

**Testimony of the Office of the Public Defender, State of Hawaii,
to the House Committee on Judiciary**

March 8, 2012

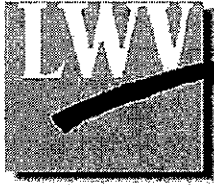
**S.B. No. 2206: PROPOSING AN AMENDMENT TO ARTICLE VI,
SECTION 3, OF THE HAWAII STATE CONSTITUTION
TO INCREASE THE MANDATORY RETIREMENT AGE
FOR STATE JUSTICES AND JUDGES**

Chair Keith-Agaran and Members of the Committee:

S.B. No. 2206 seeks to raise the mandatory retirement age for state judges and justices from 70 years of age to 80. While we are in agreement that many judges are able to serve at the highest level well past the age of 70, there are some for whom certain infirmities, mostly health-related, begin to set in. Unfortunately, many persons in their seventies begin to deal with such issues as high-blood pressure, heart disease, diabetes, hearing problems, eyesight difficulties and Alzheimer's diseases. These infirmities can affect the ability to efficiently hear individual cases and a full day's calendar or even the ability to remember or think analytically.

If the retirement age is raised to the age of 80, we believe it would be wise to require judges after the age of 70 to undergo reviews every two or three years until retirement to assure that they are able to continue to serve. The Judicial Selection Commission should be given the power to remove a judge after such a review if the judge is deemed to be unable to serve. Judges of that age should also be required to disclose to the Judicial Selection Commission the substance of any medical condition or infirmity which could affect his/her ability to serve.

Thank for the opportunity to comment on this measure.



THE LEAGUE OF WOMEN VOTERS OF HAWAII

TESTIMONY ON SB 2206 PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3 OF THE HAWAII STATE CONSTITUTION TO INCREASE THE MANDATORY RETIREMENT AGE FOR STATE JUSTICES AND JUDGES

House Committee on Judiciary
Rep. Gilbert S. C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair
Thursday, March 8, 2012
2:00 p.m. Conference Room 325

Testimony from Jean Aoki, LWV Legislative Committee member

Chair Keith-Agaran, Vice Chair Rhoads, and members of the House Committee on Judiciary,

The League of Women Voters of Hawaii strongly supports increasing the mandatory retirement age for justices and judges from 70 to 80 years of age. With the average life span of human beings increasing, the mandatory retirement age of 70 years has deprived our state of the continued services of many leaders who were really at their peak, capable of many more years in their respective positions.

We realize that judgeships demand mental alertness, and know that the Judiciary is very much aware of this and has processes in place to deal with it. If the mandatory retirement age is increased, we would expect that the Judiciary would tighten their monitoring processes.

When we were doing a study in preparation for taking a position on the ConCon question in 1996, the late Professor Jon Van Dyke was among those who raised some interesting questions and suggestions in regard to Article VI, the article on the Judiciary. Some of these were: Should we retain the mandatory retirement age of 70 for judges? Are ten-year terms too short? Do shorter terms for judges make for less independent judges? Should the judgeship be a life-time job? Too many young judges who have not had enough experience are appointed as judges. If there were a one 10-year term for judges, the appointment might be viewed as the culmination of a career. (The 10-year term could be 12, 15, or some other number.)

With an increase in the mandatory retirement age to 80, making the judgeship the culmination of one's career could be a consideration for many of our successful attorneys.

We urge the adoption of SB 2206.

Testimony, not in support for SB2206 (SSCR2016).

Testimony, not in support for SB2206 (SSCR2016)

Daneford Wright [danefordwright@yahoo.com]

Sent: Tuesday, March 06, 2012 7:14 PM

To: JUDtestimony

To: The Judiciary Committee

From: Daneford M. Wright

Date: 03/06/12

Reason: I Do Not Support SB2206 (SSCR2016)

