

# **THE CONSTITUTION OF THE STATE OF HAWAII**

**The following excerpts relate to the constitutional provisions of the electoral process.**

## **Preamble**

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## **PREAMBLE**

We, the people of Hawaii, grateful for Divine Guidance, and mindful of our Hawaiian heritage and uniqueness as an island State, dedicate our efforts to fulfill the philosophy decreed by the Hawaii State motto, "Ua mau ke ea o ka aina i ka pono."

We reserve the right to control our destiny, to nurture the integrity of our people and culture, and to preserve the quality of life that we desire.

We reaffirm our belief in a government of the people, by the people and for the people, and with an understanding and compassionate heart toward all the peoples of the earth, do hereby ordain and establish this constitution for the State of Hawaii. [Am Const Con 1978 and election Nov 7, 1978]

## **FEDERAL CONSTITUTION ADOPTED**

The Constitution of the United States of America is adopted on behalf of the people of the State of Hawaii.

### **ARTICLE I BILL OF RIGHTS**

#### **POLITICAL POWER**

**Section 1.** All political power of this State is inherent in the people and the responsibility for the exercise thereof rests with the people. All government is founded on this authority. [Am Const Con 1978 and election Nov 7, 1978]

#### **RIGHTS OF CITIZENS**

**Section 8.** No citizen shall be disfranchised, or deprived of any of the rights or privileges secured to other citizens, unless by the law of the land. [Ren Const Con 1978 and election Nov 7, 1978]

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## ARTICLE II SUFFRAGE AND ELECTIONS

### QUALIFICATIONS

**Section 1.** Every citizen of the United States who shall have attained the age of eighteen years, have been a resident of this State not less than one year next preceding the election and be a voter registered as provided by law, shall be qualified to vote in any state or local election. [Am Const Con 1968 and election Nov 5, 1968; am SB No 41 (1971) and election Nov 7, 1972; am Const Con 1978 and election Nov 7, 1978]

### DISQUALIFICATION

**Section 2.** No person who is non compos mentis shall be qualified to vote. No person convicted of a felony shall be qualified to vote except upon the person's final discharge or earlier as provided by law. [Am Const Con 1968 and election Nov 5, 1968; am Const Con 1978 and election Nov 7, 1978]

### RESIDENCE

**Section 3.** No person shall be deemed to have gained or lost residence simply because of the person's presence or absence while employed in the service of the United States, or while engaged in navigation or while a student at any institution of learning. [Am Const Con 1978 and election Nov 7, 1978]

### REGISTRATION; VOTING

**Section 4.** The legislature shall provide for the registration of voters and for absentee voting and shall prescribe the method of voting at all elections. Secrecy of voting shall be preserved; provided that no person shall be required to declare a party preference or nonpartisanship as a condition of voting in any primary or special primary election. Secrecy of voting and choice of political party affiliation or nonpartisanship shall be preserved. [Am Const Con 1978 and election Nov 7, 1978]

### CAMPAIGN FUND, SPENDING LIMIT

**Section 5.** The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the State and its political subdivisions, as provided by law. The legislature shall provide a limit on the campaign spending of candidates. [Add Const Con 1978 and election Nov 7, 1978]

### CAMPAIGN CONTRIBUTIONS LIMITS

**Section 6.** Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be provided by law. [Add Const Con 1978 and election Nov 7, 1978]

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### RESIGNATION FROM PUBLIC OFFICE

**Section 7.** Any elected public officer shall resign from that office before being eligible as a candidate for another public office, if the term of the office sought begins before the end of the term of the office held. [Add Const Con 1978 and election Nov 7, 1978]

### GENERAL, SPECIAL AND PRIMARY ELECTIONS

**Section 8.** General elections shall be held on the first Tuesday after the first Monday in November in all even-numbered years. Special and primary elections may be held as provided by law; provided that in no case shall any primary election precede a general election by less than forty-five days. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978]

#### PRESIDENTIAL PREFERENCE PRIMARY

**Section 9.** A presidential preference primary may be held as provided by law. [Add Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978]

#### CONTESTED ELECTIONS

**Section 10.** Contested elections shall be determined by a court of competent jurisdiction in such manner as shall be provided by law. [Part of §5, ren Const Con 1968 and election Nov 5, 1968; ren Const Con 1978 and election Nov 7, 1978]

## ARTICLE III THE LEGISLATURE

**Revision note:** For proposals of the 1978 Constitutional Convention rewriting sections of this article that were not validly ratified, see Kahalekai v. Doi, 60 Haw. 324, 590 P.2d 543 (1979). Under the authority of Resolution No. 29 of the 1978 Constitutional Convention, the revisor has deleted appropriate textual changes.

