

FEB 11 2008

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 OF HAWAII; 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, Regular Session of 2006,
7 proposed a repeal of the constitutional provision mandating the
8 retirement of 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 the Senate by the two-thirds vote, as
12 required by Article XVII, Section 3, of the Constitution of the
13 State of 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



1
2 WHEREAS, Hawaii has no term limits for judges and justices;
3 Hawaii has no senior judge system; and the system of judicial
4 accountability and determining judicial fitness has not been
5 studied; and
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7 WHEREAS, major concerns with the proposed amendment
8 included the lack of any careful study of:
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- 10 (1) The effects of a repeal of the retirement age on the
11 Judiciary and the administration of justice, including
12 a study of whether the retirement age should be
13 retained, altered, or eliminated and, if so, whether
14 prospectively only;
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16 (2) Whether there should be term limits for state court
17 justices and judges;
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19 (3) Whether there should be a senior judge system for
20 state court justices and judges; and
21
22 (4) Whether there is currently sufficient judicial
23 accountability and means for determining judicial
24 fitness; and
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26 WHEREAS, a study:
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- 28 (1) Reviewing the practices of other jurisdictions
29 regarding: the regulation of judicial retirement,
30 term limits for judges, a senior judge system,
31 judicial accountability, and means for determining
32 judicial fitness;
33
34 (2) Identifying public policies promoted or impeded by:
35 the current Hawaii mandatory judicial retirement age
36 or its alternatives, the lack of judicial terms limits
37 in Hawaii, the lack of a senior judge system in
38 Hawaii, the current Hawaii system of judicial
39 accountability, and the current Hawaii means for
40 determining judicial fitness; and
41
42 (3) Collecting data on the impact of changing any of the
43 above;
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1 would be valuable in facilitating an informed discussion of,
2 evaluating the merits of retaining, repealing, or amending, the
3 current Hawaii: mandatory judicial retirement age, including if
4 there is to be a change whether it should be prospective only;
5 lack of judicial terms limits; lack of a senior judge system;
6 system of judicial accountability; means for determining
7 judicial fitness; now, therefore,

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9 BE IT RESOLVED by the Senate of the Twenty-fourth
10 Legislature of the State of Hawaii, Regular Session of 2008, the
11 House of Representatives concurring, that a task force be
12 convened to:

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14 (1) Collect relevant data, including, but not limited to,
15 practices in other jurisdictions;
16
17 (2) Identify public policies promoted or impeded by, and
18 make recommendations on the repeal, amendment, or
19 retention of the:
20
21 (A) Mandatory judicial retirement age;
22
23 (B) Lack of judicial terms limits;
24
25 (C) Lack of a senior judge system;
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27 (D) Current system of judicial accountability; and
28
29 (E) Current means for determining judicial fitness;
30 and
31

32 BE IT FURTHER RESOLVED that the task force be composed of
33 the following members:

- 34
35 (1) The Dean of the William S. Richardson School of Law,
36 who is requested to serve as the chairperson;
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38 (2) The Attorney General, or the Attorney General's
39 designee;
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41 (3) The United States Attorney for the District of Hawaii,
42 or designee;
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- 1 (4) A representative from each county prosecuting
2 attorney's office;
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- 4 (5) A representative from the Office of the Public
5 Defender;
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- 7 (6) A representative from the Hawaii State Bar
8 Association;
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- 10 (7) The Chairperson of the Judicial Selection Commission,
11 or the Chairperson's designee;
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- 13 (8) A representative of the appellate judges of Hawaii, to
14 be selected by the Chief Justice;
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- 16 (9) A representative of the district and circuit judges of
17 Hawaii, to be selected by them; and
- 18
- 19 (10) A member of the public, to be appointed by the
20 Governor; and

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

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26 BE IT FURTHER RESOLVED that the task force is requested to
27 report its findings and recommendations, including any proposed
28 legislation, to the Legislature no later than twenty days prior
29 to the convening of the Regular Session of 2009; and

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31 BE IT FURTHER RESOLVED that certified copies of this
32 Concurrent Resolution be transmitted to the Dean of the William
33 S. Richardson School of Law, the Attorney General, the United
34 States Attorney for the District of Hawaii, the Prosecuting
35 Attorney for each county, the Office of the Public Defender, the
36 President of the Hawaii State Bar, the Chairperson of the
37 Judicial Selection Commission, the Chief Justice, the




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1 Administrative Director of the Courts, the Governor, and the
2 President of the University of Hawaii.

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OFFERED BY: _____



By Request

