

JAN 25 2010

A BILL FOR AN ACT

PROPOSING AMENDMENTS TO THE CONSTITUTION OF THE STATE OF HAWAII
TO CREATE THE OFFICE OF THE SECRETARY OF STATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Concerns surrounding the Hawaii elections
2 office have been well documented. Public anxiety over the
3 office's fiscal and legal challenges has prompted some members
4 of the community to call for more direct accountability over the
5 administration of elections.

6 It is critically important for voters to have some level of
7 control over this vital part of democracy at a time when
8 elections can be decided by unusually slim margins that are
9 often bitterly contested.

10 In thirty-eight other states, voters elect a "secretary of
11 state" who is put in charge of their elections. Alaska and Utah
12 assign that task to their lieutenant governors. In each case,
13 voters have a direct say in naming the administrator of their
14 election system. If adopted, this measure would also empower
15 Hawaii voters to elect a secretary of state, who would be
16 directly responsible for ensuring that the State's election

1 system operates smoothly and remains compliant with all federal,
2 state, and local requirements.

3 SECTION 2. Article V of the Constitution of the State of
4 Hawaii is amended by adding a new section to be appropriately
5 designated to read as follows:

6 "SECRETARY OF STATE

7 Section . There shall be a secretary of state who shall
8 be elected by the qualified voters of this State at a general
9 election. All candidates for the office of secretary of state
10 shall run on a nonpartisan basis, and the person receiving the
11 highest number of votes shall be the secretary of state. In
12 case of a tie vote, the selection of the secretary of state
13 shall be determined as provided by law.

14 The term of office of the secretary of state shall be four
15 years.

16 No person shall be eligible for the office of secretary of
17 state unless the person shall be a qualified voter, have attained
18 the age of thirty years and have been a resident of this State
19 for two years immediately preceding the person's election.

20 The secretary of state shall devote full time to the duties
21 of the office and shall hold no other public office during the
22 individual's term of office.

1 The secretary of state shall perform such duties as may be
2 provided by law and shall include the supervision of state
3 elections, the maximization of registration of eligible voters
4 throughout the State and the maintenance of data concerning
5 registered voters, elections, apportionment and districting.

6 The secretary of state shall assume administrative
7 responsibility for the office of elections."

8 SECTION 3. Article IV, section 2, of the Constitution of
9 the State of Hawaii is amended to read as follows:

10 **"REAPPORTIONMENT COMMISSION**

11 **Section 2.** A reapportionment commission shall be
12 constituted on or before May 1 of each reapportionment year and
13 whenever reapportionment is required by court order. The
14 commission shall consist of nine members. The president of the
15 senate and the speaker of the house of representatives shall each
16 select two members. Members of each house belonging to the party
17 or parties different from that of the president or the speaker
18 shall designate one of their number for each house and the two so
19 designated shall each select two members of the commission. The
20 eight members so selected, promptly after selection, shall be
21 certified by the selecting authorities to the [~~chief election~~
22 ~~officer~~] secretary of state and within thirty days thereafter,
23 shall select, by a vote of six members, and promptly certify to

1 the [~~chief election officer~~] secretary of state the ninth member
2 who shall serve as chairperson of the commission.

3 Each of the four officials designated above as selecting
4 authorities for the eight members of the commission, at the time
5 of the commission selections, shall also select one person from
6 each basic island unit to serve on an apportionment advisory
7 council for that island unit. The councils shall remain in
8 existence during the life of the commission and each shall serve
9 in an advisory capacity to the commission for matters affecting
10 its island unit.

11 A vacancy in the commission or a council shall be filled by
12 the initial selecting authority within fifteen days after the
13 vacancy occurs. Commission and council positions and vacancies
14 not filled within the times specified shall be filled promptly
15 thereafter by the supreme court.

16 The commission shall act by majority vote of its membership
17 and shall establish its own procedures, except as may be provided
18 by law.

19 Not more than one hundred fifty days from the date on which
20 its members are certified, the commission shall file with the
21 [~~chief election officer~~] secretary of state a reapportionment
22 plan for the state legislature and a reapportionment plan for the
23 United States congressional districts which shall become law
24 after publication as provided by law. Members of the commission

1 shall hold office until each reapportionment plan becomes
2 effective or until such time as may be provided by law.

3 No member of the reapportionment commission or an
4 apportionment advisory council shall be eligible to become a
5 candidate for election to either house of the legislature or to
6 the United States House of Representatives in either of the first
7 two elections under any such reapportionment plan.

8 Commission and apportionment advisory council members shall
9 be compensated and reimbursed for their necessary expenses as
10 provided by law.

11 The [~~chief election officer~~] secretary of state shall be
12 secretary of the commission without vote and, under the direction
13 of the commission, shall furnish all necessary technical
14 services. The legislature shall appropriate funds to enable the
15 commission to carry out its duties."

