

JAN 17 2014

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## A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE HAWAII  
STATE CONSTITUTION TO CHANGE THE PROCEDURE TO RETAIN  
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 change the procedure to retain justices and  
4 judges so the senate rather than the judicial selection  
5 commission makes the determination of retention.

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

8                           **"APPOINTMENT OF JUSTICES AND JUDGES**

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

15           If the governor fails to make any appointment within thirty  
16 days of presentation, or within ten days of the senate's  
17 rejection of any previous appointment, the appointment shall be



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

11 The chief justice, with the consent of the senate, shall  
12 fill a vacancy in the district courts by appointing a person  
13 from a list of not less than six nominees for the vacancy  
14 presented by the judicial selection commission. If the chief  
15 justice fails to make the appointment within thirty days of  
16 presentation, or within ten days of the senate's rejection of  
17 any previous appointment, the appointment shall be made by the  
18 judicial selection commission from the list with the consent of  
19 the senate. The senate shall hold a public hearing and vote on  
20 each appointment within thirty days of any appointment. If the  
21 senate fails to do so, the nomination shall be returned to the  
22 commission and the commission shall make the appointment from



1 the list without senate consent. The chief justice shall  
2 appoint per diem district court judges as provided by law.

3 **QUALIFICATIONS FOR APPOINTMENT**

4 Justices and judges shall be residents and citizens of the  
5 State and of the United States, and licensed to practice law by  
6 the supreme court. A justice of the supreme court, a judge of  
7 the intermediate appellate court and a judge of the circuit  
8 court shall have been so licensed for a period of not less than  
9 ten years preceding nomination. A judge of the district court  
10 shall have been so licensed for a period of not less than five  
11 years preceding nomination.

12 No justice or judge shall, during the term of office,  
13 engage in the practice of law, or run for or hold any other  
14 office or position of profit under the United States, the State  
15 or its political subdivisions.

16 **TENURE; RETIREMENT**

17 The term of office of justices and judges of the supreme  
18 court, intermediate appellate court and circuit courts shall be  
19 ten years. Judges of district courts shall hold office for the  
20 periods as provided by law. At least six months prior to the  
21 expiration of a justice's or judge's term of office, every  
22 justice and judge shall petition the [~~judicial selection~~



1 ~~commission]~~ senate to be retained in office or shall inform the  
2 commission of an intention to retire. If the [~~judicial~~  
3 ~~selection-commission]~~ senate determines that the justice or  
4 judge should be retained in office, the [~~commission]~~ senate  
5 shall renew the term of office of the justice or judge for the  
6 period provided by this section or by law. The senate shall  
7 hold a public hearing and vote on each petition within thirty  
8 days of filing of the petition. If the senate fails to do so,  
9 the term of office shall be deemed renewed.

10 Justices and judges shall be retired upon attaining the age  
11 of seventy years. They shall be included in any retirement law  
12 of the State."

13 SECTION 3. The question to be printed on the ballot shall  
14 be as follows:

15 "Shall the Constitution of the State of Hawaii be amended to  
16 require the senate, rather than the judicial selection  
17 commission to make the determination to retain justices and  
18 judges?"

19 SECTION 4. Constitutional material to be repealed is  
20 bracketed and stricken. New constitutional material is  
21 underscored.



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

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INTRODUCED BY:

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# S.B. NO. 2752

**Report Title:**

Constitutional Amendment; Retention of Justices and Judges

**Description:**

Proposes a constitutional amendment to require the senate to make the determination to retain justices and judges instead of the judicial selection commission.

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

