

JAN 16 2014

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# A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 6 OF THE HAWAII  
CONSTITUTION TO PROVIDE FOR THE ELECTION OF THE ATTORNEY  
GENERAL.

**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 provide that the attorney general be elected  
4 to office at a nonpartisan special election. Of the fifty  
5 states, fewer than ten have appointed attorneys general.  
6 Presently, the attorney general of Hawaii is nominated and, by  
7 and with the advice and consent of the Senate, appointed by the  
8 governor under article V, section 6, of the Constitution of the  
9 State of Hawaii. Election, rather than appointment, of the  
10 attorney general would insulate the attorney general's decisions  
11 from political pressures of the executive branch, allow  
12 independence in investigating and prosecuting wrongdoing in  
13 government, and allow the citizenry to have a direct vote in  
14 choosing their legal advocate.

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

17                           **"EXECUTIVE AND ADMINISTRATIVE OFFICES**



AND DEPARTMENTS

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Section 6. All executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such a manner as to group the same according to common purposes and related functions. Temporary commissions or agencies for special purposes may be established by law and need not be allocated within a principal department.

Each principal department shall be under the supervision of the governor and, unless otherwise provided in this constitution or by law, shall be headed by a single executive. Such single executive shall be nominated and, by and with the advice and consent of the senate, appointed by the governor[~~. That person~~] except as otherwise provided for in this section. Appointed executives shall hold office for a term to expire at the end of the term for which the governor was elected, unless sooner removed by the governor[~~; except that the removal of the chief legal officer of the State shall be subject to the advice and consent of the senate~~].

The attorney general, the chief legal officer of the state, shall be elected by the qualified voters of the state at a

1 nonpartisan special election held in conjunction with the  
2 general election. The candidate receiving the highest number of  
3 votes cast shall be deemed elected. In the event of a tie, the  
4 selection of the attorney general shall be as provided by law.

5       Except as otherwise provided in this constitution, whenever  
6 a board, commission or other body shall be the head of a  
7 principal department of the state government, the members  
8 thereof shall be nominated and, by and with the advice and  
9 consent of the senate, appointed by the governor. The term of  
10 office and removal of such members shall be as provided by law.  
11 Such board, commission or other body may appoint a principal  
12 executive officer who, when authorized by law, may be an ex  
13 officio, voting member thereof, and who may be removed by a  
14 majority vote of the members appointed by the governor.

15       The governor shall nominate and, by and with the advice and  
16 consent of the senate, appoint all officers for whose election  
17 or appointment provision is not otherwise provided for by this  
18 constitution or by law. If the manner of removal of an officer  
19 is not prescribed in this constitution, removal shall be as  
20 provided by law.

21       When the senate is not in session and a vacancy occurs in  
22 any office, appointment to which requires the confirmation of



1 the senate, the governor may fill the office by granting a  
2 commission which shall expire, unless such appointment is  
3 confirmed, at the end of the next session of the senate. The  
4 person so appointed shall not be eligible for another interim  
5 appointment to such office if the appointment failed to be  
6 confirmed by the senate.

7 No person who has been nominated for appointment to any  
8 office and whose appointment has not received the consent of the  
9 senate shall be eligible to an interim appointment thereafter to  
10 such office.

11 Every officer appointed under the provisions of this  
12 section shall be a citizen of the United States and shall have  
13 been a resident of this State for at least one year immediately  
14 preceding that person's appointment, except that this residency  
15 requirement shall not apply to the president of the University  
16 of Hawaii."

17 SECTION 3. The question to be printed on the ballot shall  
18 be as follows:

19 "Shall the attorney general, the chief legal officer of the  
20 State of Hawaii, be elected in a nonpartisan election held  
21 in conjunction with the general election by vote of the  
22 general public?"



1           SECTION 4. Constitutional material to be repealed is  
2 bracketed and stricken. New constitutional material is  
3 underscored.

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

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INTRODUCED BY:



# S.B. NO. 2166

**Report Title:**

Attorney General; Elections

**Description:**

Proposes an amendment to article V, section 6, of the state constitution to provide that the attorney general be elected rather than appointed by the governor.

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