### LEGISLATIVE POWER

**Section 1.** The legislative power of the State shall be vested in a legislature, which shall consist of two houses, a senate and a house of representatives. Such power shall extend to all rightful subjects of legislation not inconsistent with this constitution or the Constitution of the United States.

### COMPOSITION OF SENATE

**Section 2.** The senate shall be composed of twenty-five members, who shall be elected by the qualified voters of the respective senatorial districts. Until the next reapportionment the senatorial districts and the number of senators to be elected from each shall be as set forth in the Schedule. [Am Const Con 1968 and election Nov 5, 1968; am Const Con 1978 and election Nov 7, 1978]

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## COMPOSITION OF HOUSE OF REPRESENTATIVES

**Section 3.** The house of representatives shall be composed of fifty-one members, who shall be elected by the qualified voters of the respective representative districts. Until the next reapportionment, the representative districts and the number of representatives to be elected from each shall be as set forth in the Schedule. [Am Const Con 1978 and election Nov 7, 1978] Revision note. - A proposal of the 1978 Constitutional Convention rewriting this section was not validly ratified. Kahalekai v. Doi, 60 Haw. 324, 590 P.2d 543 (1979). The revisor deleted the textual changes under the authority of Resolution No. 29 of the 1978 Constitutional Convention.

### ELECTION OF MEMBERS; TERM

**Section 4.** Each member of the legislature shall be elected at an election. If more than one candidate has been nominated for election to a seat in the legislature, the member occupying that seat shall be elected at a general election. If a candidate nominated for a seat at a primary election is unopposed for that seat at the general election, the candidate shall be deemed elected at the primary election. The term of office of a member of the house of representatives shall be two years and the term of office of a member of the senate shall be four years. The term of a member of the legislature shall begin on the day of the general election at which elected or if elected at a primary election, on the day of the general election immediately following the primary election at which elected. For a member of the house of representatives, the term shall end on the day of the general election immediately following the day the member's term commences. For a member of the senate, the term shall end on the day of the second general election immediately following the day the member's term commences. [Ren Const Con 1978 and election Nov 7, 1978; am HB 572 (1987) and election Nov 8, 1988]

### VACANCIES

**Section 5.** Any vacancy in the legislature shall be filled for the unexpired term in such manner as may be provided by law, or, if no provision be made by law, by appointment by the governor for the unexpired term. [Ren and am Const Con 1978 and election Nov 7, 1978]

### QUALIFICATIONS OF MEMBERS

**Section 6.** No person shall be eligible to serve as a member of the senate unless the person has been a resident of the State for not less than three years, has attained the age of majority and is, prior to filing nomination papers and thereafter continues to be, a qualified voter of the senatorial district from which the person seeks to be elected; except that in the year of the first general election following reapportionment, but prior to the primary election, an incumbent senator may move to a new district without being disqualified from completing the remainder of the incumbent senator's term. No person shall be eligible to serve as a member of the house of representatives unless the person has been a resident of the State for not less than three years, has attained the age of majority and is, prior to filing nomination papers and thereafter continues to be, a qualified voter of the representative district from which the person seeks to be elected; except that in the year of the first general election following reapportionment, but prior to the primary election, an incumbent representative may move to a new district without being disqualified from completing the remainder of the incumbent representative's term. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978; am HB 1012 (2002) and election Nov 5, 2002]

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## DISQUALIFICATIONS OF MEMBERS

