

JAN 24 2007

SENATE CONCURRENT RESOLUTION

ESTABLISHING A TASK FORCE TO REVIEW THE RETIREMENT AGE FOR STATE COURT JUSTICES AND JUDGES; THE TERMS OF AND POSSIBLE TERM LIMITS FOR 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; 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 seventy
4 years; and

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

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10 WHEREAS, Senate Bill No. 995 passed both the House of
11 Representatives and Senate by the two-thirds vote, as required
12 by article XVII, section 3 of the Constitution of the State of
13 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 per cent of the electorate voted in
21 favor of the repeal and 57.8 per cent of the electorate voted
22 against repealing the mandatory retirement age for justices and
23 judges; 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
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1 WHEREAS, Hawaii has no term limits for judges and justices,
2 Hawaii has no senior judge system, and the system of judicial
3 accountability and determining judicial fitness has not been
4 studied; and

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6 WHEREAS, major concerns with the proposed amendment
7 included the lack of any careful study of:

- 8
9 (1) The effects of a repeal of the retirement age on the
10 judiciary and the administration of justice, including
11 whether the retirement age should be retained, altered
12 or eliminated, and if so whether prospectively only;
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14 (2) Whether there should be term limits for state court
15 justices and judges;
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17 (3) Whether there should be a senior judge system for
18 state court justices and judges; and
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20 (4) Whether there is sufficient judicial accountability
21 and the means for determining judicial fitness in the
22 judiciary; and
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24 WHEREAS, a study:

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26 (1) Reviewing the practices of other jurisdictions
27 regarding: the regulation of judicial retirement;
28 term limits for judges; a senior judge system;
29 judicial accountability; and means for determining
30 judicial fitness;
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32 (2) Identifying public policies promoted or impeded by:
33 the current Hawaii mandatory judicial retirement age
34 or its alternatives; the lack of judicial terms limits
35 in Hawaii; the lack of a senior judge system in
36 Hawaii; the current Hawaii system of judicial
37 accountability; and the current system for determining
38 judicial fitness; and
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40 (3) Collecting data on the impact of changing any of the
41 above;

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43 would be invaluable in evaluating the merits of retaining,
44 repealing or amending, the current Hawaii: mandatory judicial



1 retirement age, including, if there is to be a change whether it
2 should be prospective only; lack of judicial terms limits; lack
3 of a senior judge system; system of judicial accountability;
4 means for determining judicial fitness; as well as facilitating
5 an informed discussion of these issues; now therefore,
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7 BE IT RESOLVED by the Senate of the Twenty-fourth
8 Legislature of the State of Hawaii, Regular Session of 2007, the
9 House of Representatives concurring, that a task force be
10 convened through the William S. Richardson School of Law to
11 collect relevant data including but not limited to practices in
12 other jurisdictions, identify public policies promoted or
13 impeded by, and make recommendations on the repeal, amendment,
14 or retention of the current policy regarding: mandatory
15 judicial retirement age; lack of judicial terms limits; lack of
16 a senior judge system; the system of judicial accountability;
17 the system for determining judicial fitness; and
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19 BE IT FURTHER RESOLVED that the Legislature requests that
20 the task force be composed of the following members:
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- 22 (1) The Dean of the William S. Richardson School of Law,
23 who shall be the chair;
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- 25 (2) The Attorney General, or the Attorney General's
26 designee;
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- 28 (3) The United States Attorney for the District of Hawaii
29 or a designee;
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- 31 (4) A representative from each county prosecuting
32 attorney's office;
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- 34 (5) A representative from the Office of the Public
35 Defender;
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- 37 (6) A representative from the Hawaii State Bar
38 Association;
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- 40 (7) The chair of the Judicial Selection Commission or a
41 designee;
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- 43 (8) A representative of the appellate judges of Hawaii
44 selected by the Chief Justice;



(9) A representative of the district and circuit judges of Hawaii selected by them; and

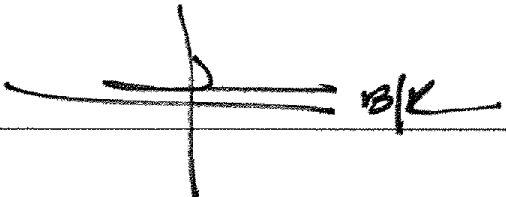
(10) A member of the public appointed by the Governor; and

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

BE IT FURTHER RESOLVED that the task force is requested to report its findings and recommendations to the Legislature no later than twenty days prior to the convening of the Regular Session of 2009; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to Dean of the William S. Richardson School of Law, the Attorney General, the United States Attorney for the District of Hawaii, the Prosecuting Attorney for each county, the state Public Defender, the President of the Hawaii State Bar Association, the Chair of the Judicial Selection Commission, the Administrative Director of the Courts, and the Governor.

OFFERED BY:

 B/K

