

JAN 19 2023

A BILL FOR AN ACT

RELATING TO HAWAIIAN HOME LANDS.

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

1 SECTION 1. Hawaiian Homes Commission Act, 1920, as
2 amended, is amended by adding five new sections to be
3 appropriately designated and to read as follows:

4 "SA. Qualifications of commission members. (a) No person
5 shall be eligible for election to the commission unless the
6 person:

7 (1) Is a beneficiary under this Act;

8 (2) Will be a resident of the State for at least three
9 years by the date of the person's election to the
10 commission;

11 (3) Has attained the age of eighteen years or will have
12 attained that age within one year of the date of the
13 next election of commission members; and

14 (4) Is otherwise qualified to register to vote in the
15 State.

16 (b) No member of the commission shall hold or be a
17 candidate for any other public office under the state or county



1 governments in accordance with article II, section 7, of the
2 Constitution of the State of Hawaii; nor shall a person be
3 eligible for election to the commission if that person is also a
4 candidate for any other public office under the state or county
5 governments. For the purposes of this subsection, the term
6 "public office" shall not include notaries public, reserve
7 police officers, or officers of emergency organizations for
8 civilian defense or disaster, or disaster relief.

9 **§B. Qualifications of the director of Hawaiian home lands.**

10 (a) No person shall be eligible for election to office of
11 director of Hawaiian home lands unless the person:

12 (1) Meets all qualifications for the office as established
13 by state law;

14 (2) Will be a resident of the State for at least three
15 years by the date of the person's election to the
16 commission; and

17 (3) Is otherwise qualified to register to vote in the
18 State.

19 (b) No director of Hawaiian home lands shall hold or be a
20 candidate for any other public office under the state or county
21 governments in accordance with article II, section 7, of the



1 Constitution of the State of Hawaii; nor shall a person be
2 eligible for election to the office of director of Hawaiian home
3 lands if that person is also a candidate for any other public
4 office under the state or county governments. For the purposes
5 of this subsection, the term "public office" shall not include
6 notaries public, reserve police officers, or officers of
7 emergency organizations for civilian defense or disaster, or
8 disaster relief.

9 **§C. Election of commission members; director. (a)**

10 Members of the commission and the director of Hawaiian home
11 lands shall be elected at a special election held in conjunction
12 with the general election in every even-numbered year.

13 (b) Any person intending to register as a candidate for
14 the election as a commission member or director of Hawaiian home
15 lands shall submit to an examination under oath by the clerk of
16 the county in which the person resides relating to the person's
17 qualifications. In addition, each candidate shall make and
18 subscribe to an application in the form of an affidavit
19 verifying the candidate's qualifications.

20 (c) The chief election officer shall prepare the
21 nomination papers in a manner that enables a candidate desiring



1 to file for election to the commission to specify that the
2 candidate is seeking a seat requiring residency in a particular
3 location.

4 (d) The ballot for the election of commission members
5 shall be prepared in a manner that provides to each voter
6 qualified and registered under this Act the opportunity to cast
7 ballots for the commission candidate or candidates seeking
8 election to the commission seat or seats representing the county
9 in which the voter resides. Each ballot shall contain the names
10 of the candidates arranged alphabetically. Each eligible voter
11 shall be entitled to:

12 (1) Receive the commission ballot and to vote for the
13 number of seats available in the county in which the
14 voter resides; and

15 (2) Receive the director of Hawaiian home lands ballot and
16 vote for one candidate for that office.

17 (e) The cost of the election of commission members and
18 director of Hawaiian home lands shall be borne by the department
19 of Hawaiian home lands using the Hawaiian home lands trust fund.

20 **§D. Qualification of voters; registration.** No person
21 shall be eligible to register as a voter for the election of



1 commission members or the director of Hawaiian home lands unless
2 the person is qualified to register to vote in the State under
3 applicable law.

4 **§E. Commissioners; directors; terms of office; vacancies.**

5 (a) The term of office of members of the commission and
6 director of Hawaiian home lands shall be two years, beginning on
7 the day of the special election held in conjunction with the
8 general election of the year in which they are elected and
9 ending on the day of the special election held in conjunction
10 with the following general election.

11 (b) No person may serve as a member of the commission for
12 more than two terms, or four total years in the case of
13 nonconsecutive terms.

14 (c) No person may be serve as the director of Hawaiian
15 home lands for more than _____ terms.

16 (d) Any vacancy that may occur through any cause other
17 than the expiration of the term of office shall be filled in
18 accordance with applicable state law."

