
A BILL FOR AN ACT

PROPOSING AMENDMENTS TO THE CONSTITUTION OF THE STATE OF HAWAII
TO AMEND THE MANNER IN WHICH JUSTICES AND JUDGES ARE
APPOINTED, CONSENTED TO, AND RETAINED.

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

1 SECTION 1. The legislature finds that the senate consent
2 provisions of the Hawaii State Constitution relating to the
3 appointment of district court judges are incongruous to those
4 relating to supreme court justices and intermediate court of
5 appeals and circuit court judges. In the case of supreme court
6 justices and intermediate court of appeals and circuit court
7 judges, if the senate fails to reject an initial appointment to
8 these courts within thirty days of receiving the appointment
9 notice, the appointee is automatically considered appointed to
10 the judicial position. For district court judgeship appointees,
11 the exact opposite occurs. The appointee is automatically
12 considered rejected if not consented to by the senate within
13 thirty days of receipt of the district court judgeship
14 appointment.

15 The purpose of this Act is to propose amendments to article
16 VI, section 3, of the Hawaii State Constitution to:



- 1 (1) Change the required time frame from thirty to
2 forty-five days for certain processes to appoint and
3 consent to a justice's or judge's appointment; and
4 (2) Harmonize the senate consent provisions for district
5 court judgeship nominees to mirror the senate consent
6 provisions relating to supreme court justices and
7 intermediate court of appeals and circuit court
8 judges.

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

11 **"APPOINTMENT OF JUSTICES AND JUDGES**

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

18 If the governor fails to make any appointment within
19 [~~thirty~~] forty-five days of presentation, or within ten days of
20 the senate's rejection of any previous appointment, the
21 appointment shall be made by the judicial selection commission



1 from the list with the consent of the senate. If the senate
2 fails to reject any appointment within [~~thirty~~] forty-five days
3 thereof, it shall be deemed to have [~~given its consent~~]
4 consented to [~~such~~] the appointment. If the senate [~~shall~~
5 ~~reject~~] rejects any appointment, the governor shall make another
6 appointment from the list within ten days thereof. The same
7 appointment and consent procedure shall be followed until a
8 valid appointment has been made, or failing this, the judicial
9 selection commission shall make the appointment from the list,
10 without senate consent.

11 The chief justice, with the consent of the senate, shall
12 fill a vacancy in the district courts by appointing a person
13 from a list of not less than six nominees for the vacancy
14 presented by the judicial selection commission. If the chief
15 justice fails to make [~~the~~] any appointment within [~~thirty~~]
16 forty-five days of presentation, or within ten days of the
17 senate's rejection of any previous appointment, the appointment
18 shall be made by the judicial selection commission from the list
19 with the consent of the senate. The senate shall hold a public
20 hearing and vote on each appointment within [~~thirty~~] forty-five
21 days of any appointment. [~~If the senate fails to do so, the~~



1 ~~nomination shall be returned to the commission and the~~
2 ~~commission shall make the appointment from the list without~~
3 ~~senate consent.] If the senate fails to reject any appointment~~
4 ~~within forty-five days thereof, it shall be deemed to have~~
5 ~~consented to the appointment. If the senate rejects any~~
6 ~~appointment, the chief justice shall make another appointment~~
7 ~~from the list within ten days thereof. The same appointment and~~
8 ~~consent procedure shall be followed until a valid appointment~~
9 ~~has been made, or failing this, the judicial selection~~
10 ~~commission shall make the appointment from the list, without~~
11 ~~senate consent.~~ The chief justice shall appoint per diem
12 district court judges as provided by law.

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

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



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

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

9 **TENURE; RETIREMENT**

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



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

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

6 "Should the process to appoint, consent to, and retain
7 a justice or judge for a term of office be amended to:

- 8 (1) Extend certain time periods relating to appointment
9 and consideration of a justice's or judge's
10 appointment from thirty to forty-five days; and
11 (2) Harmonize the senate consent procedures for district
12 court judgeship nominees so that these procedures
13 mirror the senate consent procedures relating to
14 supreme court justices and intermediate court of appeals
15 and circuit court judges?"

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

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



Report Title:

Constitutional Amendment; Justices; Judges; Consent; Senate
Consent Procedures

Description:

Proposes amendments to the Constitution of the State of Hawaii relating to the appointment of justices and judges. Changes from 30 to 45 days certain time periods for the appointment and consent to a justice or judge. Harmonizes the Senate consent procedures for district court judgeship nominees to mirror the Senate consent procedures for Supreme Court justices and Intermediate Court of Appeals and circuit court judges. (SD2)

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

