

JAN 19 2007

---

---

# A BILL FOR AN ACT

PROPOSING AMENDMENTS TO THE HAWAII CONSTITUTION RELATING TO  
EXECUTIVE AGENCIES.

**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 5, section 6, and article 6, section 3, of  
3 the Constitution of the State of Hawaii to provide that when the  
4 senate fails to reject or act upon an appointment to any office,  
5 including justices and certain judges, within thirty days of the  
6 appointment, the senate shall be deemed to have rejected the  
7 appointment.

8           SECTION 2. Article V of the Constitution of the State of  
9 Hawaii is amended by amending section 6 to read as follows:

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



1        Each principal department shall be under the supervision of  
2 the governor and, unless otherwise provided in this constitution  
3 or by law, shall be headed by a single executive. [~~Such~~] Each  
4 single executive shall be nominated and, by and with the advice  
5 and consent of the senate, appointed by the governor. That  
6 person shall hold office for a term to expire at the end of the  
7 term for which the governor was elected, unless sooner removed  
8 by the governor; except that the removal of the chief legal  
9 officer of the State shall be subject to the advice and consent  
10 of the senate.

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

21        The governor shall nominate and, by and with the advice and  
22 consent of the senate, appoint all officers for whose election



1 or appointment provision is not otherwise provided for by this  
2 constitution or by law. If the manner or removal of an officer  
3 is not prescribed in this constitution, removal shall be as  
4 provided by law.

5 When the senate is not in session and a vacancy occurs in  
6 any office, appointment to which requires the confirmation of  
7 the senate, the governor may fill the office by granting a  
8 interim commission which shall expire, unless [~~such~~] the  
9 appointment is confirmed, at the end of the next session of the  
10 senate. The person so appointed shall not be eligible for  
11 another interim appointment to [~~such~~] the office if the  
12 appointment failed to be confirmed by the senate. If the senate  
13 fails to reject or act on an interim commission before the end  
14 of the next session of the senate, it shall be deemed to have  
15 rejected the appointment.

16 If the senate fails to reject or to act on an appointment  
17 to any office within thirty days thereof, it shall be deemed to  
18 have rejected the appointment. No person who has been nominated  
19 for appointment to any office and whose appointment has not  
20 received the consent of the senate or whose appointment has not  
21 been acted upon by the senate within thirty days thereof shall



1 be eligible to an interim appointment thereafter to [~~such~~] the  
2 office.

3 Every officer appointed under the provisions of this  
4 section shall be a citizen of the United States and shall have  
5 been a resident of this State for at least one year immediately  
6 preceding that person's appointment, except that this residency  
7 requirement shall not apply to the president of the University  
8 of Hawaii."

9 SECTION 3. Article 6 of the Constitution of the State of  
10 Hawaii is amended by amending section 3 to read as follows:

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

17 If the governor fails to make any appointment within thirty  
18 days of presentation, or within ten days of the senate's  
19 rejection of any previous appointment, the appointment shall be  
20 made by the judicial selection commission from the list with the  
21 consent of the senate. If the senate fails to reject or to act  
22 upon any appointment within thirty days thereof, it shall be



1 deemed to have [~~given its consent to such~~] rejected the  
2 appointment. If the senate [~~shall reject~~] rejects any  
3 appointment, the governor shall make another appointment from  
4 the list within ten days thereof. If the senate fails to act  
5 upon any appointment within thirty days thereof, the governor  
6 shall make another appointment from the list within ten days  
7 after the expiration of the thirty day period. The same  
8 appointment and consent procedure shall be followed until a  
9 valid appointment has been made, or failing this, the commission  
10 shall make the appointment from the list, without senate  
11 consent.

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



1 commission and the commission shall make the appointment from  
2 the list without senate consent. The chief justice shall  
3 appoint per diem district court judges as provided by law.

4 **QUALIFICATIONS FOR APPOINTMENT**

5 Justices and judges shall be residents and citizens of the  
6 State and of the United States, and licensed to practice law by  
7 the supreme court. A justice of the supreme court, a judge of  
8 the intermediate appellate court and a judge of the circuit  
9 court shall have been so licensed for a period of not less than  
10 ten years preceding nomination. A judge of the district court  
11 shall have been so licensed for a period of not less than five  
12 years preceding nomination.

13 No justice or judge shall, during the term of office,  
14 engage in the practice of law, or run for or hold any other  
15 office or position of profit under the United States, the State  
16 or its political subdivisions.

17 **TENURE; RETIREMENT**

18 The term of office of justices and judges of the supreme  
19 court, intermediate appellate court and circuit courts shall be  
20 ten years. Judges of district courts shall hold office for the  
21 periods as provided by law. At least six months prior to the  
22 expiration of a justice's or judge's term of office, every



1 justice and judge shall petition the judicial selection  
2 commission to be retained in office or shall inform the  
3 commission of an intention to retire. If the judicial selection  
4 commission determines that the justice or judge should be  
5 retained in office, the commission shall renew the term of  
6 office of the justice or judge for the period provided by this  
7 section or by law.

8 Justices and judges shall be retired upon attaining the age  
9 of seventy years. They shall be included in any retirement law  
10 of the State."

11 SECTION 4. The question to be printed on the ballot shall  
12 be as follows:

13 "Shall the senate's failure to reject or to act upon an  
14 appointment to any office, including an interim  
15 appointment, within thirty days of the appointment be  
16 considered a rejection of the appointment?"

17 SECTION 5. Constitutional material to be repealed is  
18 bracketed and stricken. New constitutional material is  
19 underscored.



1 SECTION 6. These amendments shall take effect upon  
2 compliance with article XVII, section 3, of the Constitution of  
3 the State of Hawaii.

4

INTRODUCED BY:

*John Hlee*  
*Russell Kohl*  
*Clarence Nishikawa*





**Report Title:**

Executive Offices; Senate Confirmation

**Description:**

Provides that the senate's failure to reject or act on an appointment to any office, including justices and certain judges, within 30 days thereof shall be deemed to be a rejection of the appointment.

