

NOTICE OF PROPOSED CONSTITUTIONAL AMENDMENTS TO THE CONSTITUTION OF THE STATE OF HAWAII

During the Regular Sessions of 2013 and 2014, Twenty-Seventh Legislature, FIVE (5) measures containing proposed constitutional amendments were adopted in conformance with the requirements of Article XVII, Section 3 of the Hawaii State Constitution.

H.B. No. 420, H.D. 1

PROPOSING AN AMENDMENT TO THE HAWAII STATE CONSTITUTION TO REQUIRE DISCLOSURE OF THE NAMES OF JUDICIAL NOMINEES.

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

SECTION 1. The purpose of this Act is to propose an amendment to article VI, section 3, of the Constitution of the State of Hawaii to require the judicial selection commission to publicly disclose the names of all nominees to fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court, circuit courts, or district courts when presenting those names to the governor or the chief justice.

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

"APPOINTMENT OF JUSTICES AND JUDGES

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

If the governor fails to make any appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the commission shall make the appointment from the list, without senate consent.

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

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

QUALIFICATIONS FOR APPOINTMENT

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

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

TENURE; RETIREMENT

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

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

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

"Shall the judicial selection commission, when presenting a list of nominees to the governor or the chief justice to fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court, circuit courts or district courts, be required, at the same time, to disclose that list to the public?"

SECTION 4. New constitutional material is underscored.

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

H.B. No. 748, H.D. 2, S.D. 1, C.D. 1

PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO AUTHORIZE THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST AGRICULTURAL ENTERPRISES.

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

SECTION 1. The purpose of this Act is to propose an amendment to article VII, section 12, of the Constitution of the State of Hawaii to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist agricultural enterprises on any type of land.

SECTION 2. Article VII, section 12, of the Constitution of the State of Hawaii is amended to read as follows:

"DEFINITIONS; ISSUANCE OF INDEBTEDNESS

Section 12. For the purposes of this article:

1. The term "bonds" shall include bonds, notes and other instruments of indebtedness.
2. The term "general obligation bonds" means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged and, unless otherwise indicated, includes reimbursable general obligation bonds.

3. The term "net revenues" or "net user tax receipts" means the revenues or receipts derived from:

- a. A public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of the public undertaking, improvement or system, and the required payments of the principal of and interest on all revenue bonds issued therefor, have been made; or
- b. Any payments or return on security under a loan program or a loan thereunder, after the costs of operation and administration of the loan program, and the required payments of the principal of and interest on all revenue bonds issued therefor, have been made.

4. The term "person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing.

5. The term "rates, rentals and charges" means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder; provided that insurance premium payments, assessments and surcharges, shall constitute rates, rentals and charges of a state property insurance program.

6. The term "reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement or system from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.

7. The term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law, including a loan program to provide loans to a state property insurance program providing hurricane insurance coverage to the general public.

8. The term "special purpose revenue bonds" means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law.

9. The term "user tax" means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system; provided that mortgage recording taxes shall constitute user taxes of a state property insurance program.

The legislature, by a majority vote of the members to which each house is entitled, shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivisions to issue general obligation bonds, bonds issued under special improvement statutes and revenue bonds and shall prescribe the manner and procedure for such issuance. All such bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision.

Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist:

1. Manufacturing, processing, or industrial enterprises;
2. Utilities serving the general public;
3. Health care facilities provided to the general public by not-for-profit corporations;
4. Early childhood education and care facilities provided to the general public by not-for-profit corporations;
5. Low and moderate income government housing programs;
6. Not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges and universities; or
7. Agricultural enterprises [~~servicing important agricultural lands~~],

each of which is hereinafter referred to in this paragraph as a special purpose entity.

The legislature, by a two-thirds vote of the members to which each house is entitled, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and, by a two-thirds vote of the members to which each house is entitled and by separate legislative bill, may authorize the State to issue special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the legislature; and provided further that the State may combine into a single issue of special purpose revenue bonds two or more proposed issues of special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities, and agricultural enterprises, separately authorized as aforesaid, in the total amount [øf] not exceeding the aggregate of the proposed separate issues of special purpose revenue bonds. The legislature may enact enabling legislation to authorize political subdivisions to issue special purpose revenue bonds. If so authorized, a political subdivision by a two-thirds vote of the members to which its governing body is entitled and by separate ordinance may authorize the issuance of special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the governing body of the political subdivision. No special purpose revenue bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person or persons under contract or from any security for such contract or contracts or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof. The governor shall provide the legislature in November of each year with a report on the cumulative amount of all special purpose revenue bonds authorized and issued, and such other information as may be necessary."

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

"Shall the State be authorized to issue special purpose revenue bonds and use the proceeds from the bonds to assist agricultural enterprises on any type of land, rather than only important agricultural lands?"

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

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

S.B. No. 886

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

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

SECTION 1. The purpose of this Act is to propose an amendment to article VI, section 3, of the Constitution of the State of Hawaii to increase the mandatory retirement age for justices and judges to the age of eighty years.

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

"APPOINTMENT OF JUSTICES AND JUDGES

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

If the governor fails to make any appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the commission shall make the appointment from the list, without senate consent.

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

QUALIFICATIONS FOR APPOINTMENT

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

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

TENURE; RETIREMENT

The term of office of justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods as provided by law. At least six months prior to the expiration of a justice's or judge's term of

office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew the term of office of the justice or judge for the period provided by this section or by law.

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

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

"Shall the mandatory retirement age for all state court justices and judges be increased from seventy to eighty years of age?"

