

JAN 23 2006

A BILL FOR AN ACT

PROPOSING AMENDMENTS TO THE HAWAII CONSTITUTION RELATING TO THE
ATTORNEY GENERAL.

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

1 SECTION 1. The purpose of this Act is to propose an
2 amendment to article V of the Constitution of the State of
3 Hawaii to provide that the attorney general be elected by the
4 vote of the general public rather than appointed by the
5 governor.

6 SECTION 2. Article V of the Constitution of the State of
7 Hawaii is amended by adding a new section to be appropriately
8 designated and to read as follows:

9 **"ATTORNEY GENERAL**

10 **Section** . There shall be an attorney general who shall be
11 elected from among nonpartisan candidates by the qualified
12 voters of this State at a general election. The person
13 receiving the highest number of votes shall be the attorney
14 general. In the case of a tie vote, the selection of the
15 attorney general shall be determined as provided by law.

16 The term of office of the attorney general shall begin and
17 end on the same dates as the governor, and no person shall be



1 elected to the office of attorney general for more than two
2 consecutive full terms.

3 No person shall be eligible for the office of attorney
4 general unless the person is a qualified voter, has attained the
5 age of thirty years, has been a licensed attorney in this State
6 for at least years and has been a resident of this State
7 for five years immediately preceding the person's election.

8 The attorney general shall not hold any other office or
9 employment of profit under the State or the United States during
10 the attorney general's term of office.

11 The powers, duties and compensation of the attorney general
12 shall be as provided by law.

13 When the office of attorney general is vacant, or in the
14 event of the absence of the attorney general from the State or
15 the attorney general's inability to exercise and discharge the
16 powers and duties of the attorney general, such powers and
17 duties shall devolve upon the deputy attorneys general in order
18 of succession as may be provided by law.

19 In the event of impeachment of the attorney general, the
20 attorney general shall not exercise the powers of the attorney
21 general until acquitted."



1 SECTION 3. Article III, section 19, of the Constitution of
2 the State of Hawaii is amended to read as follows:

3 "IMPEACHMENT

4 Section 19. The governor [~~and~~], lieutenant governor, the
5 attorney general and any appointive officer for whose removal
6 the consent of the senate is required[~~7~~] may be removed from
7 office upon conviction of impeachment for such causes as may be
8 provided by law.

9 The house of representatives shall have the sole power of
10 impeachment of the governor [~~and~~], lieutenant governor and
11 attorney general, and the senate the sole power to try such
12 impeachments, and no such officer shall be convicted without the
13 concurrence of two-thirds of the members of the senate. When
14 sitting for that purpose, the members of the senate shall be on
15 oath or affirmation and the chief justice shall preside.
16 Subject to the provisions of this paragraph, the legislature may
17 provide for the manner and procedure of removal by impeachment
18 of such officers.

19 The legislature shall by law provide for the manner and
20 procedure of removal by impeachment of the appointive officers.

21 Judgments in cases of impeachment shall not extend beyond
22 removal from office and disqualification to hold and enjoy any



1 office of honor, trust or profit under the State; but the person
2 convicted may nevertheless be liable and subject to indictment,
3 trial, judgment and punishment as provided by law."

4 SECTION 4. Article V, section 6, of the Constitution of
5 the State of Hawaii is amended to read as follows:

6 **"EXECUTIVE AND ADMINISTRATIVE OFFICES**
7 **AND DEPARTMENTS**

8 **Section 6.** All executive and administrative offices,
9 departments and instrumentalities of the state government and
10 their respective powers and duties shall be allocated by law
11 among and within not more than twenty principal departments in
12 such a manner as to group the same according to common purposes
13 and related functions. Temporary commissions or agencies for
14 special purposes may be established by law and need not be
15 allocated within a principal department.

16 Each principal department shall be under the supervision of
17 the governor and, unless otherwise provided in this constitution
18 or by law, shall be headed by a single executive. Such single
19 executive shall be nominated and, by and with the advice and
20 consent of the senate, appointed by the governor. That person
21 shall hold office for a term to expire at the end of the term
22 for which the governor was elected, unless sooner removed by the



1 governor [~~; except that the removal of the chief legal officer of~~
2 ~~the State shall be subject to the advice and consent of the~~
3 ~~senate~~].

4 Except as otherwise provided in this constitution, whenever
5 a board, commission or other body shall be the head of a
6 principal department of the state government, the members
7 thereof shall be nominated and, by and with the advice and
8 consent of the senate, appointed by the governor. The term of
9 office and removal of such members shall be as provided by law.
10 Such board, commission or other body may appoint a principal
11 executive officer who, when authorized by law, may be an ex
12 officio, voting member thereof, and who may be removed by a
13 majority vote of the members appointed by the governor.

14 The governor shall nominate and, by and with the advice and
15 consent of the senate, appoint all officers for whose election
16 or appointment provision is not otherwise provided for by this
17 constitution or by law. If the manner or removal of an officer
18 is not prescribed in this constitution, removal shall be as
19 provided by law.

20 When the senate is not in session and a vacancy occurs in
21 any office, appointment to which requires the confirmation of
22 the senate, the governor may fill the office by granting a



1 commission which shall expire, unless such appointment is
2 confirmed, at the end of the next session of the senate. The
3 person so appointed shall not be eligible for another interim
4 appointment to such office if the appointment failed to be
5 confirmed by the senate.

6 No person who has been nominated for appointment to any
7 office and whose appointment has not received the consent of the
8 senate shall be eligible to an interim appointment thereafter to
9 such office.

10 Every officer appointed under the provisions of this
11 section shall be a citizen of the United States and shall have
12 been a resident of this State for at least one year immediately
13 preceding that person's appointment, except that this residency
14 requirement shall not apply to the president of the University
15 of Hawaii."

16 SECTION 5. The question to be printed on the ballot shall
17 be as follows:

18 "Shall the attorney general, the chief legal officer of the
19 State of Hawaii, be elected by vote of the general public
20 from among nonpartisan candidates instead of being
21 appointed by the governor?"



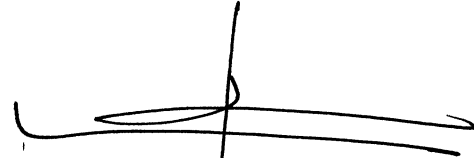
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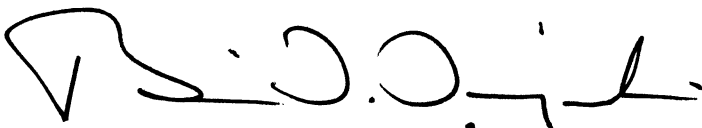
1 SECTION 6. Constitutional material to be repealed is
 2 bracketed and stricken. New constitutional material is
 3 underscored.

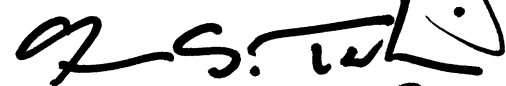
4 SECTION 7. This amendment shall take effect upon
 5 compliance with article XVII, section 3, of the Constitution of
 6 the State of Hawaii.


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INTRODUCED BY:



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Report Title:

Constitutional Amendment; Election of Attorney General

Description:

Proposes a new section to article V of the Hawaii constitution to provide for the election of the attorney general; amends article III, section 19 of the Hawaii constitution to allow for impeachment of the attorney general; makes confirming amendment to article V, section 6 of the Hawaii Constitution relating to removal of attorney general with the advice and consent of the senate.

