

JAN 23 2025

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**A BILL FOR AN ACT**

RELATING TO STATE LEGISLATIVE VACANCIES.

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

1           SECTION 1. The purpose of this Act is to provide the  
2 governor with the discretion to not make an appointment to fill  
3 a legislative vacancy one hundred twenty days or less before the  
4 next succeeding primary election; provided that the governor  
5 shall be required to fill the vacancy no later than seven  
6 calendar days following the certification of the primary  
7 election by the chief election officer.

8           SECTION 2. Section 17-3, Hawaii Revised Statutes, is  
9 amended to read as follows:

10           "§17-3 State senator. (a) Whenever any vacancy in the  
11 membership of the state senate occurs, the term of which ends at  
12 the next succeeding general election:

13           (1) The governor shall make an appointment within sixty  
14 calendar days following the first day of vacancy to  
15 fill the vacancy for the unexpired term by selecting a  
16 person from a list of three prospective appointees  
17 submitted by the same political party as the prior  
18 incumbent. The appointee shall be at the time of

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

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

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

19 (1) If it occurs not later than on the tenth day prior to  
20 the close of filing for the next succeeding primary  
21 election, the vacancy shall be filled for the  
22 unexpired term at the next succeeding general

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1 election. The chief election officer shall issue a  
2 proclamation designating the election for filling the  
3 vacancy. All candidates for the unexpired term shall  
4 be nominated and elected in accordance with this  
5 title. Pending the election, the governor shall make  
6 a temporary appointment to fill the vacancy, and the  
7 person so appointed shall serve until the election of  
8 the person duly elected to fill the vacancy. The  
9 governor shall make the appointment from a list of  
10 three prospective appointees submitted by the same  
11 political party as the prior incumbent. The appointee  
12 shall be, at the time of the appointment, and shall  
13 have been, for at least six months immediately prior  
14 to the appointment, a member of the political party.  
15 The appointee shall, at the time of appointment, be a  
16 resident of the same senate district as the prior  
17 incumbent. If the prior incumbent was not a member of  
18 any political party, the governor shall appoint a  
19 person who is at the time of appointment a resident of  
20 the same senate district as the prior incumbent and is  
21 not and has not been, for at least six months

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1 immediately prior to the appointment, a member of any  
2 political party;

3 (2) If it occurs later than on the tenth day prior to the  
4 close of filing for the next succeeding primary  
5 election but not later than on the sixtieth day prior  
6 to the next succeeding primary election, or if there  
7 are no qualified candidates for any party or  
8 nonpartisan candidates qualified for the primary  
9 election ballot, nominations for the unexpired term  
10 may be filed not later than 4:30 p.m. on the fiftieth  
11 day prior to the next succeeding primary election.

12 The chief election officer shall issue a proclamation  
13 designating the election for filling the vacancy.

14 Pending the election the governor shall make a  
15 temporary appointment to fill the vacancy and the  
16 person appointed shall serve until the election of the  
17 person duly elected to fill the vacancy. The governor  
18 shall make the appointment from a list of three  
19 prospective appointees submitted by the same political  
20 party as the prior incumbent. The appointee shall be,  
21 at the time of the appointment, and shall have been,  
22 for at least six months immediately prior to the

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

11 (3) If it occurs after the sixtieth day prior to the next  
12 succeeding primary but not later than on the fiftieth  
13 day prior to the next succeeding general election, or  
14 if there are no qualified candidates for any party or  
15 nonpartisan candidates in the primary, the vacancy  
16 shall be filled for the unexpired term at the next  
17 succeeding general election. The chief election  
18 officer shall issue a proclamation designating the  
19 election for filling the vacancy. Party candidates  
20 for the unexpired senate term shall be nominated by  
21 the county committees of the parties not later than  
22 4:30 p.m. on the fortieth day prior to the general

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1 election; nonpartisan candidates may file nomination  
2 papers for the unexpired term not later than 4:30 p.m.  
3 on the fortieth day prior to the general election with  
4 the nonpartisan candidate who is to be nominated to be  
5 decided by lot, under the supervision of the chief  
6 election officer. The candidates for the unexpired  
7 term shall be elected in accordance with this title.  
8 Pending the election, the governor shall make a  
9 temporary appointment to fill the vacancy, and the  
10 person appointed shall serve until the election of the  
11 person duly elected to fill the vacancy. The governor  
12 shall make the appointment from a list of three  
13 prospective appointees submitted by the same political  
14 party as the prior incumbent. The appointee shall be,  
15 at the time of the appointment, and shall have been,  
16 for at least six months immediately prior to the  
17 appointment, a member of the political party. The  
18 appointee shall, at the time of appointment, be a  
19 resident of the same senate district as the prior  
20 incumbent. If the prior incumbent was not a member of  
21 any political party, the governor shall appoint a  
22 person who is at the time of appointment a resident of

