

JAN 24 2013

A BILL FOR AN ACT

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

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 VI, section 3, of the Constitution of the
3 State of Hawaii to increase the mandatory retirement age for
4 justices and judges to the age of eighty years.

5 SECTION 2. Article VI, section 3 of the Constitution of
6 the State of Hawaii is amended to read as follows:

7 **"APPOINTMENT OF JUSTICES AND JUDGES**

8 **Section 3.** The governor, with the consent of the senate,
9 shall fill a vacancy in the office of the chief justice, supreme
10 court, intermediate appellate court and circuit courts, by
11 appointing a person from a list of not less than four, and not
12 more than six, nominees for the vacancy, presented to the
13 governor by the judicial selection commission.

14 If the governor fails to make any appointment within thirty
15 days of presentation, or within ten days of the senate's
16 rejection of any previous appointment, the appointment shall be
17 made by the judicial selection commission from the list with the

1 consent of the senate. If the senate fails to reject any
2 appointment within thirty days thereof, it shall be deemed to
3 have given its consent to such appointment. If the senate shall
4 reject any appointment, the governor shall make another
5 appointment from the list within ten days thereof. The same
6 appointment and consent procedure shall be followed until a
7 valid appointment has been made, or failing this, the commission
8 shall make the appointment from the list, without senate
9 consent.

10 The chief justice, with the consent of the senate, shall
11 fill a vacancy in the district courts by appointing a person
12 from a list of not less than six nominees for the vacancy
13 presented by the judicial selection commission. If the chief
14 justice fails to make the appointment within thirty days of
15 presentation, or within ten days of the senate's rejection of
16 any previous appointment, the appointment shall be made by the
17 judicial selection commission from the list with the consent of
18 the senate. The senate shall hold a public hearing and vote on
19 each appointment within thirty days of any appointment. If the
20 senate fails to do so, the nomination shall be returned to the
21 commission and the commission shall make the appointment from
22 the list without senate consent. The chief justice shall
23 appoint per diem district court judges as provided by law.

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1 retained in office, the commission shall renew the term of
2 office of the justice or judge for the period provided by this
3 section or by law.

4 Justices and judges shall be retired upon attaining the age
5 of [~~seventy~~] eighty years. They shall be included in any
6 retirement law of the State."

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


9 "Shall the mandatory retirement age for all state court
10 justices and judges be increased from seventy to eighty
11 years of age?"

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

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

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INTRODUCED BY: 

20

BY REQUEST

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S.B. NO. 1022

Report Title:

Judges; Mandatory Retirement Age; Constitutional Amendment

Description:

Proposes a constitutional amendment to increase the mandatory retirement age for justices and judges from seventy to eighty years of age.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: ATTORNEY GENERAL

TITLE: A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE HAWAII STATE CONSTITUTION TO INCREASE THE MANDATORY RETIREMENT AGE FOR STATE JUSTICES AND JUDGES.

PURPOSE: To propose an amendment to article VI, section 3, of the Constitution of the State of Hawaii to increase the mandatory retirement age for justices and judges to the age of eighty years.

MEANS: Amend section 3 of article VI of the Hawaii State Constitution.

JUSTIFICATION: The retirement age of seventy years for justices and judges is outdated. In today's world, people are living longer and more productive lives, and are contributing to their community and their jobs well past the age of seventy. In the local legal community, some of the finest minds and best attorneys are older than seventy.

The federal judiciary system has no age limit for justices and judges. Likewise, at least twenty states have no such age limit. In Vermont, the age limit is ninety. These jurisdictions have recognized that removing the accumulated wisdom of these judges because they have reached the relatively young age of seventy makes little sense.

On the Supreme Court of the United States, some of the most esteemed justices have served beyond the age of seventy, including several current justices. Justice John Paul Stevens did not retire until he was ninety, and he was still an active, astute member of the court.

Impact on the public:

This bill will be beneficial to the public because it will prevent loss of the services of intelligent and effective justices and judges, simply because they have reached the age of seventy years.

Impact on the department and other agencies:

The bill will help the Judiciary because it will enable justices and judges with more experience to stay on the bench longer.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: State Judiciary.

EFFECTIVE DATE: Upon compliance with article XVII,
section 3, of the Constitution of the State
of Hawaii.