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



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

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



1 SECTION 2. Article IV, section 4, of the Hawaii State
2 Constitution, is amended to read as follows:

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

15 SECTION 3. Article IV, section 6, of the Hawaii State
16 Constitution is amended to read as follows:

17 "Section 6. Upon the determination of the total number of
18 members of each house of the state legislature to which each
19 basic island unit is entitled, the commission shall apportion
20 the members among the districts therein and shall redraw
21 district lines where necessary in such manner that for each



1 house the average number of [~~permanent~~] residents, as reported
2 by the most recent decennial census of the United States, per
3 member in each district is as nearly equal to the average for
4 the basic island unit as practicable.

5 In effecting such redistricting, the commission shall be
6 guided by the following criteria:

7 1. No district shall extend beyond the boundaries of any
8 basic island unit.

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

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

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

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

18 6. Where practicable, representative districts shall be
19 wholly included within senatorial districts.

20 7. Not more than four members shall be elected from any
21 district.



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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, to be consistent with every other state in the
9 nation?"

10 SECTION 5. Constitutional material to be repealed is
11 bracketed and stricken. New constitutional material is
12 underscored.

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

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INTRODUCED BY:



JAN 24 2023



H.B. NO. 1168

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.

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