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

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

S.B. No. 1084, S.D. 1, H.D. 1, C.D. 1

PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 1, OF THE HAWAII STATE CONSTITUTION TO PERMIT THE APPROPRIATION OF PUBLIC FUNDS FOR PRIVATE EARLY CHILDHOOD EDUCATION PROGRAMS.

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

SECTION 1. The purpose of this Act is to propose an amendment to article X, section 1, of the Hawaii state constitution to permit the appropriation of public funds for private early childhood education programs to help the State meet its goal of providing an early learning system for the children of Hawaii.

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

"PUBLIC EDUCATION

Section 1. The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no discrimination in public educational institutions because of race, religion, sex or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or nonsectarian private educational institution, except that public funds may be appropriated for the support or benefit of private early childhood education programs, subject to the non-discrimination provision above, as provided by law, and that proceeds of special purpose revenue bonds authorized or issued under section 12 of Article VII may be appropriated to finance or assist:

1. Not-for-profit corporations that provide early childhood education and care facilities serving the general public; and
2. Not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges and universities."

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

"Shall the appropriation of public funds be permitted for the support or benefit of private early childhood education programs that shall not discriminate on the basis of race, religion, sex or ancestry, as provided by law?"

SECTION 4. New constitutional material is underscored.

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

S.B. No. 2876, S.D. 2, H.D. 2

PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS.

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

SECTION 1. The purpose of this Act is to propose an amendment to article VII, section 12, of the Hawaii State Constitution to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to offer loans to assist dam and reservoir owners to improve their facilities to protect public safety and provide significant benefits to the general public as important water sources.

SECTION 2. Article VII, section 12, of the Constitution of the State of Hawaii is amended to read as follows:

"DEFINITIONS; ISSUANCE OF INDEBTEDNESS

Section 12. For the purposes of this article:

1. The term "bonds" shall include bonds, notes and other instruments of indebtedness.
2. The term "general obligation bonds" means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are pledged and, unless otherwise indicated, includes reimbursable general obligation bonds.
3. The term "net revenues" or "net user tax receipts" means the revenues or receipts derived from:
 - a. A public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of the public undertaking, improvement or system, and the required payments of the principal of and interest on all revenue bonds issued therefor, have been made; or
 - b. Any payments or return on security under a loan program or a loan thereunder, after the costs of operation and administration of the loan program, and the required payments of the principal of and interest on all revenue bonds issued therefor, have been made.
4. The term "dam and reservoir owner" means any person who has a right to, title to, or an interest in, a dam, a reservoir, or the property upon which a dam, a reservoir, or appurtenant work is located or proposed to be located.

[4-] 5. The term "person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing.

[5-] 6. The term "rates, rentals and charges" means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder; provided that insurance premium payments, assessments and surcharges, shall constitute rates, rentals and charges of a state property insurance program.

[6-] 7. The term "reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement or system from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.

[7-] 8. The term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law, including a loan program to provide loans to a state property insurance program providing hurricane insurance coverage to the general public.

[8-] 9. The term "special purpose revenue bonds" means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law.

[9-] 10. The term "user tax" means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system; provided that mortgage recording taxes shall constitute user taxes of a state property insurance program.

The legislature, by a majority vote of the members to which each house is entitled, shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivisions to issue general obligation bonds, bonds issued under special improvement statutes and revenue bonds and shall prescribe the manner and procedure for such issuance. All such bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision.

Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist:

1. Manufacturing, processing[;] or industrial enterprises;
2. Utilities serving the general public;
3. Health care facilities provided to the general public by not-for-profit corporations;
4. Early childhood education and care facilities provided to the general public by not-for-profit corporations;
5. Low and moderate income government housing programs;
6. Not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges and universities; [ø]
7. Agricultural enterprises serving important agricultural lands[;]; or
8. Dam and reservoir owners; provided that the bonds are issued for and the proceeds are used to offer loans to assist dam and reservoir owners to improve their facilities to protect public safety and provide significant benefits to the general public as important water sources,

each of which is hereinafter referred to in this paragraph as a special purpose entity.

The legislature, by a two-thirds vote of the members to which each house is entitled, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each

special purpose entity, and, by a two-thirds vote of the members to which each house is entitled and by separate legislative bill, may authorize the State to issue special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the legislature; and provided further that the State may combine into a single issue of special purpose revenue bonds two or more proposed issues of special purpose revenue bonds to assist [~~not-for-profit~~]:

(1) Not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities[-]; or

(2) Dam and reservoir owners,

separately authorized as aforesaid, in the total amount [øf] not exceeding the aggregate of the proposed separate issues of special purpose revenue bonds. The legislature may enact enabling legislation to authorize political subdivisions to issue special purpose revenue bonds. If so authorized, a political subdivision by a two-thirds vote of the members to which its governing body is entitled and by separate ordinance may authorize the issuance of special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the governing body of the political subdivision. No special purpose revenue bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person or persons under contract or from any security for such contract or contracts or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof. The governor shall provide the legislature in November of each year with a report on the cumulative amount of all special purpose revenue bonds authorized and issued, and such other information as may be necessary."

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

"Shall the State be authorized to issue special purpose revenue bonds and use the proceeds from the bonds to offer loans to qualifying dam and reservoir owners to improve their facilities to protect public safety and provide significant benefits to the general public as important water sources?"

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

SECTION 5. This Act shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

BRIAN TAKESHITA
Clerk of the House of Representatives

CAROL TANIGUCHI
Clerk of the Senate