

ACT 7

H.B. NO. 2845

A Bill for an Act Relating to Candidate Vacancies.

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

SECTION 1. The purpose of this Act is to amend the procedures to fill candidate vacancies in the event of death, withdrawal, or disqualification.

SECTION 2. Section 11-117, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) On receipt of the notice of death, withdrawal, or upon determination of disqualification, the chief election officer or the clerk shall inform the chairperson of the political party of which the person deceased, withdrawing, or disqualified was a candidate. When a candidate dies, withdraws, or is disqualified after the close of filing and the ballots have been printed, the chief election officer or the clerk [shall either] may order the candidate’s name stricken from the ballot or order that a notice of the [disqualification,] death, withdrawal, or [death] disqualification be prominently posted at the appropriate polling places on election day.”

SECTION 3. Section 11-118, Hawaii Revised Statutes, is amended to read as follows:

“§11-118 Vacancies; new candidates; insertion of names on ballots. (a) In case of death, withdrawal, or disqualification of any party candidate after filing, the vacancy so caused may be filled by [the appropriate committee of] the party. The party shall be notified by the chief election officer or the clerk in the case of a county office immediately after the death, withdrawal, or disqualification.

(b) If the party fills the vacancy, and so notifies the chief election officer or clerk not later than 4:30 p.m. on the third day after the vacancy occurs, but not later than 4:30 p.m. on the fiftieth day prior to a primary or special primary election or not later than 4:30 p.m. on the fortieth day prior to a special, general, or special general election, the name of the replacement shall be printed in an available and appropriate place on the ballot, not necessarily in alphabetical order. If the party fails to fill the vacancy pursuant to this subsection, no candidate’s name shall be printed on the ballot for the party for that race.

(c) If the ballots have been printed and it is not reasonably possible to insert an alternate’s name, the chief election officer shall issue a proclamation informing the public that the votes cast for the vacating candidate shall be counted and the results interpreted as follows:

(1) In a primary or special primary election:

(A) In partisan races, if, but for candidate’s vacancy, the vacating candidate would have been nominated pursuant to section 12-41(a), a vacancy shall exist in the party’s nomination, to be filled in accordance with subsection (b).

(B) In nonpartisan races, if, but for the candidate’s vacancy, the vacating candidate would have qualified as a candidate for the

general or special general election ballot pursuant to section 12-41(b), the nonpartisan candidate who received the next highest number of votes shall be placed on the ballot provided that the candidate also meets the requirements of section 12-41(b).

- (2) In a special, general, or special general election, if, but for the candidate's vacancy, the vacating candidate would have been elected, a vacancy shall exist in the office for which the race in question was being held, to be filled in the manner provided by law for vacancies in office arising from the failure of an elected official to serve the official's full term because of death, withdrawal, or removal.
- (3) In any other case where, but for the candidate's vacancy, the vacating candidate would have been deemed elected, a vacancy shall exist in the office for which the candidate has filed, to be filled in the manner provided by law for vacancies in office arising from the failure of an elected official to serve the official's full term in office because of death, withdrawal, or removal.

(d) The parties shall adopt rules to comply with this provision, and those rules shall be submitted to the chief election officer.

(e) The chief election officer or county clerk in county elections may waive any or all of the foregoing requirements in special circumstances as provided in the rules adopted by the chief election officer. [If no substitution is made, the candidacy involved shall be declared vacant.]”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved April 5, 1990.)