Aloha Chair Agaran and Honorable Representatives, I do not support the increase of mandatory retirement of judges, from 70 to 80 years old. The reasons are, we need judges who can keep up with the laws and to be fair in the decisions they make. Judges now in office have been set in their ways and are not able to see the truth and will only apply a Statute to go around the truth and violate the constitutional rights of the citizen to due process of law and fair protection under the law. We need judges who will look at all the evidence and weigh the case on that evidence and not on hearsay or on assumption or being bias. It is important to look at giving an opportunity to others who qualify to be judges. If you allow 10 more years, we will lose good qualified judges who will need to wait 10 more years to be a judge. They will seek employment elsewhere so they may become judges. Will you as legislatures be held accountable for the judges decisions pass 70 years old? I will watch every judge that this bill will allow a judge to make a decision for his next 10 years and I will see that the legislature be held responsible for all of the Judges actions that will be bias, unfair, inconsistent, violates the Constitution of Hawaii or The United States and if the judge becomes mentally unfit and causes a citizen to suffer due to his or her wrong ruling because of his or her mental capacity. We all know that we all lose some or all of our mental capacity as we get older and judges are not immune to this. I can say 70 is already stretching it, so if you as legislatures are willing to open the State of Hawaii for law suits because of the judges over 70 making wrongful decisions and remember you as law makers are responsible for the safety and protection of the citizens. I want all of you to step back and ask yourselves, why the Senate wants this bill to pass. It is a favor to the judges now reaching their age and to allow the judges who they have close relations with and the banks and corporations who want them to stay in to continue to serve their interest and not the interest of citizens. I hope you all see the truth and stop these types of bills that are for only the interest of the Banks, Big Corporations and lobbyist to continue their holds on the courts. It is time for investigations of the types of bills, statutes and resolutions passed by this body of legislatures to see if these items are what the people want or is it just the legislatures by passing the people and doing their own thing. There is going to be a time real soon where the people will form together to remove the type of legislators who are not working for the people and are shown to be putting in and passing bills, statutes and resolutions for lobbyist, corporations, Banks and special interest groups. We the people hold each legislator responsible for their actions against or not taking actions to help the citizens of Hawaii, as it is your oath to protect and serve the citizens of Hawaii. I will be working to develop a coalition to investigate the legislators who are not serving the people and to show the citizens of Hawaii who they are and who they are passing these bills, resolutions and statutes for. I am a citizen who is tired of this type of corruption, deceit and blatant disregard for Hawaii's citizens. It is about time that the people are heard and listen to and the new breed of legislatures who will work for the citizens are elected and those who are in now who are not working for the citizens is removed by the people. You have a fiduciary duty to put forth bills, statutes and resolutions that is for the

Testimony, not in support for SB2206 (SSCR2016)

good of all the people and it is a conflict of your oath and office to do otherwise. The next time you will hear from me will be with petitions to remove those from office that do not have the will of the people first. I will Say this, I will ask this committee to not pass this bill and I will look at the ones who pass this bill and those who oppose, as it will be my responsibility to show the public on public television which legislators are protecting the Banks, Big business, Wall Street and special interest groups. You have time to make things PONO, but you need to start today. DO NOT PASS THIS BILL!!! Thank you.



LEAGUE OF
WOMEN VOTERS*

League of Women Voters of Hawaii

49 South Hotel Street, Room 314 | Honolulu, HI 96813

www.lwv-hawaii.com | 808.531.7488 | voters@lwvhawaii.com

Testimony

Committee on Judiciary

Hearing: *Thursday March 8, 2012*

Time: *2:00 p.m.*

Place: *325*

SUBJECT: *HCR5* RECOGNIZING THAT THE UNITED STATES CONSTITUTION ONLY PROTECTS RIGHTS OF NATURAL PERSONS

POSITION: *Support*

Chair Keith-Agaran, Vice-Chair Rhoads, Members of the Committee:

I am testifying for the League of Women Voters of Hawaii. Thank you for this opportunity to speak on behalf of our members throughout Hawaii.

The League of Women Voters of Hawaii supports this Resolution. In particular, the interpretation of money spent on political campaigns as "free speech", and SCOTUS extension of this equation to disallow regulation and limitations on campaign spending, has distorted our electoral process and threatens the basis of democracy in the United States and each of its States. We hope that the U.S. Congress takes action to correct these policies.

Thank you for the opportunity to testify.

