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# A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO EXTEND THE  
MANDATORY RETIREMENT AGE FOR STATE JUSTICES AND JUDGES FROM  
SEVENTY TO EIGHTY YEARS OF AGE.

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

1           SECTION 1. The legislature finds that in today's society,  
2 individuals are living longer, healthier lives, as evidenced by  
3 the growing number of older individuals throughout the United  
4 States and the world. The legislature further finds that a  
5 benefit of our aging society is the wisdom, experience, and  
6 skills that these older individuals possess, which should be  
7 both valued and respected, particularly in the workforce.

8           The legislature determines that the age restriction placed  
9 upon Hawaii's justices and judges, who are highly educated  
10 individuals who have served as learned members of the bar and  
11 now the bench, should be reconsidered. The wealth of knowledge  
12 and experience in interpreting Hawaii's laws that is retained by  
13 these individuals is invaluable to the residents of Hawaii.

14           The purpose of this Act is to propose an amendment to  
15 article VI, section 3, of the Constitution of the State of  
16 Hawaii to extend the mandatory retirement age for newly



1 appointed state court justices and judges from seventy to eighty  
2 years of age.

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

5 **"APPOINTMENT OF JUSTICES AND JUDGES**

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

12 If the governor fails to make any appointment within thirty  
13 days of presentation, or within ten days of the senate's  
14 rejection of any previous appointment, the appointment shall be  
15 made by the judicial selection commission from the list with the  
16 consent of the senate. If the senate fails to reject any  
17 appointment within thirty days thereof, it shall be deemed to  
18 have given its consent to [~~such~~] the appointment. If the senate  
19 [~~shall reject~~] rejects any appointment, the governor shall make  
20 another appointment from the list within ten days thereof. The  
21 same appointment and consent procedure shall be followed until a  
22 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. If the chief  
7 justice fails to make the appointment within thirty days of  
8 presentation, or within ten days of the senate's rejection of  
9 any previous appointment, the appointment shall be made by the  
10 judicial selection commission from the list with the consent of  
11 the senate. The senate shall hold a public hearing and vote on  
12 each appointment within thirty days of any appointment. If the  
13 senate fails to do so, the nomination shall be returned to the  
14 commission and the commission shall make the appointment from  
15 the list without senate consent. The chief justice shall  
16 appoint per diem district court judges as provided by law.

17                   **QUALIFICATIONS FOR APPOINTMENT**

18       Justices and judges shall be residents and citizens of the  
19 State and of the United States, and licensed to practice law by  
20 the supreme court. A justice of the supreme court, a judge of  
21 the intermediate appellate court and a judge of the circuit  
22 court shall have been so licensed for a period of not less than



1 ten years preceding nomination. A judge of the district court  
2 shall have been so licensed for a period of not less than five  
3 years preceding nomination.

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

8 **TENURE; RETIREMENT**

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

21 Justices and judges shall be retired upon attaining the age  
22 of [~~seventy~~] eighty years [~~—They~~], with the exception of



1 justices or judges first appointed prior to November 5, 2008,  
2 who shall be retired upon attaining the age of seventy years.  
3 Justices and judges shall be included in any retirement law of  
4 the State."

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

7 "Shall the mandatory retirement age for all state court  
8 justices and judges be extended from seventy to eighty years  
9 of age for those state court justices and judges appointed  
10 after November 4, 2008?"

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

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



**Report Title:**

Judges; Mandatory Retirement Age; Constitutional Amendment

**Description:**

Proposes a constitutional amendment to change the mandatory retirement age from 70 to 80 years for justices and judges appointed after November 4, 2008. (SB3202 HD1)