**Section 8.** No member of the legislature shall hold any other public office under the State, nor shall the member, during the term for which the member is elected or appointed, be elected or appointed to any public office or employment which shall have been created, or the emoluments whereof shall have been increased, by legislative act during such term. The term "public offices," for the purposes of this section, shall not include notaries public, reserve police officers or officers of emergency organizations for civilian defense or disaster relief. The legislature may prescribe further disqualifications. [Ren and am Const Con 1978 and election Nov 7, 1978]

## SALARY; ALLOWANCES; COMMISSION ON LEGISLATIVE SALARY

**Section 9.** The members of the legislature shall receive allowances reasonably related to expenses as provided by law. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978; am SB 2072 (1984) and election Nov 6, 1984; am HB 1917 (2006) and election Nov 7, 2006]

## SESSIONS

**Section 10.** The legislature shall convene annually in regular session at 10:00 o'clock a.m. on the third Wednesday in January.

At the written request of two-thirds of the members to which each house is entitled, the presiding officers of both houses shall convene the legislature in special session. At the written request of two-thirds of the members of the senate, the president of the senate shall convene the senate in special session for the purpose of carrying out its responsibility established by Section 3 of Article VI. The governor may convene both houses or the senate alone in special session.

Regular sessions shall be limited to a period of sixty days, and special sessions shall be limited to a period of thirty days. Any session may be extended a total of not more than fifteen days. Such extension shall be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the governor.

Each regular session shall be recessed for not less than five days at some period between the twentieth and fortieth days of the regular session. The legislature shall determine the dates of the mandatory recess by concurrent resolution. Any session may be recessed by concurrent resolution adopted by a majority of the members to which each house is entitled. Saturdays, Sundays, holidays, the days in mandatory recess and any days in recess pursuant to a concurrent resolution shall be excluded in computing the number of days of any session.

All sessions shall be held in the capital of the State. In case the capital shall be unsafe, the governor may direct that any session be held at some other place. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978; am SB 1973 (1980) and election Nov 4, 1980]

## ADJOURNMENT

**Section 11.** Neither house shall adjourn during any session of the legislature for more than three days, or sine die, without the consent of the other. [Ren Const Con 1978 and election Nov 7, 1978]

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### ORGANIZATION; DISCIPLINE; RULES; PROCEDURE

**Section 12.** Each house shall be the judge of the elections, returns and qualifications of its own members and shall have, for misconduct, disorderly behavior or neglect of duty of any member, power to punish such member by censure or, upon a two-thirds vote of all the members to which such house is entitled, by suspension or expulsion of such member. Each house shall choose its own officers, determine the rules of its proceedings and keep a journal. The ayes and noes of the members on any question shall, at the desire of one-fifth of the members present, be entered upon the journal.

Twenty days after a bill has been referred to a committee in either house, the bill may be recalled from such committee by the affirmative vote of one-third of the members to which such house is entitled.

Every meeting of a committee in either house or of a committee comprised of a member or members from both houses held for the purpose of making decision on matters referred to the committee shall be open to the public.

By rule of its proceedings, applicable to both houses, each house shall provide for the date by which all bills to be considered in a regular session shall be introduced. [Ren and am Const Con 1978 and election Nov 7, 1978; am HB 1947 (1984) and election Nov 6, 1984]

### QUORUM; COMPULSORY ATTENDANCE

**Section 13.** A majority of the number of members to which each house is entitled shall constitute a quorum of such house for the conduct of ordinary business, of which quorum a majority vote shall suffice; but the final passage of a bill in each house shall require the vote of a majority of all the members to which such house is entitled, taken by ayes and noes and entered upon its journal. A smaller number than a quorum may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as each house may provide. [Ren Const Con 1978 and election Nov 7, 1978]

### BILLS; ENACTMENT

**Section 14.** No law shall be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title. The enacting clause of each law shall be, "Be it enacted by the legislature of the State of Hawaii." [Ren Const Con 1978 and election Nov 7, 1978]

### PASSAGE OF BILLS

**Section 15.** No bill shall become law unless it shall pass three readings in each house on separate days. No bill shall pass third or final reading in either house unless printed copies of the bill in the form to be passed shall have been made available to the members of that house for at least forty-eight hours.

Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration.

