

ACT 126

H.B. NO. 2397

A Bill for an Act Relating to Primary Elections.

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

SECTION 1. The legislature finds that provisions within the National Defense Authorization Act for Fiscal Year 2010, P.L. 111-84, requires states to mail absentee ballots to uniformed and overseas voters no later than forty-five days prior to elections for federal offices. The legislature also finds that Hawaii law allows only forty-five days between primary and general elections, making meeting the federal mailing deadlines an impossibility.

Federal law allows for states to request a waiver of the requirement on an election-by-election basis, if the State can show that it has alternative means by which it can ensure access to the ballot for overseas voters. The federal law further provides that the waiver request must be made more than ninety days before the general election and that the approval or denial of the request will occur no later than sixty-five days before the general election.

With this in mind, state election officials sought to immediately submit the State of Hawaii's waiver application, but they have been informed that the federal government is still determining the specifics of the waiver application process and, as such, are not receiving applications at this time.

The purpose of this Act is to move Hawaii's primary election date to the second Saturday in August and to move the deadline for filing nomination papers to the first Tuesday in June.

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

“§12-2 Primary held when; candidates only those nominated. The primary shall be held [at the polling place for each precinct] on the second [to the last] Saturday of [September] August in every even numbered year[; provided that in no case shall any primary election precede a general election by less than forty-five days].

No person shall be a candidate for any general or special general election unless the person has been nominated in the immediately preceding primary or special primary.”

SECTION 3. Section 12-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) ~~Nomination papers shall be filed as follows:~~

- (1) ~~For members of Congress, state[, and] offices, county offices, and the board of trustees for the office of Hawaiian affairs, nomination papers shall be filed 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, special primary, or special election 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.] first Tuesday in June. However, in the event of a special primary or special election, the filing deadline shall be determined in the proclamation that is issued calling for the election as provided for by state law or county charter. A 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; and~~
- (2) ~~For the board of trustees for the office of Hawaiian affairs, nomination papers shall be filed with the chief election officer, not later than 4:30 p.m. on the sixtieth calendar day prior to the primary election referred to in paragraph (1); provided that if that day is a Saturday, Sunday, or holiday, then not later than 4:30 p.m. on the first working day immediately preceding.~~

[(b)] If after the close of filing there are no candidates who have filed nomination papers for an elective office for the primary, special primary, or any special election held in conjunction with the primary election, the chief election officer or clerk, in the case of a county election, shall accept nomination papers for that office [not later than 4:30 p.m. on the fiftieth day prior to the primary,

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~~special primary, or special election.] until 4:30 p.m. on the tenth day after the original close of filing.”~~

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

SECTION 5. This Act shall take effect on January 1, 2011.

(Approved May 20, 2010.)