19 SECTION 2. Section 202, Hawaiian Homes Commission Act,
20 1920, as amended, is amended to read as follows:



1 "§202. Department officers, staff, commission, members,
2 **compensation.** (a) There shall be a department of Hawaiian home
3 lands which shall be headed by an executive board to be known as
4 the Hawaiian homes commission. The members of the commission
5 shall be [~~nominated and appointed in accordance with section~~
6 ~~26-34, Hawaii Revised Statutes.~~] elected in accordance with this
7 Act and applicable state law. The commission shall be composed
8 of nine members[~~7~~] elected pursuant to section C of this Act, as
9 follows: [~~three shall be residents of the city and county of~~
10 ~~Honolulu; two shall be residents of the county of Hawaii one of~~
11 ~~whom shall be a resident of east Hawaii and the other a resident~~
12 ~~of west Hawaii; two shall be residents of the county of Maui one~~
13 ~~of whom shall be a resident from the island of Molokai; one~~
14 ~~shall be a resident of the county of Kauai; and the ninth member~~
15 ~~shall be the chairman of the Hawaiian homes commission. All~~
16 ~~members shall have been residents of the State at least three~~
17 ~~years prior to their appointment and at least four of the~~
18 ~~members shall be descendants of not less than one fourth part of~~
19 ~~the blood of the races inhabiting the Hawaiian Islands previous~~
20 ~~to 1778.~~]



- 1 (1) Three shall reside, and be registered to vote, in the
2 City and County of Honolulu;
- 3 (2) Two shall reside, and be registered to vote, in the
4 County of Hawaii; provided that one member shall
5 reside in east Hawaii and the other member shall
6 reside in west Hawaii;
- 7 (3) Three shall reside, and be registered to vote, in the
8 county of Maui; provided that two members shall reside
9 on the island of Maui and the other member shall
10 reside on the island of Molokai or on the island of
11 Lanai; and
- 12 (4) One shall reside, and be registered to vote, in the
13 county of Kauai.

14 The members of the commission shall serve without pay, but shall
15 receive actual expenses incurred by them in the discharge of
16 their duties as ~~[such]~~ members. The ~~[governor]~~ members of the
17 commission shall ~~[appoint]~~ elect the ~~[chairman]~~ chairperson of
18 the commission from among ~~[the]~~ its members ~~[thereof]~~.

19 The ~~[commission may delegate to the chairman such duties,~~
20 ~~powers, and authority or so much thereof, as may be lawful or~~
21 ~~proper for the performance of the functions vested in the~~



1 ~~commission. The chairman of the commission shall serve in a~~
 2 ~~full time capacity. He shall, in such capacity, perform such~~
 3 ~~duties, and exercise such powers and authority, or so much~~
 4 ~~thereof, as may be delegated to him by the commission as herein~~
 5 ~~provided above.] chairperson of the commission shall be~~
 6 ~~responsible for conducting the meetings of the commission.~~

7 There shall be a director of Hawaiian home lands elected in
 8 accordance with this Act and applicable state law. The duties
 9 of the director shall be determined by state law. The director
 10 shall serve without pay, but shall be compensated for actual
 11 expenses incurred in the discharge of official duties.

12 (b) The provisions of section 76-16, Hawaii Revised
 13 Statutes, shall apply to the positions of first deputy and
 14 private secretary to the [~~chairman of the commission.~~] director
 15 of Hawaiian Home lands. The department may hire temporary staff
 16 on a contractual basis not subject to chapters 76 and 78, Hawaii
 17 Revised Statutes, when the services to be performed will assist
 18 in carrying out the purposes of the Act. These positions may be
 19 funded through appropriations for capital improvement program
 20 projects and by the administration account, operating fund, or
 21 native Hawaiian rehabilitation fund. No contract shall be for a



1 period longer than two years, but individuals hired under
2 contract may be employed for a maximum of six years; provided
3 that the six-year limitation shall not apply if the department,
4 with the approval of the governor, determines that [such]
5 contract individuals are needed to provide critical services for
6 the efficient functioning of the department. All other
7 positions in the department shall be subject to chapter 76,
8 Hawaii Revised Statutes.

9 All vacant and new civil service positions covered by
10 chapter 76, Hawaii Revised Statutes, shall be filled in
11 accordance with section 76-22.5, Hawaii Revised Statutes;
12 provided that the provisions of these sections shall be
13 applicable first to qualified persons of Hawaiian extraction."

14 SECTION 3. Chapter 17, Hawaii Revised Statutes, is amended
15 by adding a new section to be appropriately designated and to
16 read as follows:

17 "§17- Hawaiian homes commission; director of Hawaiian
18 home lands; vacancies. Whenever any vacancy in the membership
19 of the Hawaiian homes commission or the office of director of
20 Hawaiian home lands occurs, the vacancy shall be filled for the
21 unexpired term at the next succeeding special election held in



1 conjunction with the general election. The chief election
2 officer shall issue a proclamation designating the election for
3 filling the vacancy. All candidates for the unexpired term
4 shall file nomination papers not later than 4:30 p.m. on the
5 fiftieth day before the special election (but if that day is a
6 Saturday, Sunday, or holiday then not later than 4:30 p.m. on
7 the first working day immediately preceding) and shall be
8 elected in accordance with the Hawaiian Homes Commission Act of
9 1920, as amended, and this title. If the vacancy is for a
10 commission seat, the person appointed shall reside on the same
11 island on which the appointed person's predecessor resided
12 immediately before the vacancy occurred. The person appointed
13 shall serve for the duration of the unexpired term, and shall
14 serve until the election of the person duly elected to fill the
15 vacancy."

