 office shall be printed upon any official ballot, in any



1 election, including a presidential preference primary election,  
2 unless the candidate shall have taken and subscribed to the  
3 following written oath or affirmation, and filed the oath with  
4 the candidate's nomination papers.

5 The written oath or affirmation shall be in the following  
6 form:

7 "I,....., do solemnly swear and declare, on oath  
8 that if elected to office I will support and defend the  
9 Constitution and laws of the United States of America, and the  
10 Constitution and laws of the State of Hawaii, and will bear true  
11 faith and allegiance to the same; that if elected I will  
12 faithfully discharge my duties as.....(name of  
13 office).....to the best of my ability; that I take  
14 this obligation freely, without any mental reservation or  
15 purpose of evasion; So help me God."

16 Upon being satisfied as to the sincerity of any person  
17 claiming that the person is unwilling to take the above  
18 prescribed oath only because the person is unwilling to be  
19 sworn, the person may be permitted, in lieu of the oath, to make  
20 the person's solemn affirmation which shall be in the same form  
21 as the oath except that the words "sincerely and truly affirm"



1 shall be substituted for the word "swear" and the phrases "on  
2 oath" and "So help me God" shall be omitted. Such affirmation  
3 shall be of the same force and effect as the prescribed oath.

4 The oath or affirmation shall be subscribed before the  
5 officer administering the same, who shall endorse thereon the  
6 fact that the oath was subscribed and sworn to or the  
7 affirmation was made together with the date thereof and affix  
8 the seal of the officer's office or of the court of which the  
9 officer is a judge or clerk.

10 It shall be the duty of every notary public or other public  
11 officer by law authorized to administer oaths to administer the  
12 oath or affirmation prescribed by this section and to furnish  
13 the required endorsement and authentication."

14 SECTION 8. Section 12-8, Hawaii Revised Statutes, is  
15 amended as follows:

16 1. By amending subsection (a) to read:

17 "(a) All nomination papers filed in conformity with  
18 section 12-3 shall be deemed valid unless objection is made  
19 thereto by a registered voter, an officer of a political party  
20 whose name is on file with the chief election officer, the chief  
21 election officer, or the county clerk in the case of a county



1 office. All objections shall be filed in writing not later than  
2 4:30 p.m. on the sixtieth day or the next earliest working day  
3 prior to the primary or special election[-]; provided that  
4 objections to the nomination papers of presidential candidates  
5 shall be filed in writing no later than 4:30 p.m. on the  
6 seventy-fifth day or the next earliest working day prior to the  
7 presidential preference primary election."

8 2. By amending subsection (f) to read

9 "(f) If a political party objects to the nomination paper  
10 filed by a candidate because the candidate is not a member of  
11 the party pursuant to the party's rules filed in conformance  
12 with section 11-63, an officer of the party whose name appears  
13 on file with the chief election officer shall file a complaint  
14 in the circuit court for a prompt determination of the  
15 objection; provided that the complaint shall be filed with the  
16 clerk of the circuit court not later than 4:30 p.m. on the  
17 sixtieth day or the next earliest working day prior to that  
18 election day[-]; provided that the complaint shall be filed with  
19 the clerk of the circuit court no later than 4:30 p.m. on the  
20 seventy-fifth day or the next earliest working day prior to the  
21 presidential preference primary election."



1 SECTION 9. Section 12-9, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§12-9 List of candidates. As soon as possible but not  
4 later than 4:30 p.m. on the fifth day after the close of filing  
5 the chief election officer shall transmit to each county clerk  
6 and the county clerk shall transmit to the chief election  
7 officer certified lists containing the names of all persons, the  
8 office for which each is a candidate, and their party  
9 designation, or designation of nonpartisanship, as the case may  
10 be, for whom nomination papers have been duly filed in his  
11 office and who are entitled to be voted for at the primary,  
12 special primary or special election[-]; provided that no  
13 nonpartisan candidates shall be permitted in a presidential  
14 preference primary election."

15 SECTION 10. Section 12-21, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§12-21 Official party ballots. The primary or special  
18 primary ballot shall be clearly designated as such. The names  
19 of the candidates of each party qualifying under section 11-61  
20 or 11-62 and of nonpartisan candidates may be printed on  
21 separate ballots, or on a single ballot[-]; provided that there



1 shall not be any names of nonpartisan candidates on the ballot  
2 for a presidential preference primary election. The name of  
3 each party and the nonpartisan designation shall be distinctly  
4 printed and sufficiently separate from each other. The names of  
5 all candidates shall be printed on the ballot as provided in  
6 section 11-115. When the names of all candidates of the same  
7 party for the same office exceed the maximum number of voting  
8 positions on a single side of a ballot card, the excess names  
9 may be arranged and listed on both sides of the ballot card and  
10 additional ballot cards if necessary. When separate ballots for  
11 each party are not used, the order in which parties appear on  
12 the ballot, including nonpartisan, shall be determined by lot.

