HOUSE CONCURRENT RESOLUTION

ESTABLISHING A TASK FORCE TO REVIEW THE RETIREMENT AGE FOR STATE COURT JUSTICES AND JUDGES; THE TERM LIMITS OF STATE COURT JUSTICES AND JUDGES; THE POSSIBILITY OF ESTABLISHING A SENIOR JUDGE SYSTEM FOR STATE COURT JUSTICES AND JUDGES; JUDICIAL ACCOUNTABILITY AND FITNESS IN THE STATE OF HAWAII; AND RELATED MATTERS.

WHEREAS, Article VI, Section 3, of the Constitution of the State of Hawaii currently requires that state court justices and judges retire from the bench upon attaining the age of 70 years; and

WHEREAS, Senate Bill No. 995, Regular Session of 2006, proposed a repeal of the constitutional provision mandating the retirement of justices and judges at age 70; and

WHEREAS, Senate Bill No. 995 passed both the House of Representatives and the Senate by the two-thirds vote, as required by Article XVII, Section 3, of the Constitution of the State of Hawaii; and

WHEREAS, the proposed repeal of the mandatory retirement age for justices and judges was duly placed on the ballot and submitted to the voters for ratification or rejection at the general election on November 7, 2006; and

WHEREAS, only 34.8 percent of the electorate voted in favor of the repeal and 57.8 percent of the electorate voted against repealing the mandatory retirement age for justices and judges; and

WHEREAS, the proposed repeal of the mandatory retirement age for justices and judges failed to obtain the majority of all the votes tallied upon the proposal and was therefore rejected; and

WHEREAS, Hawaii has no senior judge system and the system of judicial accountability and determining judicial fitness has not been studied; and
WHEREAS, major concerns with the proposed amendment included the lack of any careful study of:

(1) The effects of a repeal of the retirement age on the Judiciary and the administration of justice, including a study of whether the retirement age should be retained, altered, or eliminated and, if so, whether prospectively only;

(2) Current term limits for state court justices and judges;

(3) Whether there should be a senior judge system for state court justices and judges; and

(4) Whether there is currently sufficient judicial accountability and means for determining judicial fitness;

and

WHEREAS, a study:

(1) Reviewing the practices of other jurisdictions regarding: the regulation of judicial retirement, term limits for judges, a senior judge system, judicial accountability, and means for determining judicial fitness;

(2) Identifying public policies promoted or impeded by: the current Hawaii mandatory judicial retirement age or its alternatives, judicial term limits, the lack of a senior judge system in Hawaii, the current Hawaii system of judicial accountability, and the current Hawaii means for determining judicial fitness; and

(3) Collecting data on the impact of changing any of the above;

would be valuable in facilitating an informed discussion of, evaluating the merits of retaining, repealing, or amending the current Hawaii: mandatory judicial retirement age, including if there is to be a change whether it should be prospective only; judicial term limits; lack of a senior judge system; system of judicial accountability; means for determining judicial fitness;

now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2008, the Senate concurring, that a task force be convened to:

(1) Collect relevant data, including, but not limited to,
practices in other jurisdictions; and

(2) Identify public policies promoted or impeded by, and make recommendations on the repeal, amendment, or retention of the:

(A) Mandatory judicial retirement age;

(B) Judicial term limits;

(C) Lack of a senior judge system;

(D) Current system of judicial accountability; and

(E) Current means for determining judicial fitness;

and

BE IT FURTHER RESOLVED that the task force be composed of the following members:

(1) The Dean of the William S. Richardson School of Law, who is requested to serve as the chairperson;

(2) The Attorney General, or the Attorney General's designee;

(3) The United States Attorney for the District of Hawaii, or designee;

(4) A representative of each county prosecuting attorney's office;

(5) A representative from the Office of the Public Defender;

(6) A representative of the Hawaii State Bar Association;

(7) The Chairperson of the Judicial Selection Commission, or the Chairperson's designee;

(8) A representative of the appellate judges of Hawaii, to be selected by the Chief Justice;

(9) A representative of the district and circuit judges of Hawaii, to be selected by them;

(10) A representative of the American Civil Liberties Union; and

(11) A member of the public, to be appointed by the Governor; and
BE IT FURTHER RESOLVED that the University of Hawaii is requested to provide administrative, clerical, and other necessary staff support to the task force; and

BE IT FURTHER RESOLVED that the task force is requested to report its findings and recommendations, including any proposed legislation, to the Legislature no later than 20 days prior to the convening of the Regular Session of 2009; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Dean of the William S. Richardson School of Law, Attorney General, United States Attorney for the District of Hawaii, Prosecuting Attorney for each county, Office of the Public Defender, President of the Hawaii State Bar Association, Chairperson of the Judicial
Selection Commission, Chief Justice, Administrative Director of the Courts, Executive Director of the American Civil Liberties Union of Hawaii, Governor, and President of the University of Hawaii.