16 SECTION 4. Article XVI, section 3.5, of the Constitution
17 of the State of Hawaii is amended to read as follows:

18 **"SALARY COMMISSION**

19 **Section** [~~3~~]**3.5**[~~3~~]. There shall be a commission on salaries
20 as provided by law, which shall review and recommend salaries
21 for the justices and judges of all state courts, members of the
22 legislature, department heads or executive officers of the
23 executive departments and the deputies or assistants to
24 department heads of the executive departments as provided by

1 law, excluding the University of Hawaii and the department of
2 education. The commission shall also review and make
3 recommendations for the salary of the administrative director of
4 the State or equivalent position and the salary of the governor
5 ~~[and the]~~, lieutenant governor[-], and the secretary of state.

6 Any salary established pursuant to this section shall not
7 be decreased during a term of office, unless by general law
8 applying to all salaried officers of the State.

9 Not later than the fortieth legislative day of the 2007
10 regular legislative session and every six years thereafter, the
11 commission shall submit to the legislature its recommendations
12 and then dissolve.

13 The recommended salaries submitted shall become effective
14 as provided in the recommendation, unless the legislature
15 disapproves the entire recommendation as a whole by adoption of
16 a concurrent resolution prior to adjournment sine die of the
17 legislative session in which the recommendation is submitted;
18 provided that any change in salary which becomes effective shall
19 not apply to the legislature to which the recommendation for the
20 change in salary was submitted."

21 SECTION 5. Article XVI, section 4, of the Constitution of
22 the State of Hawaii is amended to read as follows:

S.B. NO. 2741

"OATH OF OFFICE

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Section 4. All eligible public officers, before entering upon the duties of their respective offices, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as to the best of my ability." As used in this section, "eligible public officers" means the governor, the lieutenant governor, the secretary of state, the members of both houses of the legislature, the members of the board of education, the members of the national guard, State or county employees who possess police powers, district court judges, and all those whose appointment requires the consent of the senate."

SECTION 6. Article IV, section 3, of the Constitution of the State of Hawaii is repealed.

~~["CHIEF ELECTION OFFICER~~

~~**Section 3.** The legislature shall provide for a chief election officer of the State, whose responsibilities shall be as provided by law and shall include the supervision of state elections, the maximization of registration of eligible voters~~

S.B. NO. 2741

1 ~~throughout the State and the maintenance of data concerning~~
2 ~~registered voters, elections, apportionment and districting."]~~

3 SECTION 7. The question to be printed on the ballot shall
4 be as follows:

5 "Shall the State Constitution be amended to create a
6 Secretary of State, who shall serve as a nonpartisan
7 administrator of state elections?"

8 SECTION 8. Constitutional material to be repealed is
9 bracketed and stricken. New constitutional material is
10 underscored.

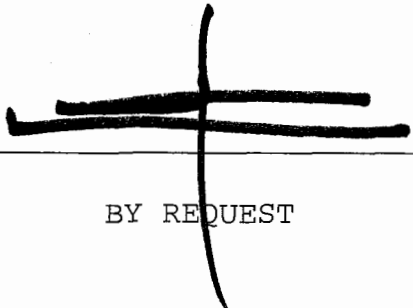
11 SECTION 9. This amendment shall take effect upon
12 compliance with article XVII, section 3, of the Constitution of
13 the State of Hawaii.

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INTRODUCED BY:


BY REQUEST

Report Title:

Constitutional Amendment; Secretary of State

Description:

Establishes the Secretary of State, an elected position, to serve as the nonpartisan administrator of elections.

JUSTIFICATION SHEET

DEPARTMENT: Office of the Lieutenant Governor

TITLE: A BILL FOR AN ACT PROPOSING AMENDMENTS TO THE CONSTITUTION OF THE STATE OF HAWAII TO CREATE THE OFFICE OF THE SECRETARY OF STATE.

PURPOSE: Establish a Secretary of State as an elected, nonpartisan constitutional officer, who would be responsible for administering the election laws as well as supervising the voting system in the State.

MEANS: Add a new section to article V; amend article IV, section 2; amend article XVI, sections 3.5 and 4; and repeal article IV, section 3, of the State Constitution.

JUSTIFICATION: Concerns surrounding the Hawaii Elections Office have been well documented. Public anxiety over the office's fiscal and legal challenges has prompted some members of the community to call for more direct accountability over the administration of elections.

It is critically important for voters to have some level of control over this vital part of democracy at a time when elections can be decided by unusually slim margins that are often bitterly contested.

In 38 other states, voters elect Secretaries of State who are put in charge of their elections. Alaska and Utah assign that task to their Lieutenant Governors. In each case, voters have a direct say in naming the administrator of their election system.

Impact on the public: If adopted, this measure would also empower voters in Hawaii to elect a Secretary of State, who would be directly responsible for ensuring that the State's election system operates smoothly

and remains compliant with all federal, state, and local requirements.

Impact on the department and other agencies:
This constitutional amendment replaces the Chief Election Officer with the Secretary of State as the administrator of the Office of Elections.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Office of Elections.

EFFECTIVE DATE: Upon ratification.