

The Twenty-Sixth Legislature
Regular Session of 2012

THE SENATE
Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
State Capitol, Conference Room 016
Friday, January 27, 2012; 9:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 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**

The ILWU Local 142 supports S.B. 2206 for a constitutional amendment to increase the mandatory retirement age for justices and judges from 70 to 80.

Age discrimination is against the law. Yet we have a provision in the Hawaii State Constitution that justices and judges must retire at the age of 70. An implication of this provision is that those who are older than 70 may not be competent to serve simply because of their age. Another implication is that the imposition of a mandatory retirement age allows for other individuals to be appointed to the bench, in most cases due to politics.

Whatever the reason, a requirement for a justice or a judge to retire at age 70 smacks of age discrimination and ageism. The statutes currently provide for a maximum term of office and a review by the Judicial Selection Commission if the justice or judge wishes to be retained beyond the term. However, once a justice or judge reaches the age of 70, he or she must retire.

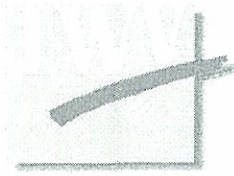
In theory, retirement is intended to bring new blood into the courts with new perspectives and opinions. In reality, retirement may be politically motivated, particularly for justices to the Supreme Court and the Intermediate Court of Appeals, who are appointed by the Governor.

Rather than look at the age of the justice or judge, we believe the person's competence to interpret the law, make rational decisions, and be fair should be primary considerations. Those who do not measure up to standards deemed reasonable by attorneys who appear before them should face scrutiny and review.

This bill appears to be a compromise between setting the retirement age at 70 and removing the mandatory retirement age altogether. Mandatory retirement at any age is unacceptable by law yet at age 80 will be a reasonable compromise.

The ILWU urges passage of S.B. 2206. Thank you for the opportunity to testify.

FROM: JOANNE KEALOHU



THE LEAGUE
OF WOMEN VOTERS OF HAWAII

LATE TESTIMONY

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

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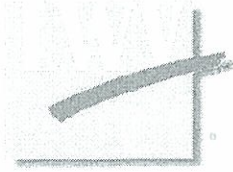
Testimony from **Jean Aoki, LWV** Legislative Committee member

Chair Hee, Vice Chair Shimabukuro and members of the Committee on Judiciary and Labor,

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.

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.)



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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.

Thank you for this opportunity to testify in support of SB 2206.