
A BILL FOR AN ACT

RELATING TO JUDICIAL ELECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that merit selection is a
2 commission-based appointment where a nominating commission
3 screens applicants and selects the most highly qualified
4 candidates for a judicial vacancy. An elected official, usually
5 the governor, appoints one of the recommended candidates. Most
6 merit selection plans include the use of a retention election
7 after the selected judge has served for a specified period.
8 However, there has been a trend in the last decade to eliminate
9 the merit selection of judges or alter its components.

10 Approximately twenty-two states select their state judges
11 through partisan or nonpartisan elections rather than merit
12 selection. In partisan elections, judicial candidates usually
13 run initially in a party primary to win nomination.
14 Subsequently, partisan nominees run in the general election in
15 which party affiliation is indicated on the ballot. In
16 nonpartisan elections, voters select a candidate at the polls,
17 but the names of the judicial candidates appear on the ballot
18 without party labels.



1 Proponents of judicial elections often state that the
2 public should have the opportunity to select judicial candidates
3 in open, contested elections as the public selects other
4 government officials. Furthermore, proponents argue that merit
5 selection does not eliminate politics from the selection
6 process, but instead transfers popular politics to behind-the-
7 scene political control. Lastly, proponents express concerns
8 that merit selection may exclude minorities from the bench or
9 diminish their chances of filling judicial seats.

10 Hawaii has a variation of the judicial merit selection plan
11 that includes a nominating committee, but does not require
12 retention elections for subsequent judicial terms. Pursuant to
13 the Hawaii State Constitution, vacancies in the office of the
14 chief justice, supreme court, intermediate appellate court, and
15 circuit courts are appointed by the governor and vacancies in
16 the district courts are appointed by the chief justice, with the
17 consent of the senate, from a list of nominees compiled by the
18 judicial selection commission. Justices and judges are required
19 to petition the judicial selection commission to be retained in
20 office. If the commission determines that the justice or judge



1 should be retained, the commission is authorized to renew the
2 justice's or judge's term.

3 The legislature further finds that discussion and planning
4 are necessary before considering an amendment to the Hawaii
5 State Constitution to repeal the State's merit selection system
6 and adopting an election process for state justices and judges.
7 Specifically, further discussion is necessary to ensure that the
8 possible implementation of a judicial election system is carried
9 out efficiently and effectively without compromising the
10 integrity of the election process or the State's judicial
11 system.

12 The purpose of this Act is to require the judiciary, office
13 of elections, and campaign spending commission to study
14 appropriate methods of implementing a judicial election system
15 in the State and submit a written report, including proposed
16 legislation, to the legislature.

17 SECTION 2. The judiciary shall review state laws
18 applicable to justices and judges and study appropriate methods
19 of accommodating justices and judges who are elected rather than
20 appointed. Specifically, the judiciary shall:



- 1 (1) Review applicable state laws applicable to justices
2 and judges, including but not limited to chapters 571,
3 601, 602, 603, 604, and 604A, Hawaii Revised Statutes,
4 and determine the potential impact that electing,
5 rather than appointing, justices and judges may have
6 on existing laws and the judiciary;
- 7 (2) Study the judicial election laws of other
8 jurisdictions that have judicial election systems and
9 determine whether those systems may be appropriate for
10 Hawaii's judicial system;
- 11 (3) Determine appropriate methods of implementing a
12 program for the election of justices and judges,
13 including any proposed legislation; and
- 14 (4) Determine methods and timeframes to implement an
15 election program.

16 The judiciary shall submit a written report of its findings and
17 recommendations, including any proposed legislation, to the
18 legislature no later than twenty days prior to the convening of
19 the regular session of 2017.

20 SECTION 3. The office of elections shall review chapter
21 11, Hawaii Revised Statutes, and study appropriate methods of



1 implementing a program for the election of justices and judges.

2 Specifically, the office of elections shall:

3 (1) Review chapter 11, Hawaii Revised Statutes, and
4 determine the potential impact that a judicial
5 election system may have on existing election laws;

6 (2) Study the election laws of other jurisdictions that
7 have judicial election systems;

8 (3) Determine appropriate methods of implementing a
9 program for the election of justices and judges,
10 including any proposed legislation; and

11 (4) Determine methods and timeframes to implement an
12 election program.

13 The office of elections shall submit a written report of its
14 findings and recommendations, including any proposed
15 legislation, to the legislature no later than twenty days prior
16 to the convening of the regular session of 2017.

17 SECTION 4. The campaign spending commission shall review
18 part XIII of chapter 11, Hawaii Revised Statutes, and study
19 appropriate methods of implementing a campaign finance program
20 for judicial elections. Specifically, the campaign spending
21 commission shall:



- 1 (1) Review part XIII of chapter 11, Hawaii Revised
- 2 Statutes, and determine the potential impact that a
- 3 judicial election system may have on existing campaign
- 4 finance laws;
- 5 (2) Study the campaign finance laws of other jurisdictions
- 6 that have judicial election systems;
- 7 (3) Determine appropriate methods of implementing a
- 8 campaign finance program for judicial elections,
- 9 including any proposed legislation; and
- 10 (4) Determine methods and timeframes to implement a
- 11 campaign finance program.

12 The campaign spending commission shall submit a written report
 13 of its findings and recommendations, including any proposed
 14 legislation, to the legislature no later than twenty days prior
 15 to the convening of the regular session of 2017.

16 SECTION 5. In the course of discussion and study, the
 17 judiciary, office of elections, and campaign spending commission
 18 may consult and collaborate to determine appropriate methods of
 19 implementing a judicial election system in the State.

20 SECTION 6. This Act shall take effect on January 7, 2059.



Report Title:

Elections; Judges; Judiciary; Office of Elections; Campaign Spending Commission; Study

Description:

Requires the judiciary, office of elections, and campaign spending commission to study appropriate methods of implementing a judicial election system in the State and submit a written report, including proposed legislation, to the legislature. Takes effect on 1/7/2059. (SD1)

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