Any bill pending at the final adjournment of a regular session in an odd-numbered year shall carry over with the same status to the next regular session. Before the carried-over bill is

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enacted, it shall pass at least one reading in the house in which the bill originated. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978]

### APPROVAL OR VETO

**Section 16.** Every bill which shall have passed the legislature shall be certified by the presiding officers and clerks of both houses and shall thereupon be presented to the governor. If the governor approves it, the governor shall sign it and it shall become law. If the governor does not approve such bill, the governor may return it, with the governor's objections to the legislature. Except for items appropriated to be expended by the judicial and legislative branches, the governor may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same; but the governor shall veto other bills, if at all, only as a whole.

The governor shall have ten days to consider bills presented to the governor ten or more days before the adjournment of the legislature sine die, and if any such bill is neither signed nor returned by the governor within that time, it shall become law in like manner as if the governor had signed it.

### RECONSIDERATION AFTER ADJOURNMENT

The governor shall have forty-five days, after the adjournment of the legislature sine die, to consider bills presented to the governor less than ten days before such adjournment, or presented after adjournment, and any such bill shall become law on the forty-fifth day unless the governor by proclamation shall have given ten days' notice to the legislature that the governor plans to return such bill with the governor's objections on that day. The legislature may convene at or before noon on the forty-fifth day in special session, without call, for the sole purpose of acting upon any such bill returned by the governor. In case the legislature shall fail to so convene, such bill shall not become law. Any such bill may be amended to meet the governor's objections and, if so amended and passed, only one reading being required in each house for such passage, it shall be presented again to the governor, but shall become law only if the governor shall sign it within ten days after presentation.

In computing the number of days designated in this section, the following days shall be excluded: Saturdays, Sundays, holidays and any days in which the legislature is in recess prior to its adjournment as provided in section 10 of this article. [Am Const Con 1968 and election Nov 5, 1968; am L 1974, SB No 1943-74 and election Nov 5, 1974; ren and am Const Con 1978 and election Nov 7, 1978]

### PROCEDURES UPON VETO

**Section 17.** Upon the receipt of a veto message from the governor, each house shall enter the same at large upon its journal and proceed to reconsider the vetoed bill, or the item or items vetoed, and again vote upon such bill, or such item or items, by ayes and noes, which shall be entered upon its journal. If after such reconsideration such bill, or such item or items, shall be approved by a two-thirds vote of all members to which each house is entitled, the same shall become law. [Ren Const Con 1978 and election Nov 7, 1978]

### PUNISHMENT OF NONMEMBERS

**Section 18.** Each house may punish by fine, or by imprisonment not exceeding thirty days, any person not a member of either house who shall be guilty of disrespect of such house by any disorderly or contemptuous behavior in its presence or that of any committee thereof; or who shall, on account of the exercise of any legislative function, threaten harm to the body or

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estate of any of the members of such house; or who shall assault, arrest or detain any witness or other person ordered to attend such house, on the witness' or other person's way going to or returning therefrom; or who shall rescue any person arrested by order of such house.

Any person charged with such an offense shall be informed in writing of the charge made against the person and have opportunity to present evidence and be heard in the person's own defense. [Ren and am Const Con 1978 and election Nov 7, 1978]

### IMPEACHMENT

**Section 19.** The governor and lieutenant governor, and any appointive officer for whose removal the consent of the senate is required, may be removed from office upon conviction of impeachment for such causes as may be provided by law.

The house of representatives shall have the sole power of impeachment of the governor and lieutenant governor and the senate the sole power to try such impeachments, and no such officer shall be convicted without the concurrence of two-thirds of the members of the senate. When sitting for that purpose, the members of the senate shall be on oath or affirmation and the chief justice shall preside. Subject to the provisions of this paragraph, the legislature may provide for the manner and procedure of removal by impeachment of such officers.

The legislature shall by law provide for the manner and procedure of removal by impeachment of the appointive officers.