13 The chief election officer or the county clerk, in the case  
14 of county elections, shall approve printed samples or proofs of  
15 the respective party ballots as to uniformity of size, weight,  
16 shape, and thickness prior to final printing of the official  
17 ballots."

18 SECTION 11. Section 12-31, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§12-31 Selection of party ballot; voting. No person  
21 eligible to vote in any primary or special primary election



1 shall be required to state a party preference or nonpartisanship  
2 as a condition of voting. Each voter shall be issued the  
3 primary or special primary ballot for each party and the  
4 nonpartisan primary or special primary ballot. A voter shall be  
5 entitled to vote only for candidates of one party or only for  
6 nonpartisan candidates[-]; provided that there shall not be any  
7 nonpartisan candidates to vote for in a presidential preference  
8 primary election. If the primary or special primary ballot is  
9 marked contrary to this paragraph, the ballot shall not be  
10 counted.

11 In any primary or special primary election in the year 1979  
12 and thereafter, a voter shall be entitled to select and to vote  
13 the ballot of any one party or nonpartisan, regardless of which  
14 ballot the voter voted in any preceding primary or special  
15 primary election[-]; provided that there shall not be any  
16 nonpartisan candidates to vote for in a presidential preference  
17 primary election."

18 SECTION 12. Section 12-41, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§12-41 Result of election. (a) The person or persons  
21 receiving the greatest number of votes at the primary or special



1 primary as a candidate of a party for an office shall be the  
2 candidate of the party at the following general or special  
3 general election but not more candidates for a party than there  
4 are offices to be elected; provided that any candidate for any  
5 county office who is the sole candidate for that office at the  
6 primary or special primary election, or who would not be opposed  
7 in the general or special general election by any candidate  
8 running on any other ticket, nonpartisan or otherwise, and who  
9 is nominated at the primary or special primary election shall,  
10 after the primary or special primary election, be declared to be  
11 duly and legally elected to the office for which the person was  
12 a candidate regardless of the number of votes received by that  
13 candidate.

14 (b) Any nonpartisan candidate receiving at least ten per  
15 cent of the total votes cast for the office for which the person  
16 is a candidate at the primary or special primary, or a vote  
17 equal to the lowest vote received by the partisan candidate who  
18 was nominated in the primary or special primary, shall also be a  
19 candidate at the following election; provided that when more  
20 nonpartisan candidates qualify for nomination than there are  
21 offices to be voted for at the general or special general



1 election, there shall be certified as candidates for the  
2 following election those receiving the highest number of votes,  
3 but not more candidates than are to be elected.

4 (c) Notwithstanding subsections (a) and (b), a candidate  
5 who receives the most votes in a presidential preference primary  
6 election shall not necessarily appear on the general election  
7 ballot. The candidates who appear on the general election  
8 ballot shall be determined in a manner consistent with section  
9 11-113.

10 (d) Political parties shall send delegates to their  
11 respective national conventions with each delegate pledged to a  
12 presidential candidate in proportion to the votes that each  
13 candidate received during the presidential preference primary  
14 election."

15 SECTION 13. Section 12-42, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§12-42 Unopposed candidates declared elected.** (a) Any  
18 candidate running for any office in the State of Hawaii in a  
19 special election or special primary election who is the sole  
20 candidate for that office shall, after the close of filing of  
21 nomination papers, be deemed and declared to be duly and legally



1 elected to the office for which the person is a candidate. The  
2 term of office for a candidate elected under this subsection  
3 shall begin respectively on the day of the special election or  
4 on the day of the immediately succeeding special general  
5 election.

6 (b) Any candidate running for any office in the State of  
7 Hawaii in a special general election who was only opposed by a  
8 candidate or candidates running on the same ticket in the  
9 special primary election and is not opposed by any candidate  
10 running on any other ticket, nonpartisan or otherwise, and is  
11 nominated at the special primary election shall, after the  
12 special primary, be deemed and declared to be duly and legally  
13 elected to the office for which the person is a candidate at the  
14 special primary election regardless of the number of votes  
15 received. The term of office for a candidate elected under this  
16 subsection shall begin on the day of the special general  
17 election.

18 (c) Notwithstanding subsection (a), an unopposed candidate  
19 in a presidential preference primary election shall not be  
20 considered to have won the general election outright."



1 SECTION 14. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so  
3 much thereof as may be necessary for fiscal year 2023-2024 for  
4 the administration of the presidential preference primary.

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

7 SECTION 15. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 16. This Act shall take effect upon its approval;  
10 provided that the implementation of the presidential preference  
11 primary shall take effect on June 1, 2023.



**Report Title:**

Primary Election; The President; Establishment; Appropriation

**Description:**

Establishes presidential preference primaries. Makes an appropriation. (SD1)

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

