
A BILL FOR AN ACT

PROPOSING AMENDMENTS TO ARTICLE IV, SECTIONS 4 AND 6, OF THE
HAWAII STATE CONSTITUTION REGARDING REAPPORTIONMENT.

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

1 SECTION 1. The legislature finds that the Hawaii State
2 Constitution is unique in its determination of resident
3 population for reapportionment purposes. Reapportionment is the
4 process of re-distributing seats for elected officials so that
5 the seats are relatively evenly distributed based on the
6 resident population. Ever since ratification by voters in
7 November 1992, article IV, sections 4 and 6, of the Hawaii State
8 Constitution have required that reapportionment for state
9 senators and representatives be based on the average number of
10 "permanent residents" in each district. Any resident not deemed
11 permanent--even if included in the decennial United States
12 census count as a "usual resident" of the State--is extracted
13 (or deleted) from the total used by the state reapportionment
14 commission and therefore not factored into the allocation of
15 state senate and house districts.



1 The legislature further finds that forty-nine states base
2 their reapportionment process on the United States census data
3 and the concept of "usual residents". The United States census
4 defines "usual residence" as "the place where a person lives and
5 sleeps most of the time". 83 Fed. Reg. 5525 (Feb. 8, 2018).
6 For federal House of Representatives purposes, Hawaii's two
7 seats are allocated based on the census data. Hawaii ignores
8 this approach for allocation of state senate and house districts
9 and simply extracts non-permanent residents from the census
10 total. Kansas, the only other state that did not use unadjusted
11 census numbers for several reapportionments, stopped the
12 practice when voters supported a state constitutional amendment
13 in 2019. Kansas now uses the most recent census data as
14 published by the United States Census Bureau. Hawaii remains
15 the outlier in this regard. The practical effect of Hawaii's
16 method is that thousands of military members, their dependents,
17 and college students who reside in the State but are not
18 permanent residents are excluded from reapportionment.
19 Furthermore, these individuals are also not counted in another
20 state for reapportionment purposes since all other states base
21 their process on the United States census data.



1 The legislature additionally finds that the United States
2 Constitution's equal protection clause requires equal
3 representation of all persons. Elected officials represent and
4 serve all persons living in a specific geographic area,
5 regardless of their residence status. It is neither rational
6 nor fair to ignore the many non-permanent resident military
7 members, their dependents, and college students living in the
8 State, since state and county services are provided regardless
9 of the individual's reapportionment status. Under the State's
10 current extraction method there are, in some census tracts, a
11 negative net population. District to district, there is also
12 uneven and unequal representation because those excluded are not
13 evenly distributed across the districts. Fundamentally,
14 individuals who are extracted live in a specific area and should
15 be counted for representation purposes of that district.

16 The purpose of this Act is to propose amendments to article
17 IV, sections 4 and 6, of the Hawaii State Constitution to
18 specify that reapportionment shall be based on the resident
19 population, as counted in the decennial United States census for
20 the respective reapportionment year.



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

3 "Section 4. The commission shall allocate the total number
4 of members of each house of the state legislature being
5 reapportioned among the four basic island units, namely: (1)
6 the island of Hawaii, (2) the islands of Maui, Lanai, Molokai
7 and Kahoolawe, (3) the island of Oahu and all other islands not
8 specifically enumerated, and (4) the islands of Kauai and
9 Niihau, using the total number of [~~permanent~~] residents, as
10 reported by the decennial census of the United States for the
11 respective reapportionment year, in each of the basic island
12 units and computed by the method known as the method of equal
13 proportions; except that no basic island unit shall receive less
14 than one member in each house."

15 SECTION 3. Article IV, section 6, of the Hawaii State
16 Constitution is amended to read as follows:

17 "Section 6. Upon the determination of the total number of
18 members of each house of the state legislature to which each
19 basic island unit is entitled, the commission shall apportion
20 the members among the districts therein and shall redraw
21 district lines where necessary in such manner that for each



1 house the average number of [~~permanent~~] residents, as reported
2 by the decennial census of the United States for the respective
3 reapportionment year, per member in each district is as nearly
4 equal to the average for the basic island unit as practicable.

5 In effecting such redistricting, the commission shall be
6 guided by the following criteria:

7 1. No district shall extend beyond the boundaries of any
8 basic island unit.

9 2. No district shall be so drawn as to unduly favor a
10 person or political faction.

11 3. Except in the case of districts encompassing more than
12 one island, districts shall be contiguous.

13 4. Insofar as practicable, districts shall be compact.

14 5. Where possible, district lines shall follow permanent
15 and easily recognized features, such as streets, streams and
16 clear geographical features, and, when practicable, shall
17 coincide with census tract boundaries.

18 6. Where practicable, representative districts shall be
19 wholly included within senatorial districts.

20 7. Not more than four members shall be elected from any
21 district.



1 8. Where practicable, submergence of an area in a larger
2 district wherein substantially different socio-economic
3 interests predominate shall be avoided."

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

6 "Shall the method of reapportionment, which is the
7 redrawing of electoral district boundaries in the State, be
8 changed so that reapportionment is based on the total
9 number of residents in the State, as reported by the
10 decennial census of the United States for the respective
11 reapportionment year, and not based on the total number of
12 permanent residents in the State?"

13 SECTION 5. Constitutional material to be repealed is
14 bracketed and stricken. New constitutional material is
15 underscored.

16 SECTION 6. This amendment shall take effect upon
17 compliance with article XVII, section 3, of the Constitution of
18 the State of Hawaii.



Report Title:

Reapportionment; Constitutional Amendment

Description:

Proposes a constitutional amendment to specify that reapportionment shall be based on the resident population, as counted in the decennial United States census for the respective reapportionment year, rather than the permanent resident population. (SD2)

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