Judgments in cases of impeachment shall not extend beyond removal from office and disqualification to hold and enjoy any office of honor, trust or profit under the State; but the person convicted may nevertheless be liable and subject to indictment, trial, judgment and punishment as provided by law. [Ren and am Const Con 1978 and election Nov 7, 1978]

### ARTICLE IV REAPPORTIONMENT

**Revision note:** This article, entitled "Reapportionment," is new. It was added by the Constitutional Convention of 1978 and the election on Nov 7, 1978. The former Article IV, entitled "The Executive," now appears as Article V.

#### REAPPORTIONMENT YEARS

**Section 1.** The year 1973, the year 1981, and every tenth year thereafter shall be reapportionment years. [Add Const Con 1978 and election Nov 7, 1978]

#### REAPPORTIONMENT COMMISSION

**Section 2.** A reapportionment commission shall be constituted on or before May 1 of each reapportionment year and whenever reapportionment is required by court order. The commission shall consist of nine members. The president of the senate and the speaker of the house of representatives shall each select two members. Members of each house belonging to the party or parties different from that of the president or the speaker shall designate one of their number for each house and the two so designated shall each select two members of the commission. The eight members so selected, promptly after selection, shall be certified by the selecting authorities to the chief election officer and within thirty days thereafter, shall select, by a vote of six members, and promptly certify to the chief election officer the ninth member who shall serve as chairperson of the commission.

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Each of the four officials designated above as selecting authorities for the eight members of the commission, at the time of the commission selections, shall also select one person from each basic island unit to serve on an apportionment advisory council for that island unit. The councils shall remain in existence during the life of the commission and each shall serve in an advisory capacity to the commission for matters affecting its island unit.

A vacancy in the commission or a council shall be filled by the initial selecting authority within fifteen days after the vacancy occurs. Commission and council positions and vacancies not filled within the times specified shall be filled promptly thereafter by the supreme court.

The commission shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law.

Not more than one hundred fifty days from the date on which its members are certified, the commission shall file with the chief election officer a reapportionment plan for the state legislature and a reapportionment plan for the United States congressional districts which shall become law after publication as provided by law. Members of the commission shall hold office until each reapportionment plan becomes effective or until such time as may be provided by law.

No member of the reapportionment commission or an apportionment advisory council shall be eligible to become a candidate for election to either house of the legislature or to the United States House of Representatives in either of the first two elections under any such reapportionment plan.

Commission and apportionment advisory council members shall be compensated and reimbursed for their necessary expenses as provided by law.

The chief election officer shall be secretary of the commission without vote and, under the direction of the commission, shall furnish all necessary technical services. The legislature shall appropriate funds to enable the commission to carry out its duties. [Add Const Con 1978 and election Nov 7, 1978; am HB 2322 (1992) and election Nov 3, 1992]

### CHIEF ELECTION OFFICER

**Section 3.** The legislature shall provide for a chief election officer of the State, whose responsibilities shall be as provided by law and shall include the supervision of state elections, the maximization of registration of eligible voters throughout the State and the maintenance of data concerning registered voters, elections, apportionment and districting. [Add Const Con 1978 and election Nov 7, 1978]

### APPORTIONMENT AMONG BASIC ISLAND UNITS

**Section 4.** The commission shall allocate the total number of members of each house of the state legislature being reapportioned among the four basic island units, namely: (1) the island of Hawaii, (2) the islands of Maui, Lanai, Molokai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, using the total number of permanent residents in each of the basic island units and computed by the method known as the method of equal proportions; except that no basic island unit shall receive less than one member in each house. [Add Const Con 1978 and election Nov 7, 1978; am HB 2327 (1992) and election Nov 3, 1992]

### MINIMUM REPRESENTATION FOR BASIC ISLAND UNITS

**Section 5.** The representation of any basic island unit initially allocated less than a minimum of two senators and three representatives shall be augmented by allocating thereto

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the number of senators or representatives necessary to attain such minimums which number, notwithstanding the provisions of Sections 2 and 3 of Article III shall be added to the membership of the appropriate body until the next reapportionment. The senators or representatives of any basic island unit so augmented shall exercise a fractional vote wherein the numerator is the number initially allocated and the denominator is the minimum above specified. [Am Const Con 1968 and election Nov 5, 1968; ren Const Con 1978 and election Nov 7, 1978]

### APPORTIONMENT WITHIN BASIC ISLAND UNITS

**Section 6.** Upon the determination of the total number of members of each house of the state legislature to which each basic island unit is entitled, the commission shall apportion the members among the districts therein and shall redraw district lines where necessary in such manner that for each house the average number of permanent residents per member in each district is as nearly equal to the average for the basic island unit as practicable.