16 SECTION 4. Section 12-5, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) Nomination papers for candidates for members of the
19 board of trustees of the office of Hawaiian affairs, members of
20 the Hawaiian homes commission, and director of Hawaiian home



1 lands shall be signed by not less than twenty-five persons
2 registered to vote."

3 SECTION 5. Section 12-6, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) For members of Congress, state offices, county
6 offices, the Hawaiian homes commission, the director of Hawaiian
7 home lands, and the board of trustees for the office of Hawaiian
8 affairs, nomination papers shall be filed with the chief
9 election officer, or clerk in case of county offices, not later
10 than 4:30 p.m. on the first Tuesday in June. However, in the
11 event of a special primary or special election, the filing
12 deadline shall be determined in the proclamation that is issued
13 calling for the election as provided for by state law or county
14 charter. A state candidate from the counties of Hawaii, Maui,
15 and Kauai may file the declaration of candidacy with the
16 respective clerk. The clerk shall transmit to the office of the
17 chief election officer the state candidate's declaration of
18 candidacy without delay."

19 SECTION 6. Section 26-17, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§26-17 Department of Hawaiian home lands. (a) The
2 department of Hawaiian home lands shall be headed by an
3 executive board to be known as the Hawaiian homes commission.

4 The commission shall be composed of nine members. The
5 ~~[appointment,]~~ election, tenure, and removal of the members and
6 the filling of vacancies on the commission shall be in
7 accordance with section ~~[26-34]~~ 17- and section ~~[202(a)]~~ C of
8 the Hawaiian Homes Commission Act of 1920, as amended. The
9 ~~[governor]~~ members shall appoint the chairperson of the
10 commission from among ~~[the]~~ its members ~~[thereof]~~.

11 ~~The [commission may delegate to the chairperson such~~
12 ~~duties, powers, and authority, or so much thereof as may be~~
13 ~~lawful or proper, for the performance of the functions vested in~~
14 ~~the commission.~~

15 ~~The chairperson of the board shall serve in a full time~~
16 ~~capacity and shall perform such duties, and exercise such powers~~
17 ~~and authority, or so much thereof as may be delegated to the~~
18 ~~chairperson by the board.]~~ chairperson of the commission shall
19 be responsible for conducting the meetings of the commission.

20 (b) There shall be a director of Hawaiian home lands. The
21 director shall have oversight over the administration of the



1 department, and shall perform other duties as required by the
2 commission and applicable law.

3 The election and tenure of the director and the filling of
4 a vacancy in the office of director of Hawaiian home lands shall
5 be in accordance with section 17- and section C of the
6 Hawaiian Homes Commission Act of 1920, as amended.

7 (c) The department shall administer the Hawaiian Homes
8 Commission Act of 1920 as set forth in the Constitution of the
9 State and by law.

10 The functions and authority heretofore exercised by the
11 Hawaiian homes commission as heretofore constituted are
12 transferred to the department of Hawaiian home lands established
13 by this chapter."

14 SECTION 7. Section 26-34, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The members of each board and commission established
17 by law, except the Hawaiian homes commission, shall be nominated
18 and, by and with the advice and consent of the senate, appointed
19 by the governor. Unless otherwise provided by this chapter or
20 by law hereafter enacted, the terms of the members shall be for
21 four years; provided that the governor may reduce the terms of



1 those initially appointed so as to provide, as nearly as can be,
2 for the expiration of an equal number of terms at intervals of
3 one year for each board and commission. Unless otherwise
4 provided by law, each term shall commence on July 1 and expire
5 on June 30, except that the terms of the chairpersons of the
6 board of agriculture, the board of land and natural resources,
7 and the Hawaiian homes commission shall commence on January 1
8 and expire on December 31. No person shall be appointed
9 consecutively to more than two terms as a member of the same
10 board or commission; provided that membership on any board or
11 commission shall not exceed eight consecutive years."

12 SECTION 8. The terms of the appointed members of the
13 Hawaiian homes commission, including the chairperson, shall
14 expire on the day of the first special election to elect members
15 of the commission that occurs after congressional approval of
16 this Act.

17 SECTION 9. If any provision of this Act, or the
18 application thereof to any person or circumstance, is held
19 invalid, the invalidity does not affect other provisions or
20 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 10. In codifying the new sections added by
4 section 1 and referenced in sections 3 and 6 of this Act, the
5 revisor of statutes shall substitute appropriate section numbers
6 for the letters used in designating the new sections in this
7 Act.

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

10 SECTION 12. This Act shall take effect upon its approval
11 by the governor of the State of Hawaii with the consent of the
12 United States Congress.

13

INTRODUCED BY: Kurt Fivella



S.B. NO. 246

Report Title:

Hawaiian Homes Commission; Elected Members; DHHL; Director

Description:

Authorizes the election of the members of the Hawaiian Homes Commission. Establishes the elected office of Director of Hawaiian Home Lands, the holder of which shall have administrative oversight over the Department of Hawaiian Home Lands. Subject to congressional approval.

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