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1 the same senate district as the prior incumbent and is  
2 not and has not been, for at least six months  
3 immediately prior to the appointment, a member of any  
4 political party;

5 (4) If it occurs after the fiftieth day prior to the next  
6 succeeding general election or if no candidates are  
7 nominated, the governor shall make an appointment to  
8 fill the vacancy for the unexpired term by selecting a  
9 person from a list of three prospective appointees  
10 submitted by the same political party as the prior  
11 incumbent. The appointee shall be, at the time of the  
12 appointment, and shall have been, for at least six  
13 months immediately prior to the appointment, a member  
14 of the political party. The appointee shall, at the  
15 time of appointment, be a resident of the same senate  
16 district as the prior incumbent. If the prior  
17 incumbent was not a member of any political party, the  
18 governor shall appoint a person who is at the time of  
19 appointment a resident of the same senate district as  
20 the prior incumbent and is not and has not been, for  
21 at least six months immediately prior to the  
22 appointment, a member of any political party.

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1        (c) Notwithstanding any law to the contrary, if a vacancy  
2 occurs one hundred twenty days or less before the next  
3 succeeding primary election, the governor shall make an  
4 appointment no later than seven calendar days following the  
5 certification of the primary election by the chief election  
6 officer."

7        SECTION 3. Section 17-4, Hawaii Revised Statutes, is  
8 amended to read as follows:

9        "§17-4 State representatives. (a) Whenever any vacancy  
10 in the membership of the state house of representatives occurs,  
11 the governor shall make an appointment within sixty calendar  
12 days following the first day of vacancy to fill the vacancy for  
13 the unexpired term by selecting a person from a list of three  
14 prospective appointees submitted by the same political party as  
15 the prior incumbent. The appointee shall be, at the time of  
16 appointment, and shall have been, for at least six months  
17 immediately prior to the appointment, a member of the political  
18 party. The appointee shall, at the time of appointment, be a  
19 resident of the same state representative district as the prior  
20 incumbent. The political party shall submit the list of  
21 prospective appointees to the governor within thirty calendar  
22 days following the first day of vacancy.

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1 (b) If the prior incumbent was not a member of any  
2 political party, the governor, within sixty calendar days  
3 following the first day of vacancy, shall appoint a person who  
4 is at the time of appointment a resident of the same state  
5 representative district as the prior incumbent and is not and  
6 has not been, for at least six months immediately prior to the  
7 appointment, a member of any political party.

8 (c) Notwithstanding any law to the contrary, if the  
9 vacancy occurs one hundred twenty days or less before the next  
10 succeeding primary election, the governor shall make an  
11 appointment no later than seven calendar days following the  
12 certification of the primary election by the chief election  
13 officer."

14 SECTION 4. New statutory material is underscored.

15 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: 

BY REQUEST

# S.B. NO. 1397

**Report Title:**

Legislative Vacancies; Legislative Appointments; Primary Election

**Description:**

Provides the Governor with discretion to not fill a vacant legislative position if the vacancy occurs one hundred twenty days or less from an upcoming primary election until after the results of the primary election are certified.

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

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## JUSTIFICATION SHEET

DEPARTMENT: Office of the Governor

TITLE: A BILL FOR AN ACT RELATING TO STATE LEGISLATIVE VACANCIES.

PURPOSE: To provide the Governor with the discretion to not make an appointment to fill a legislative vacancy, if that vacancy occurs one hundred twenty days or less before the next succeeding primary election that would fill the vacancy.

MEANS: Amend sections 17-3 and 17-4, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Sections 17-3 and 17-4, HRS, require the Governor to fill legislative vacancies. Due to a vacancy in 2024, the Governor was required to fill a State Senate vacancy from a list of three prospective appointees who were all candidates in the 2024 primary election, including two candidates who were running for the vacant seat to be filled.

While the Governor had hoped to wait until after the primary election to appoint the winner of that election to serve the remainder of the term, the requirements in HRS did not allow the Governor such discretion. Amending sections 17-3 and 17-4, HRS, would provide the Governor with the ability to wait until after a primary election to appoint a replacement to fill the vacancy should a similar situation occur again.

Impact on the public: The bill will provide the Governor the discretion and flexibility to wait until after a primary election to fill a legislative vacancy should one occur close to the election. Authorizing the Governor to defer his appointment decision when there are multiple candidates vying for the vacant position eliminates the risk of

the Governor's choice unduly influencing the public's voting choices.

Impact on the department and other agencies:  
This bill will allow the Governor to defer a decision that could be perceived as designed to influence a voter's choice.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION:

OTHER AFFECTED  
AGENCIES: Office of Elections.

EFFECTIVE DATE: Upon approval.