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

1. No district shall extend beyond the boundaries of any basic island unit.
2. No district shall be so drawn as to unduly favor a person or political faction.
3. Except in the case of districts encompassing more than one island, districts shall be contiguous.
4. Insofar as practicable, districts shall be compact.
5. Where possible, district lines shall follow permanent and easily recognized features, such as streets, streams and clear geographical features, and, when practicable, shall coincide with census tract boundaries.
6. Where practicable, representative districts shall be wholly included within senatorial districts.
7. Not more than four members shall be elected from any district.
8. Where practicable, submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided. [Add Const Con 1978 and election Nov 7, 1978; am HB 2327 (1992) and election Nov 3, 1992]

### ELECTION OF SENATORS AFTER REAPPORTIONMENT

**Section 7.** Regardless of whether or not a senator is serving a term that would have extended past the general election at which an apportionment plan becomes effective, the term of office of all senators shall end at that general election. The staggered terms of senators in each district shall be recomputed as established by the next section in this article, and the number of senators in a senatorial district under the reapportionment plan of the commission. [Add Const Con 1978 and election Nov 7, 1978; am SB 2234 (1992) and election Nov 3, 1992; am HB 1 (2000 2d) and election Nov 7, 2000]

### STAGGERED TERMS FOR THE SENATE

**Section 8.** The reapportionment commission shall, as part of the reapportionment plan, assign two-year terms for twelve senate seats for the election immediately following the adoption of the reapportionment plan. The remaining seats shall be assigned four-year terms. Insofar as practicable, the commission shall assign the two-year terms to senate seats so that the resident population of each senate district shall have no more than two regular senate elections for a particular senate seat within the six-year period beginning in the even-numbered year prior to the reapportionment year; provided that in the event

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of a multi-member senate district, the senators elected with the highest number of votes in that district in the election immediately following the adoption of the reapportionment plan shall fill the senate seats in that district which were assigned the four-year terms by the commission. [Add Const Con 1978 and election Nov 7, 1978; am HB 572 (1987) and election Nov 8, 1988; am SB 2234 (1992) and election Nov 3, 1992; am HB 1 (2000 2d) and election Nov 7, 2000]

### CONGRESSIONAL REDISTRICTING FOR UNITED STATES HOUSE OF REPRESENTATIVES

**Section 9.** The commission shall, at such times as may be required by this article and as may be required by law of the United States, redraw congressional district lines for the districts from which the members of the United States House of Representatives allocated to this State by Congress are elected. [Add Const Con 1978 and election Nov 7, 1978]

### MANDAMUS AND JUDICIAL REVIEW

**Section 10.** Original jurisdiction is vested in the supreme court of the State to be exercised on the petition of any registered voter whereby it may compel, by mandamus or otherwise, the appropriate person or persons to perform their duty or to correct any error made in a reapportionment plan, or it may take such other action to effectuate the purposes of this section as it may deem appropriate. Any such petition shall be filed within forty-five days of the date specified for any duty or within forty-five days after the filing of a reapportionment plan. [Add Const Con 1978 and election Nov 7, 1978]

## ARTICLE V THE EXECUTIVE

**Revision note.** This article was renumbered from Article IV to be Article V by the Constitutional Convention of 1978 and the election on Nov. 7, 1978. The former Article V now appears as Article VI.

### ESTABLISHMENT OF THE EXECUTIVE

**Section 1.** The executive power of the State shall be vested in a governor. The governor shall be elected by the qualified voters of this State at a general election. The person receiving the highest number of votes shall be the governor. In case of a tie vote, the selection of the governor shall be determined as provided by law.

The term of office of the governor shall begin at noon on the first Monday in December next following the governor's election and end at noon on the first Monday in December, four years thereafter.

No person shall be elected to the office of governor for more than two consecutive full terms.

