SENATE RESOLUTION

REQUESTING THE ATTORNEY GENERAL TO PETITION THE HAWAII SUPREME COURT SEEKING RELIEF TO PREVENT ACTION AGAINST THE REAPPORTIONMENT COMMISSION FOR THE COMMISSION'S FAILURE TO MEET STATUTORY OR CONSTITUTIONAL DEADLINES RELATING TO THE 2021 REAPPORTIONMENT PLANS.

WHEREAS, a fundamental tenet of elections in the United States is the fair apportionment of representation across a given population, and the United States and Hawai'i governments each have legislative bodies with legislators elected to represent individual districts that have an approximate equal number of citizens; and

WHEREAS, article IV, section 2, of the Hawaii State Constitution calls for, and explains the procedures for, the convening of the Reapportionment Commission, which is tasked with creating a reapportionment plan for the Legislature and a reapportionment plan for United States congressional districts; and

WHEREAS, the Hawaii State Constitution requires that the first eight members of the Commission be selected by May 1 of a reapportionment year, and the Chairperson of the Commission be selected no later than thirty days after the eighth member of the Commission is selected; and

WHEREAS, accordingly, the latest date for the final member and chairperson of the Reapportionment Commission to be selected is May 31; and

WHEREAS, section 25-2, Hawaii Revised Statutes, requires the Reapportionment Commission to:

(1) Submit a draft of its respective reapportionment plans no later than one hundred days after it convenes; and
(2) Hold at least one public hearing on the proposed reapportionment plans in each basic island unit after a minimum of twenty days following public notice of the plan; and

WHEREAS, accordingly, provided that the Chairperson of the Reapportionment Commission is selected on May 31, the latest date that proposed reapportionment plans may be presented to the public is September 8, and the latest date on which a public hearing may be held is September 28; and

WHEREAS, article IV, section 2, of the Hawaii State Constitution requires the Reapportionment Commission to submit to the Chief Election Officer final reapportionment plans no later than one hundred fifty days after the Commission is convened; and

WHEREAS, accordingly, provided that the Chairperson of the Reapportionment Commission is selected on May 31, the latest date that the final reapportionment plans may be submitted to satisfy the Constitution is October 28; and

WHEREAS, article IV, section 1, of the Hawaii State Constitution designates as reapportionment years "the year 1981 . . . . and every tenth year thereafter", making 2021 a reapportionment year; and

WHEREAS, due to each state's ever-changing populations, the United States Census is conducted every ten years by the United States Census Bureau for the purpose of gathering an accurate count of persons living in the United States, and this count is used in the reapportionment process to ensure fair and equal representation in legislative bodies; and

WHEREAS, for the 2011 reapportionment, Hawai'i received data from the United States Census Bureau on February 22, 2011; and

WHEREAS, to date, Hawai'i has not received the data from the United States Census Bureau necessary to prepare the 2021 reapportionment plans; and
WHEREAS, due to the coronavirus disease 2019 (COVID-19) pandemic, the United States Census Bureau has announced that it expects to deliver to the states and the public the quality data necessary for states to prepare reapportionment plans later than previous years, potentially as late as September 30, 2021; and

WHEREAS, due to the COVID-19 pandemic and the announcement from the United States Census Bureau, it appears unlikely that the 2021 Reapportionment Commission will be able to meet the Commission's statutorily and constitutionally mandated deadlines; and

WHEREAS, the Reapportionment Commission's inability to meet these statutory and constitutional deadlines makes the eventual reapportionment plans subject to legal challenge, which could detrimentally delay the State's elections process; now, therefore,

BE IT RESOLVED by the Senate of the Thirty-first Legislature of the State of Hawaii, Regular Session of 2021, that the Attorney General is requested to begin legal proceedings to, when appropriate, petition the Hawaii Supreme Court seeking relief to prevent action against the Reapportionment Commission for the Reapportionment Commission's failure to meet statutory or constitutional deadlines relating to the 2021 reapportionment plans resulting from the United States Census Bureau's delay in delivering high quality data to the states and public; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Director of the United States Census Bureau, Governor, Chief Justice of the Hawaii Supreme Court, Attorney General, and Chief Elections Officer.