

**LATE****Judicial Selection Commission — THE JUDICIARY • STATE OF HAWAII**

417 SOUTH KING STREET • HONOLULU, HAWAII 96813 • TELEPHONE (808) 538-5200 • FAX (808) 538-5205

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**TESTIMONY OF THE JUDICIAL SELECTION COMMISSION****TWENTY-FOURTH LEGISLATURE, 2008**

On the Following Measure:

**SB 3202, PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO  
EXTEND THE MANDATORY RETIREMENT AGE FOR THE STATE JUDGES  
FROM SEVENTY TO EIGHTY YEARS OF AGE.**

Before the:

**HOUSE COMMITTEE ON JUDICIARY**

Date: Monday, February 11, 2008

Time: 9:00 a.m.

Location: State Capitol, Room 106

Testifier: Rosemary Fazio, Chair of the Judicial Selection Commission

Chair Taniguchi, Vice-Chair Hee, and Members of the Committee.

This relates to SB3202, which proposes a constitutional amendment to extend the mandatory retirement age for judges.

Two years ago, the Judicial Selection Commission shared its concerns about a similar proposal. I have attached our prior letter, dated March 23, 2006. The Judicial Selection Commission continues to have the same reservations about the current proposal, SB 3202.

The Judicial Selection Commission thanks the Senate Committee on Judiciary and Labor for allowing us again to express our concerns.



Judicial Selection Commission - THE SUPREMACY - STATE OF HAWAII  
417 SOUTH KING STREET • HONOLULU, HAWAII 96813 • TELEPHONE (808) 538-6200 • FAX (808) 538-6205

MAHUA OHIHA, Chair  
Member: FRANK WONG, Vice Chair  
Lawrence M. Sweeney

March 23, 2008

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Sharon Kim Oh  
Hugh Lutzmuller  
Scott Scharman

Representative Dwight Takemitsu  
Chair, Finance Committee  
Hawaii State House of Representatives  
Suite 3150, Room 306  
Honolulu, Hawaii 96813

Dear Representative Takemitsu:

Re: SB925 (S): Judges' Mandatory  
Retirement Age (Original)

The Judicial Selection Commission expresses this opportunity to express some concerns about this proposed constitutional amendment. The Commission believes that the proposition of this legislation was crafted in the public interest, but we feel an obligation to share our reservations with the House Finance Committee.

We fear that this legislation will make it far more difficult for current judges to move up to higher judicial positions, will discourage many openings from applying for judicial openings, and will, therefore, impede the productivity of new ideas and ways of looking at the law. Additionally, we feel that this is unfair to all those applicants and judges who made their decisions based on the current rules. Therefore, if the Legislature wishes to repeal the mandatory retirement age of 70, they should at least apply these rules prospectively to those appointed judges.

The Judicial Selection Commission once again thanks the House Finance Committee for allowing us to express our concerns.

Sincerely yours,

*Mahua Ohira*

Mahua Ohira, Chair

cc: Representative Sylvia Lake, Chair  
House Judiciary Committee