No person shall be eligible for the office of governor unless the person shall be a qualified voter, have attained the age of thirty years and have been a resident of this State for five years immediately preceding the person's election.

The governor shall not hold any other office or employment of profit under the State or the United States during the governor's term of office. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978]

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## LIEUTENANT GOVERNOR

**Section 2.** There shall be a lieutenant governor who shall have the same qualifications as the governor. The lieutenant governor shall be elected at the same time, for the same term and in the same manner as the governor; provided that the votes cast in the general election for the nominee for governor shall be deemed cast for the nominee for lieutenant governor of the same political party. No person shall be elected to the office of lieutenant governor for more than two consecutive full terms. The lieutenant governor shall perform such duties as may be provided by law. [Am HB 19 (1964) and election Nov 3, 1964; ren and am Const Con 1978 and election Nov 7, 1978]

## COMPENSATION: GOVERNOR, LIEUTENANT GOVERNOR

**Section 3. REPEALED.** [Repeal HB 1917 (2006) and election Nov 7, 2006]

## SUCCESSION TO GOVERNORSHIP; ABSENCE OR DISABILITY OF GOVERNOR

**Section 4.** When the office of governor is vacant, the lieutenant governor shall become governor. In the event of the absence of the governor from the State, or the governor's inability to exercise and discharge the powers and duties of the governor's office, such powers and duties shall devolve upon the lieutenant governor during such absence or disability.

When the office of lieutenant governor is vacant, or in the event of the absence of the lieutenant governor from the State, or the lieutenant governor's inability to exercise and discharge the powers and duties of the lieutenant governor's office, such powers and duties shall devolve upon such officers in such order of succession as may be provided by law.

In the event of the impeachment of the governor or of the lieutenant governor, the governor or the lieutenant governor shall not exercise the powers of the applicable office until acquitted. [Ren and am Const Con 1978 and election Nov 7, 1978]

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## EXECUTIVE AND ADMINISTRATIVE OFFICES AND DEPARTMENTS

**Section 6.** All executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such a manner as to group the same according to common purposes and related functions. Temporary commissions or agencies for special purposes may be established by law and need not be allocated within a principal department.

Each principal department shall be under the supervision of the governor and, unless otherwise provided in this constitution or by law, shall be headed by a single executive. Such single executive shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. That person shall hold office for a term to expire at the end of the term for which the governor was elected, unless sooner removed by the governor; except that the removal of the chief legal officer of the State shall be subject to the advice and consent of the senate.

Except as otherwise provided in this constitution, whenever a board, commission or other body shall be the head of a principal department of the state government, the members thereof shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. The term of office and removal of such members shall be as provided by law. Such board, commission or other body may appoint a principal executive officer who, when

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authorized by law, may be an ex officio, voting member thereof, and who may be removed by a majority vote of the members appointed by the governor.

The governor shall nominate and, by and with the advice and consent of the senate, appoint all officers for whose election or appointment provision is not otherwise provided for by this constitution or by law. If the manner or removal of an officer is not prescribed in this constitution, removal shall be as provided by law.

When the senate is not in session and a vacancy occurs in any office, appointment to which requires the confirmation of the senate, the governor may fill the office by granting a commission which shall expire, unless such appointment is confirmed, at the end of the next session of the senate. The person so appointed shall not be eligible for another interim appointment to such office if the appointment failed to be confirmed by the senate.

No person who has been nominated for appointment to any office and whose appointment has not received the consent of the senate shall be eligible to an interim appointment thereafter to such office.

Every officer appointed under the provisions of this section shall be a citizen of the United States and shall have been a resident of this State for at least one year immediately preceding that person's appointment, except that this residency requirement shall not apply to the president of the University of Hawaii. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978]

## ARTICLE VIII LOCAL GOVERNMENT

### CREATION; POWERS OF POLITICAL SUBDIVISIONS

**Section 1.** The legislature shall create counties, and may create other political subdivisions within the State, and provide for the government thereof. Each political subdivision shall have and exercise such powers as shall be conferred under general laws. [Ren and am Const Con 1978 and election Nov 7, 1978]

### LOCAL SELF-GOVERNMENT; CHARTER

**Section 2.** Each political subdivision shall have the power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be provided by general law. Such procedures, however, shall not require the approval of a charter by a legislative body.

