
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. Since being ratified by voters in November
7 1992, section 4 and 6, of the Hawaii State Constitution have
8 required that reapportionment for state senators and
9 representatives be based on the average number of "permanent
10 residents" in each district. Any resident not deemed permanent,
11 even if included in the decennial United States census count as
12 a "usual resident" of the State, is extracted, or deleted, from
13 the total used by the state reapportionment commission and
14 therefore not factored into the allocation of state senate and
15 house districts.



1 The legislature further finds that forty-seven 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, Hawai'i's two
7 seats are allocated based on the census data. Hawai'i ignores
8 this approach and simply extracts non-permanent residents from
9 the census total. Kansas, one of the only other states that did
10 not use unadjusted census numbers for several reapportionments,
11 stopped the practice when voters supported a state
12 constitutional amendment in 2019. Kansas now uses the most
13 recent census data as published by the United States Census
14 Bureau. Hawai'i remains an outlier in this regard. The
15 practical effect of Hawai'i's method is that thousands of
16 military members, their dependents, and college students who
17 reside in the State but are not permanent residents are excluded
18 from reapportionment. Furthermore, these individuals are also
19 not counted in another state for reapportionment purposes since
20 all other states base their process on the United States census
21 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 Accordingly, the purpose of this Act is to propose
17 amendments to article IV, sections 4 and 6, of the Hawaii State
18 Constitution to specify that reapportionment shall be based on
19 the resident population, as counted in the decennial United
20 States census for the respective reapportionment year.



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

3 **"APPORTIONMENT AMONG BASIC ISLAND UNITS**

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

16 SECTION 3. Article 4, section 6, of the Constitution of
17 the State of Hawaii is amended to read as follows:

18 **"APPORTIONMENT WITHIN BASIC ISLAND UNITS**

19 **Section 6.** Upon the determination of the total number of
20 members of each house of the state legislature to which each
21 basic island unit is entitled, the commission shall apportion



1 the members among the districts therein and shall redraw
2 district lines where necessary in such manner that for each
3 house the average number of [~~permanent~~] residents, as reported
4 by the decennial census of the United States for the respective
5 reapportionment year, per member in each district is as nearly
6 equal to the average for the basic island unit as practicable.

7 In effecting such redistricting, the commission shall be
8 guided by the following criteria:

9 1. No district shall extend beyond the boundaries of any
10 basic island unit.

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

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

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

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

20 6. Where practicable, representative districts shall be
21 wholly included within senatorial districts.



1 7. Not more than four members shall be elected from any
2 district.

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

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

8 "Shall the method of reapportionment, which is the
9 redrawing of electoral district boundaries in the State, be
10 changed so that reapportionment is based on the total
11 number of residents in the State, as reported by the
12 decennial census of the United States for the respective
13 reapportionment year, rather than based on the number of
14 permanent residents in the State?"

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

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



Report Title:

Reapportionment; Census Data; 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. (SD1)

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