

JAN 26 2022

S.B. NO. 3254

A BILL FOR AN ACT

PROPOSING AMENDMENTS TO ARTICLE IV, SECTIONS 4 AND 6, OF THE
HAWAII STATE CONSTITUTION REGARDING REAPPORTIONMENT.

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

1 SECTION 1. The legislature finds that the Hawaii State
2 Constitution is unique in its determination of resident
3 population for reapportionment purposes. Reapportionment is the
4 process of re-distributing seats for elected officials so that
5 the seats are relatively evenly distributed based on the
6 resident population. Since being ratified by voters in
7 November, 1992, section 4 and 6, of the Hawaii State
8 Constitution have required that reapportionment for state
9 senators and representatives be based on the average number of
10 "permanent residents" in each district. Any resident not deemed
11 permanent, even if included in the decennial United States
12 census count as a "usual resident" of the State, is extracted,
13 or deleted, from the total used by the state reapportionment
14 commission and therefore not factored into the allocation of
15 state senate and house districts.



1 The legislature further finds that forty-nine states base
2 their reapportionment process on the U.S. census data and the
3 concept of "usual residents." The U.S. census defines "usual
4 residence" as "the place where a person lives and sleeps most of
5 the time." 83 Fed. Reg. 5525 (Feb. 8, 2018). For federal House
6 of Representatives purposes, Hawaii's two seats are allocated
7 based on the census data. Hawaii ignores this approach and
8 simply extracts non-permanent residents from the census total.
9 Kansas, the only other state that did not use unadjusted census
10 numbers for several reapportionments, stopped the practice when
11 voters supported a state constitutional amendment in 2019.
12 Kansas now uses the most recent census data as published by the
13 U.S. census bureau. Hawaii remains the outlier in this regard.
14 The practical effect of Hawaii's method is that thousands of
15 military members, their dependents, and college students who
16 reside in the State but are not permanent residents are excluded
17 from reapportionment. Furthermore, these individuals are also
18 not counted in another state for reapportionment purposes since
19 all other states base their process on the U.S. census data.

20 The legislature additionally finds that the U.S.
21 Constitution's equal protection clause requires equal



1 representation of all persons. Elected officials represent and
2 serve all persons living in a specific geographic area,
3 regardless of their residence status. It is neither rational
4 nor fair to ignore the many non-permanent resident military
5 members, their dependents, and college students living in the
6 State, since state and county services are provided regardless
7 of the individual's reapportionment status. Under the State's
8 current extraction method there are, in some census tracks, a
9 negative net population. District to district, there is also
10 uneven and unequal representation because those excluded are not
11 evenly distributed across the districts. Fundamentally,
12 individuals that are extracted live in a specific area and
13 should be counted for representation purposes of that district.

14 The purpose of this Act is to propose amendments to article
15 IV, sections 4 and 6, of the Hawaii State Constitution to
16 specify that reapportionment shall be based on the resident
17 population, as counted in the most recent decennial United
18 States Census.

19 SECTION 2. Article IV, Section 4, of the Hawaii State
20 Constitution, is amended to read as follows:



1 **"Section 4.** The commission shall allocate the total number
2 of members of each house of the state legislature being
3 reapportioned among the four basic island units, namely: (1)
4 the island of Hawaii, (2) the islands of Maui, Lanai, Molokai
5 and Kahoolawe, (3) the island of Oahu and all other islands not
6 specifically enumerated, and (4) the islands of Kauai and
7 Niihau, using the total number of [~~permanent~~] residents, as
8 reported by the most recent decennial census of the United
9 States, in each of the basic island units and computed by the
10 method known as the method of equal proportions; except that no
11 basic island unit shall receive less than one member in each
12 house."

13 SECTION 3. Article IV, Section 6, of the Hawaii State
14 Constitution is amended to read as follows:

15 **"Section 6.** Upon the determination of the total number of
16 members of each house of the state legislature to which each
17 basic island unit is entitled, the commission shall apportion
18 the members among the districts therein and shall redraw
19 district lines where necessary in such manner that for each
20 house the average number of [~~permanent~~] residents, as reported
21 by the most recent decennial census of the United States, per



1 member in each district is as nearly equal to the average for
2 the basic island unit as practicable.

3 In effecting such redistricting, the commission shall be
4 guided by the following criteria:

5 1. No district shall extend beyond the boundaries of any
6 basic island unit.

7 2. No district shall be so drawn as to unduly favor a
8 person or political faction.

9 3. Except in the case of districts encompassing more than
10 one island, districts shall be contiguous.

11 4. Insofar as practicable, districts shall be compact.

12 5. Where possible, district lines shall follow permanent
13 and easily recognized features, such as streets, streams and
14 clear geographical features, and, when practicable, shall
15 coincide with census tract boundaries.

16 6. Where practicable, representative districts shall be
17 wholly included within senatorial districts.

18 7. Not more than four members shall be elected from any
19 district.



1 8. Where practicable, submergence of an area in a larger
2 district wherein substantially different socio-economic
3 interests predominate shall be avoided."

4 SECTION 4. The question to be printed on the ballot shall
5 be as follows:

6 "Shall the reapportionment, or dividing up, of state
7 election districts be based on the total number of
8 residents, as determined by the most recent United States
9 Census, instead of the current process that is based on the
10 number of permanent residents, as determined after
11 subtracting non-permanent military, military dependents, and
12 college students?"

13 SECTION 5. Constitutional material to be repealed is
14 bracketed and stricken. New constitutional material is
15 underscored.

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

19
INTRODUCED BY: _____

Kalene



S.B. NO. 3254

Report Title:

Reapportionment; Constitutional Amendment

Description:

Proposes a constitutional amendment to specify that reapportionment shall be based on the resident population, as counted in the most recent decennial United States Census.

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

