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# A BILL FOR AN ACT

PROPOSING AMENDMENTS TO THE CONSTITUTION OF THE STATE OF HAWAII  
TO AMEND THE MANNER IN WHICH JUSTICES AND JUDGES ARE  
APPOINTED, CONSENTED TO, AND RETAINED.

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

1           SECTION 1. The legislature finds that the senate consent  
2 provisions of the Hawaii State Constitution relating to the  
3 appointment of district court judges are incongruous to those  
4 relating to supreme court justices and intermediate court of  
5 appeals and circuit court judges. In the case of supreme court  
6 justices and intermediate court of appeals and circuit court  
7 judges, if the senate fails to reject an initial appointment to  
8 these courts within thirty days of receiving the appointment  
9 notice, the appointee is automatically considered appointed to  
10 the judicial position. For district court judgeship appointees,  
11 the exact opposite occurs. The appointee is automatically  
12 considered rejected if not consented to by the senate within  
13 thirty days of receipt of the district court judgeship  
14 appointment.

15           The purpose of this Act is to propose amendments to article  
16 VI, section 3, of the Hawaii State Constitution to:



- 1 (1) Change the required time frame from thirty to
- 2 forty-five days for certain processes to appoint and
- 3 consent to a justice's or judge's appointment; and
- 4 (2) Mirror the appointment and senate consent procedure
- 5 for district court judges with the appointment and
- 6 senate consent procedure for supreme court justices
- 7 and intermediate court of appeals and circuit court
- 8 judges.

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

11 **"APPOINTMENT OF JUSTICES AND JUDGES**

12 **Section 3.** The governor, with the consent of the senate,  
 13 shall fill a vacancy in the office of the chief justice, supreme  
 14 court, intermediate appellate court and circuit courts[~~7~~] by  
 15 appointing a person from a list of [~~not~~] no less than four[~~7~~and  
 16 ~~not~~] but no more than six[~~7~~] nominees for the vacancy[~~7~~  
 17 presented to the governor by the judicial selection commission.

18 If the governor fails to make any appointment within  
 19 [~~thirty~~] forty-five days of presentation, or within ten days of  
 20 the senate's rejection of any previous appointment, the  
 21 appointment shall be made by the judicial selection commission

1 from the list with the consent of the senate. If the senate  
2 fails to reject any appointment within [~~thirty~~] forty-five days  
3 thereof, it shall be deemed to have [~~given its consent~~]  
4 consented to [~~such~~] the appointment. If the senate [~~shall~~  
5 ~~reject~~] rejects any appointment, the governor shall make another  
6 appointment from the list within ten days thereof. The same  
7 appointment and consent procedure shall be followed until a  
8 valid appointment has been made, or failing this, the judicial  
9 selection commission shall make the appointment from the list,  
10 without senate consent.

11 The chief justice, with the consent of the senate, shall  
12 fill a vacancy in the district courts by appointing a person  
13 from a list of [~~not~~] no less than six nominees for the vacancy  
14 presented by the judicial selection commission. If the chief  
15 justice fails to make [~~the~~] any appointment within [~~thirty~~]  
16 forty-five days of presentation, or within ten days of the  
17 senate's rejection of any previous appointment, the appointment  
18 shall be made by the judicial selection commission from the list  
19 with the consent of the senate. The senate shall hold a public  
20 hearing and vote on each appointment within [~~thirty~~] forty-five  
21 days of any appointment. [~~If the senate fails to do so, the~~





1 than ten years preceding nomination. A judge of the district  
2 court shall have been so licensed for a period of [~~not~~] no less  
3 than five years preceding nomination.

4 No justice or judge shall, during the term of office,  
5 engage in the practice of law, or run for or hold any other  
6 office or position of profit under the United States, the State  
7 or its political subdivisions.

8 **TENURE; RETIREMENT**

9 The term of office of justices and judges of the supreme  
10 court, intermediate appellate court and circuit courts shall be  
11 ten years. Judges of district courts shall hold office for the  
12 periods as provided by law. At least six months [~~prior to~~]  
13 before the expiration of a justice's or judge's term of office,  
14 every justice and judge shall petition the judicial selection  
15 commission to be retained in office or shall inform the  
16 commission of an intention to retire. If the judicial selection  
17 commission determines that the justice or judge should be  
18 retained in office, the commission shall renew the term of  
19 office of the justice or judge for the period provided by this  
20 section or by law.



1 Justices and judges shall be retired upon attaining the age  
2 of seventy years [~~They shall~~] and be included in any  
3 retirement law of the State."

4 SECTION 3. The question to be printed on the ballot shall  
5 be as follows:

6 "Should the process to appoint, consent to, and retain  
7 a state justice or judge for a term of office be amended  
8 under the Hawaii State Constitution to:

9 (1) Extend certain time periods relating to the initial  
10 appointment of a justice or judge and the senate  
11 consideration of a justice's or judge's appointment  
12 from thirty to forty-five days; and

13 (2) Mirror the appointment and senate consent procedure for  
14 district court judges with the appointment and senate  
15 consent procedure for supreme court justices and  
16 intermediate court of appeals and circuit court judges,  
17 which would require:

18 (A) A district court appointee to be automatically  
19 considered appointed if the senate fails to  
20 reject the appointment within forty-five days of  
21 receiving the appointment notice;



1           (B) The chief justice to make another appointment  
2           from the list of district court nominees within  
3           ten days if the senate rejects an appointment;  
4           and

5           (C) The appointment and consent procedure to be  
6           followed until a valid appointment is made, or  
7           failing this, the judicial selection commission  
8           to make the appointment from the list of  
9           nominees, without senate consent?"

10          SECTION 4. Constitutional material to be repealed is  
11 bracketed and stricken. New constitutional material is  
12 underscored.

13          SECTION 5. This amendment shall take effect upon  
14 compliance with article XVII, section 3, of the Constitution of  
15 the State of Hawaii.



**Report Title:**

Constitutional Amendment; Justices; Judges; Senate Consent Procedures

**Description:**

Proposes amendments to the Constitution of the State of Hawaii relating to the appointment of justices and judges. Changes certain time periods for the appointment and senate consent to a justice or judge. Mirrors the appointment and senate consent procedure for district court judges with the appointment and senate consent procedure for supreme court justices and intermediate court of appeals and circuit court judges. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