Beppie Shapiro, President

League of Women Voters of Hawaii



ADA

HAWAII

AMERICANS FOR DEMOCRATIC ACTION

OFFICERS

Guy Archer, President
Juliet Begley, Vice-President
Fritz Fritschel, Treasurer
Chuck Huxel, Secretary

DIRECTORS

John Bickel
Karin Gill
Tom Horton
Nancy Bey Little

Jan Lubin
Stephen O'Harrow
Barbara Polk,
George Simson

Bart Dame (Alt)
Josh Frost (Alt)
Marsha Schweitzer (Alt)

MAILING ADDRESS

PO. Box 617
Honolulu
Hawaii'i 96822

March 7, 2012

TO: Chair Keith-Agaran, Vice-Chair Rhoads
Members of the House Judiciary Committee

FROM: Americans for Democratic Action/Hawaii
Barbara Polk, Legislative Chair

SUBJECT: SUPPORT FOR HCR #5 RECOGNIZING THAT THE UNITED STATES
CONSTITUTION ONLY PROTECTS RIGHTS OF NATURAL PERSONS

Thank you for hearing this important resolution. Unfortunately, with our internet connection down, we were not able to submit testimony in a timely way.

Although the legislature is already on record asking Congress to act to deal with the situation created by the US Supreme Court's Citizen's United decision, this resolution is superior to past ones in several ways.

First, with respect to concern about corporate funding of election campaigns, it tackles the broader issue of corporate personhood. This is important because the recent decision is not the only way in which corporations have used the rights intended for individuals to their own benefit. Most egregiously, the 14th amendment to the Constitution, intended to provide equity for freed slaves, has been used only a dozen or so times for that intended purpose, but hundreds of times by corporations to overrule local environmental laws and constraints on development! Therefore, it is critical to clarify that corporations are not persons.

There will be some who will object, as the ACLU has frequently done, that such an amendment may be used to silence the voices of non-profit and other informal groups of citizens. As the introduction of HCR #5 states: *the privileges of artificial entities should be determined by the people through federal, state, or local law, and should not be construed to be inherent or inalienable.* The amendment sought would allow the granting of rights to corporations of different types by legislative bodies. This would allow for a careful consideration of what types of corporate bodies should have what kinds of rights.

We also support the other sections of this resolution dealing with commitments to move toward limiting money contributed to political campaigns and continuing to improve transparency of reporting. We believe this is very much in the interests of elected officials to limit campaign contributions, since a limit would free them from non-stop fund-raising to attend to their governmental responsibilities and the concerns of their constituents. The resolution also urges the Judiciary not to construe money spent to influence elections as protected speech.

We urge you to pass HCR #5.

March 7, 2012

Re: HCR 3, Recognizing that the United States Constitution Only Protects Rights of Natural Persons.
House Committee on the Judiciary Hearing: March 8, 2012, 2:00 PM,
Conference Room 325.

Dear Chair Keith-Agaran, Vice-Chair Rhoads, and Committee members:

Thank you for the opportunity to submit testimony regarding HCR 5.

I strongly **support** this resolution.

For each of the reasons mentioned in this resolution--the importance of fair elections to our Constitutional democracy, the fact that artificial corporate entities do not vote, the fact that the United States Constitution and its amendments protect the rights of natural persons and not artificial entities such as corporations, the fact that the inalienable rights are reserved for natural persons and that artificial entities such as corporations are derivative and subservient legal entities granted certain privileges through the laws created by natural persons, the fact that conceptualization of such artificial corporate entities as having rights associated with elections to public office is incoherent, the fact that corporate entities' profit-focused interests often conflict with fundamental needs and interests of natural persons--and other reasons, it is critical to clarify the distinction between natural persons and corporate entities. Such a clarification is especially urgent and critical in the shadow of the 2010 U.S. Supreme Court decision in *Citizens United v. FEC*, 130 S.Ct. 876 (2010). And it is necessary to accomplish this through an amendment to the U.S. constitution because the U.S. Supreme Court is evidently not able to clarify this important distinction.

I believe that the states must act in this way to help protect the integrity of the democratic process. Whether or not this resolution as HCR 5 will ultimately be the definitive vehicle to relay to the U.S. Congress Hawaii's appreciation of this need for clarification of the status of artificial persons through an amendment to the U.S. Constitution, it is surely an important and timely memorialization of an urgent need.

Please pass HCR 5.

Mahalo,

R. Elton Johnson, III