
HOUSE CONCURRENT RESOLUTION

ESTABLISHING A TASK FORCE TO REVIEW THE RETIREMENT AGE FOR STATE COURT JUSTICES AND JUDGES; THE TERM LIMITS OF STATE COURT JUSTICES AND JUDGES; THE POSSIBILITY OF ESTABLISHING A SENIOR JUDGE SYSTEM FOR STATE COURT JUSTICES AND JUDGES; JUDICIAL ACCOUNTABILITY AND FITNESS IN THE STATE OF HAWAII; AND RELATED MATTERS.

1 WHEREAS, Article VI, Section 3, of the Constitution of the
2 State of Hawaii currently requires that state court justices and
3 judges retire from the bench upon attaining the age of 70 years;
4 and

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6 WHEREAS, Senate Bill No. 995, Regular Session of 2006,
7 proposed a repeal of the constitutional provision mandating the
8 retirement of justices and judges at age 70; and

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10 WHEREAS, Senate Bill No. 995 passed both the House of
11 Representatives and the Senate by the two-thirds vote, as
12 required by Article XVII, Section 3, of the Constitution of the
13 State of Hawaii; and

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15 WHEREAS, the proposed repeal of the mandatory retirement
16 age for justices and judges was duly placed on the ballot and
17 submitted to the voters for ratification or rejection at the
18 general election on November 7, 2006; and

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20 WHEREAS, only 34.8 percent of the electorate voted in favor
21 of the repeal and 57.8 percent of the electorate voted against
22 repealing the mandatory retirement age for justices and judges;
23 and

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25 WHEREAS, the proposed repeal of the mandatory retirement
26 age for justices and judges failed to obtain the majority of all
27 the votes tallied upon the proposal and was therefore rejected;
28 and



1 WHEREAS, Hawaii has no senior judge system and the system
2 of judicial accountability and determining judicial fitness has
3 not been studied; and
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5 WHEREAS, major concerns with the proposed amendment
6 included the lack of any careful study of:
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- 8 (1) The effects of a repeal of the retirement age on the
9 Judiciary and the administration of justice, including
10 a study of whether the retirement age should be
11 retained, altered, or eliminated and, if so, whether
12 prospectively only;
- 13 (2) Current term limits for state court justices and
14 judges;
- 15 (3) Whether there should be a senior judge system for
16 state court justices and judges; and
- 17 (4) Whether there is currently sufficient judicial
18 accountability and means for determining judicial
19 fitness;
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24 and

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26 WHEREAS, a study:

- 27 (1) Reviewing the practices of other jurisdictions
28 regarding: the regulation of judicial retirement,
29 term limits for judges, a senior judge system,
30 judicial accountability, and means for determining
31 judicial fitness;
- 32 (2) Identifying public policies promoted or impeded by:
33 the current Hawaii mandatory judicial retirement age
34 or its alternatives, judicial term limits, the lack of
35 a senior judge system in Hawaii, the current Hawaii
36 system of judicial accountability, and the current
37 Hawaii means for determining judicial fitness; and
- 38 (3) Collecting data on the impact of changing any of the
39 above;
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1 would be valuable in facilitating an informed discussion of,
2 evaluating the merits of retaining, repealing, or amending the
3 current Hawaii: mandatory judicial retirement age, including if
4 there is to be a change whether it should be prospective only;
5 judicial term limits; lack of a senior judge system; system of
6 judicial accountability; means for determining judicial fitness;

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8 now, therefore,

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10 BE IT RESOLVED by the House of Representatives of the
11 Twenty-fourth Legislature of the State of Hawaii, Regular
12 Session of 2008, the Senate concurring, that a task force be
13 convened to:

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15 (1) Collect relevant data, including, but not limited to,
16 practices in other jurisdictions; and

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18 (2) Identify public policies promoted or impeded by, and
19 make recommendations on the repeal, amendment, or
20 retention of the:

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22 (A) Mandatory judicial retirement age;

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24 (B) Judicial term limits;

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26 (C) Lack of a senior judge system;

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28 (D) Current system of judicial accountability; and

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30 (E) Current means for determining judicial fitness;

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32 and

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34 BE IT FURTHER RESOLVED that the task force be composed of
35 the following members:

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37 (1) The Dean of the William S. Richardson School of Law,
38 who is requested to serve as the chairperson;

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40 (2) The Attorney General, or the Attorney General's
41 designee;

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43 (3) The United States Attorney for the District of Hawaii,
44 or designee;



- 1 (4) A representative of each county prosecuting attorney's
- 2 office;
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- 4 (5) A representative from the Office of the Public
- 5 Defender;
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- 7 (6) A representative of the Hawaii State Bar Association;
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- 9 (7) The Chairperson of the Judicial Selection Commission,
- 10 or the Chairperson's designee;
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- 12 (8) A representative of the appellate judges of Hawaii, to
- 13 be selected by the Chief Justice;
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- 15 (9) A representative of the district and circuit judges of
- 16 Hawaii, to be selected by them;
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- 18 (10) A representative of the American Civil Liberties
- 19 Union; and
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- 21 (11) A member of the public, to be appointed by the
- 22 Governor;
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24 and

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26 BE IT FURTHER RESOLVED that the University of Hawaii is
27 requested to provide administrative, clerical, and other
28 necessary staff support to the task force; and

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30 BE IT FURTHER RESOLVED that the task force is requested to
31 report its findings and recommendations, including any proposed
32 legislation, to the Legislature no later than 20 days prior to
33 the convening of the Regular Session of 2009; and

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35 BE IT FURTHER RESOLVED that certified copies of this
36 Concurrent Resolution be transmitted to the Dean of the William
37 S. Richardson School of Law, Attorney General, United
38 States Attorney for the District of Hawaii, Prosecuting Attorney
39 for each county, Office of the Public Defender, President of the
40 Hawaii State Bar Association, Chairperson of the Judicial



1 Selection Commission, Chief Justice, Administrative Director of
2 the Courts, Executive Director of the American Civil Liberties
3 Union of Hawaii, Governor, and President of the University of
4 Hawaii.

