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# A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3 OF THE HAWAII  
CONSTITUTION TO PLACE PROCEDURAL RESTRICTIONS ON THE TIMING  
OF JUDICIAL APPOINTMENTS AND CONFIRMATIONS.

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

1           SECTION 1. The purpose of this Act is to propose an  
2 amendment to article VI, section 3 of the Constitution of the  
3 State of Hawaii to allow justices and judges to be appointed and  
4 confirmed only during specified time periods.

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

7                           "APPOINTMENT OF JUSTICES AND JUDGES

8           Section 3. The governor, with the consent of the senate,  
9 shall fill a vacancy in the office of the chief justice, supreme  
10 court, intermediate appellate court and circuit courts, by  
11 appointing a person from a list of not less than four, and not  
12 more than six, nominees for the vacancy, presented to the  
13 governor by the judicial selection commission[-]; provided that  
14 the judicial selection commission shall not present a list of  
15 nominees to the governor between September 1 and November 30,



1 and the position shall remain vacant until after November 30,  
2 when the governor may be presented with a list of nominees.

3       If the governor fails to make any appointment within thirty  
4 days of presentation, or within ten days of the senate's  
5 rejection of any previous appointment, the appointment shall be  
6 made by the judicial selection commission from the list with the  
7 consent of the senate. If the senate fails to reject any  
8 appointment within thirty days thereof, it shall be deemed to  
9 have given its consent to [such] that appointment [-]; provided  
10 that, during each interim between regular sessions of the  
11 legislature, the senate shall be called into no more than two  
12 special sessions to consent to any judicial appointments, and  
13 any subsequent appointments during that interim shall be held  
14 until the start of the next regular session, when the senate may  
15 consent to the appointment or appointments within thirty days of  
16 the date the regular session convenes. If the senate shall  
17 reject any appointment, the governor shall make another  
18 appointment from the list within ten days thereof. The same  
19 appointment and consent procedure shall be followed until a  
20 valid appointment has been made, or failing this, the commission



1 shall make the appointment from the list, without senate  
2 consent.

3       The chief justice, with the consent of the senate, shall  
4 fill a vacancy in the district courts by appointing a person  
5 from a list of not less than six nominees for the vacancy  
6 presented by the judicial selection commission[-]; provided that  
7 the judicial selection commission shall not present a list of  
8 nominees to the chief justice between September 1 and  
9 November 30, and the position shall remain vacant until after  
10 November 30, when the chief justice may be presented with a list  
11 of nominees. If the chief justice fails to make the appointment  
12 within thirty days of presentation, or within ten days of the  
13 senate's rejection of any previous appointment, the appointment  
14 shall be made by the judicial selection commission from the list  
15 with the consent of the senate. The senate shall hold a public  
16 hearing and vote on each appointment within thirty days of any  
17 appointment[-]; provided that, during each interim between  
18 regular sessions of the legislature, the senate shall be called  
19 into no more than two special sessions to consent to any  
20 judicial appointments, and any subsequent appointments during  
21 that interim shall be held until the start of the next regular



1 session, when the senate may consent to the appointment or  
2 appointments within thirty days of the date the regular session  
3 convenes. If the senate fails to do so, the nomination shall be  
4 returned to the commission and the commission shall make the  
5 appointment from the list without senate consent. The chief  
6 justice shall appoint per diem district court judges as provided  
7 by law.

8       The judicial selection commission shall disclose to the  
9 public the list of nominees for each vacancy concurrently with  
10 the presentation of each list to the governor or the chief  
11 justice, as applicable.

12                                   **QUALIFICATIONS FOR APPOINTMENT**

13       Justices and judges shall be residents and citizens of the  
14 State and of the United States, and licensed to practice law by  
15 the supreme court. A justice of the supreme court, a judge of  
16 the intermediate appellate court and a judge of the circuit  
17 court shall have been so licensed for a period of not less than  
18 ten years preceding nomination. A judge of the district court  
19 shall have been so licensed for a period of not less than five  
20 years preceding nomination.



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

5 **TENURE; RETIREMENT**

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

18 Justices and judges shall be retired upon attaining the age  
19 of seventy years. They shall be included in any retirement law  
20 of the State."



1 SECTION 3. The question to be printed on the ballot shall  
2 be as follows:

3 "Shall the Constitution of the State of Hawaii be  
4 amended to place procedural restrictions on the timing of  
5 when judicial appointments and confirmations may occur?"

6 SECTION 4. Constitutional material to be repealed is  
7 bracketed and stricken. New constitutional material is  
8 underscored.

9 SECTION 5. This amendment shall take effect upon  
10 compliance with article XVII, section 3, of the Constitution of  
11 the State of Hawaii.



**Report Title:**

Justices and Judges; Appointment; Confirmation; Constitutional Amendment

**Description:**

Proposes an amendment to the state constitution to place procedural restrictions on the timing of judicial appointments and confirmations. Establishes a window between September 1 and November 30 during which the judicial selection commission may not present a list of nominees to the Governor or Chief Justice. Provides that the Senate shall be called into no more than 2 special sessions during each interim between regular sessions of the Legislature to consent to a judicial appointment. (SD1)

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

