

ACT 35

H.B. NO. 2206

A Bill for an Act Relating to Elections.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend the filing deadlines for special elections held to fill vacancies occurring during the terms of office of state senators, board of education members, or Hawaiian affairs trustees, to comply

with federal recommendations for mailing of absentee ballots. This Act also repeals the law relating to filling of vacancies caused by failures to elect persons at uncontested general elections.

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

“§17-3 State senator. (a) Whenever any vacancy in the membership of the state senate occurs, the term of which ends at the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party or nonpartisanship as the person the appointee succeeds.

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

- (1) If it occurs not later than on the tenth day prior to the close of filing for the next succeeding primary election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill the vacancy. The appointee shall be of the same political party or nonpartisanship as the person the appointee succeeds.
- (2) If it occurs later than on the tenth day prior to the close of filing for the next succeeding primary election but not later than on the [thirtieth] sixtieth day prior to the next succeeding primary election, or if there are no qualified candidates for any party or nonpartisan candidates qualified for the primary election ballot, nominations for the unexpired term may be filed not later than 4:30 p.m. on the [thirtieth] fiftieth day prior to the next succeeding primary election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill the vacancy. The appointee shall be of the same political party or nonpartisanship as the person the appointee succeeds.
- (3) If it occurs after the [thirtieth] sixtieth day prior to the next succeeding primary but not later than on the [thirtieth] fiftieth day prior to the next succeeding general election, or if there are no qualified candidates for any party or nonpartisan candidates in the primary, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Party candidates for the unexpired senate term shall be nominated by the county committees of the parties not later than 4:30 p.m. on the [thirtieth] fortieth day prior to the general election; nonpartisan candidates may file nomination papers for the unexpired term not later than 4:30 p.m. on the [thirtieth] fortieth day prior to the general election with the nonpartisan candidate who is to be nominated to be decided by lot, under the supervision of the chief election officer. The candidates for the unexpired term shall be elected in accordance

with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill such vacancy. The appointee shall be of the same political party or nonpartisanship as the person the appointee succeeds.

- (4) If it occurs after the [thirtieth] fiftieth day prior to the next succeeding general election or if no candidates are nominated, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party or nonpartisanship as the person the appointee succeeds.”

SECTION 3. Section 17-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the case of a vacancy, the term of which does not end at [the time of] the next succeeding general election:

- (1) If it occurs not later than on the [thirtieth] sixtieth day prior to the next succeeding general election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall file nomination papers not later than 4:30 p.m. on the [thirtieth] fiftieth day prior to the general election (but if such day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding) and shall be elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill such vacancy.
- (2) If it occurs after the [thirtieth] sixtieth day prior to the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term.”

SECTION 4. Section 17-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the case of a vacancy, the term of which does not end at the next succeeding special election held in conjunction with the general election:

- (1) If it occurs not later than on the [thirtieth] sixtieth day prior to the next succeeding special election held in conjunction with the general election, the vacancy shall be filled for the unexpired term at the next succeeding special election held in conjunction with the general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall file nomination papers not later than 4:30 p.m. on the [thirtieth] fiftieth day prior to the special election (but if such day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding) and shall be elected in accordance with this title. Pending the election, the board or the governor shall make a temporary appointment to fill the vacancy in the manner prescribed under subsection (a). When island residency is required under section 13D-1, the person so appointed shall reside on the island from which the vacancy occurred, and shall serve for

the duration of the unexpired term and shall serve until the election of the person duly elected to fill such vacancy.

- (2) If it occurs after the [thirtieth] sixtieth day prior to the next succeeding special election held in conjunction with the general election, the board or the governor shall make an appointment to fill the vacancy in the manner prescribed under subsection (a). When island residency is required under section 13D-1, the person so appointed shall reside on the island from which the vacancy occurred, and shall serve for the duration of the unexpired term.”

SECTION 5. Section 17-5, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 12-2.5, Hawaii Revised Statutes, is amended to read as follows:

“**§12-2.5¹ Nomination papers; when available.** Nomination papers shall be made available from the first working day of February in every even-numbered year; provided that in the case of a special primary or special election, nomination papers shall be made available [sixty] at least ten days prior to the close of filing.”

SECTION 7. Section 12-5, Hawaii Revised Statutes, is amended to read as follows:

“**§12-5 Nomination papers: number of signers.** (a) Nomination papers for candidates for members of Congress, governor, lieutenant governor, and the board of education shall be signed by not less than twenty-five registered voters of the State or of the Congressional district or school board district from which the candidates are running in the case of candidates for the United States House of Representatives or for the board of education.

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

(c) Nomination papers for candidates for members of the board of trustees of the office of Hawaiian affairs shall be signed by not less than twenty-five persons registered as prescribed under section 11-15(b).

(d) No signatures shall be required on nomination papers for candidates filing to run in a special primary or special election to fill a vacancy.”

SECTION 8. Section 12-6, Hawaii Revised Statutes, is amended to read as follows:

“**Nomination papers: time for filing; fees.**¹ (a) Nomination papers shall be filed as follows: for members of Congress, state, and county offices, and the board of trustees of the office of Hawaiian affairs, with the chief election officer, or clerk in case of county offices, not later than 4:30 p.m. on the sixtieth calendar day prior to the primary, or not later than 4:30 p.m. on the fiftieth day prior to the special primary, or special election [(but) provided that if such day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding[]];¹ provided further that any state candidate from the counties of Hawaii, Maui, and Kauai may file the declaration of candidacy with the respective clerk. The clerk shall transmit to the office of the chief election officer the state candidate’s declaration of candidacy without delay.

However, if a special primary or special election is to be held by a county and the county charter requires that the council shall issue a proclamation calling for the election to be held within a specified period of time, and if that requirement would not allow the filing of nomination papers with the appropriate office by the sixtieth calendar day prior to the day for holding the special primary or special election, the council shall establish the deadline for the filing of nomination papers in the proclamation calling for the election.

(b) There shall be deposited with each nomination paper a filing fee on account of the expenses attending the holding of the primary, special primary, or special election which shall be paid into the treasury of the State, or county, as the case may be, as a realization:

- (1) For United States senators and United States representatives—\$75;
- (2) For governor and lieutenant governor—\$750;
- (3) For mayor—\$500; and
- (4) For all other offices—\$250.

(c) Upon the receipt by the chief election officer or the clerk of the nomination paper of a candidate, the day, hour, and minute when it was received shall be endorsed thereon.

(d) Upon the showing of a certified copy of an affidavit which has been filed with the campaign spending commission pursuant to section 11-208 by a candidate who has voluntarily agreed to abide by spending limits, the chief election officer or clerk shall discount the filing fee of the candidate by the following amounts:

- (1) For the office of governor and lieutenant governor—\$675;
- (2) For the office of mayor—\$450; and
- (3) For all other offices—\$225.

(e) The chief election officer or clerk shall waive the filing fee in the case of a person who declares, by affidavit, that the person is indigent and who has filed a petition signed by currently registered voters who constitute at least one-half of one per cent of the total voters registered at the last preceding general election in the respective district or districts which correspond to the specific office for which the indigent person is a candidate. This petition shall be submitted on the form prescribed and provided by the chief election officer together with the nomination paper required by this chapter.”

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 10. This Act shall take effect upon its approval.

(Approved April 23, 1990.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.