

JAN 23 2020

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3 OF THE HAWAII
STATE CONSTITUTION TO INCREASE THE MANDATORY RETIREMENT AGE
FOR JUSTICES AND JUDGES.

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

1 SECTION 1. The legislature finds that the Hawaii State
2 Constitution imposes a mandatory retirement age of seventy years
3 for justices and judges. Officials in the other two branches of
4 state government are not similarly subject to mandatory
5 retirement. Furthermore, federal judges are also not subject to
6 mandatory retirement. Life expectancies have increased since
7 the inception of the mandatory retirement provision and many
8 people work well beyond the age of seventy as productive,
9 contributing members of society. The mandatory retirement age
10 of seventy is an artificial restriction that could negatively
11 affect the public interest by prematurely removing from office
12 judges who possess years of knowledge and experience; therefore,
13 the mandatory retirement age should be increased.

14 The purpose of this Act is to propose an amendment to
15 article VI, section 3, of the Constitution of the State of



1 Hawaii to increase the mandatory retirement age for justices and
2 judges from seventy to eighty years.

3 SECTION 2. Article VI, section 3, of the Constitution of
4 the State of Hawaii is amended to read as follows:

5 **"APPOINTMENT OF JUSTICES AND JUDGES**

6 Section 3. The governor, with the consent of the senate,
7 shall fill a vacancy in the office of the chief justice, supreme
8 court, intermediate appellate court and circuit courts, by
9 appointing a person from a list of not less than four, and not
10 more than six, nominees for the vacancy, presented to the
11 governor by the judicial selection commission.

12 If the governor fails to make any appointment within thirty
13 days of presentation, or within ten days of the senate's
14 rejection of any previous appointment, the appointment shall be
15 made by the judicial selection commission from the list with the
16 consent of the senate. If the senate fails to reject any
17 appointment within thirty days thereof, it shall be deemed to
18 have given its consent to such appointment. If the senate shall
19 reject any appointment, the governor shall make another
20 appointment from the list within ten days thereof. The same
21 appointment and consent procedure shall be followed until a



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1 valid appointment has been made, or failing this, the commission
2 shall make the appointment from the list, without senate
3 consent.

4 The chief justice, with the consent of the senate, shall
5 fill a vacancy in the district courts by appointing a person
6 from a list of not less than six nominees for the vacancy
7 presented by the judicial selection commission. If the chief
8 justice fails to make the appointment within thirty days of
9 presentation, or within ten days of the senate's rejection of
10 any previous appointment, the appointment shall be made by the
11 judicial selection commission from the list with the consent of
12 the senate. The senate shall hold a public hearing and vote on
13 each appointment within thirty days of any appointment. If the
14 senate fails to do so, the nomination shall be returned to the
15 commission and the commission shall make the appointment from
16 the list without senate consent. The chief justice shall
17 appoint per diem district court judges as provided by law.

18 The judicial selection commission shall disclose to the
19 public the list of nominees for each vacancy concurrently with
20 the presentation of each list to the governor or the chief
21 justice, as applicable.



1 **QUALIFICATIONS FOR APPOINTMENT**

2 Justices and judges shall be residents and citizens of the
3 State and of the United States, and licensed to practice law by
4 the supreme court. A justice of the supreme court, a judge of
5 the intermediate appellate court and a judge of the circuit
6 court shall have been so licensed for a period of not less than
7 ten years preceding nomination. A judge of the district court
8 shall have been so licensed for a period of not less than five
9 years preceding nomination.

10 No justice or judge shall, during the term of office,
11 engage in the practice of law, or run for or hold any other
12 office or position of profit under the United States, the State
13 or its political subdivisions.

14 **TENURE; RETIREMENT**

15 The term of office of justices and judges of the supreme
16 court, intermediate appellate court and circuit courts shall be
17 ten years. Judges of district courts shall hold office for the
18 periods as provided by law. At least six months prior to the
19 expiration of a justice's or judge's term of office, every
20 justice and judge shall petition the judicial selection
21 commission to be retained in office or shall inform the



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1 commission of an intention to retire. If the judicial selection
 2 commission determines that the justice or judge should be
 3 retained in office, the commission shall renew the term of
 4 office of the justice or judge for the period provided by this
 5 section or by law.

6 Justices and judges shall be retired upon attaining the age
 7 of [~~seventy~~] eighty years. They shall be included in any
 8 retirement law of the State."

9 SECTION 3. The question to be printed on the ballot shall
 10 be as follows:

11 "Shall the mandatory retirement age for justices and judges
 12 be increased from seventy years to eighty years?"

13 SECTION 4. Constitutional material to be repealed is
 14 bracketed and stricken. New constitutional material is
 15 underscored.

16 SECTION 5. This amendment shall take effect upon
 17 compliance with article XVII, section 3, of the Constitution of
 18 the State of Hawaii.

19

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Report Title:

Retirement Age of Justices and Judges; Constitutional Amendment

Description:

Proposes a constitutional amendment to increase the mandatory retirement age for justices and judges from seventy years to eighty years.

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