

JAN 28 2009

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 6, OF THE HAWAII
CONSTITUTION, TO CLARIFY THE GUBERNATORIAL APPOINTMENT
PROCESS.

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, section 6, of the Constitution of the
3 State of Hawaii to require the governor to fill vacancies, for
4 which consent of the senate is required, within the applicable
5 time limit required by law.

6 SECTION 2. Article V, section 6, of the Constitution of
7 the State of Hawaii is amended to read as follows:

8 **"EXECUTIVE AND ADMINISTRATIVE OFFICES AND DEPARTMENTS**

9 All executive and administrative offices, departments and
10 instrumentalities of the state government and their respective
11 powers and duties shall be allocated by law among and within not
12 more than twenty principal departments in such a manner as to
13 group the same according to common purposes and related
14 functions. Temporary commissions or agencies for special
15 purposes may be established by law and need not be allocated
16 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 single
4 executive shall be nominated and, by and with the advice and
5 consent of the senate, appointed by the governor. That person
6 shall hold office for a term to expire at the end of the term
7 for which the governor was elected, unless sooner removed by the
8 governor; except that the removal of the chief legal officer of
9 the State shall be subject to the advice and consent of the
10 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
19 ex 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~~] shall fill the office by granting
8 a commission which shall expire, unless such appointment is
9 confirmed, at the end of the next session of the senate. The
10 person so appointed shall not be eligible for another interim
11 appointment to such office if the appointment failed to be
12 confirmed by the senate.

13 No person who has been nominated for appointment to any
14 office and whose appointment has not received the consent of the
15 senate shall be eligible to an interim appointment thereafter to
16 such office.

17 Upon the expiration of the term of office of any appointee,
18 the governor shall nominate a successor to the vacant office
19 within the time limit required by law.

20 Every officer appointed under the provisions of this section
21 shall be a citizen of the United States and shall have been a
22 resident of this State for at least one year immediately



1 preceding that person's appointment, except that this residency
2 requirement shall not apply to the president of the University
3 of Hawaii."

4 SECTION 3. The question to be printed on the ballot shall
5 be as follows:

6 "When a vacancy occurs in an office and consent of the
7 senate is required to fill the vacancy, shall the governor
8 be constitutionally required to nominate a person to fill
9 that office within the applicable time limit defined by
10 law?"

11 SECTION 4. Constitutional material to be repealed is
12 bracketed and stricken. New constitutional material is
13 underscored.

14 SECTION 5. This amendment shall take effect upon
15 compliance with article XVII, section 3, of the Constitution of
16 the State of Hawaii.

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Report Title:

Department Heads; Boards and Commissions; Appointments

Description:

Amends article V, section 6, of the state constitution to clarify the appointment process for department heads and members of boards and commissions by requiring the governor to nominate successors within the time limits required by law.