Charter provisions with respect to a political subdivision's executive, legislative and administrative structure and organization shall be superior to statutory provisions, subject to the authority of the legislature to enact general laws allocating and reallocating powers and functions.

A law may qualify as a general law even though it is inapplicable to one or more counties by reason of the provisions of this section. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978]

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## ARTICLE X EDUCATION

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### BOARD OF EDUCATION

**Section 2.** There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district. The Hawaii State Student Council shall select a public high school student to serve as a nonvoting member on the board of education. [Am HB 4 (1963) and election Nov 3, 1964; ren and am Const Con 1978 and election Nov 7, 1978; am HB 2688 (1988) and election Nov 8, 1988]

### POWER OF THE BOARD OF EDUCATION

**Section 3.** The board of education shall have the power, as provided by law, to formulate statewide educational policy and appoint the superintendent of education as the chief executive officer of the public school system. [Am HB 421 (1964) and election Nov 3, 1964; ren and am Const Con 1978 and election Nov 7, 1978; am L 1994, c. 272, §15 (HB 3657) and election Nov 8, 1994]

## ARTICLE XII HAWAIIAN AFFAIRS

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### OFFICE OF HAWAIIAN AFFAIRS; ESTABLISHMENT OF BOARD OF TRUSTEES

**Section 5.** There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The board shall select a chairperson from its members. [Add Const Con 1978 and election Nov 7, 1978]

### POWERS OF BOARD OF TRUSTEES

**Section 6.** The board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article for native Hawaiians; to formulate policy relating to

## HAWAII STATE CONSTITUTION

### ARTICLE XIV CODE OF ETHICS

The people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct and that these standards come from the personal integrity of each individual in government. To keep faith with this belief, the legislature, each political subdivision and the constitutional convention shall adopt a code of ethics which shall apply to appointed and elected officers and employees of the State or the political subdivision, respectively, including members of the boards, commissions and other bodies.

Each code of ethics shall be administered by a separate ethics commission, except the code of ethics adopted by the constitutional convention which shall be administered by the state ethics commission. The members of ethics commissions shall be prohibited from taking an active part in political management or in political campaigns. Ethics commissioners shall be selected in a manner which assures their independence and impartiality.

Each code of ethics shall include, but not be limited to, provisions on gifts, confidential information, use of position, contracts with government agencies, post-employment, financial disclosure and lobbyist registration and restriction. The financial disclosure provisions shall require all elected officers, all candidates for elective office and such appointed officers and employees as provided by law to make public financial disclosures. Other public officials having significant discretionary or fiscal powers as provided by law shall make confidential financial disclosures. All financial disclosure statements shall include, but not be limited to, sources and amounts of income, business ownership, officer and director positions, ownership of real property, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies. [Add Const Con 1978 and election Nov 7, 1978]

### ARTICLE XV STATE BOUNDARIES; CAPITAL; FLAG; LANGUAGE AND MOTTO

#### BOUNDARIES

**Section 1.** The State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial and archipelagic waters, included in the Territory of Hawaii on the date of enactment of the Admission Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters; but this State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island) or Kingman Reef, together with their appurtenant reefs and territorial waters. [Am 73 Stat 4 and election June 27, 1959; ren and am Const Con 1978 and election Nov 7, 1978]

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# HAWAII STATE CONSTITUTION

## ARTICLE XVI GENERAL AND MISCELLANEOUS PROVISIONS

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### DISQUALIFICATIONS FROM PUBLIC OFFICE OR EMPLOYMENT

**Section 3.** No person shall hold any public office or employment who has been convicted of any act to overthrow, or attempt to overthrow, or conspiracy with any person to overthrow the government of this State or of the United States by force or violence. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978]

### OATH OF OFFICE

**Section 4.** All eligible public officers, before entering upon the duties of their respective offices, shall take and subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as . . . . . to the best of my ability." As used in this section, "eligible public officers" means the governor, the lieutenant governor, the members of both houses of the legislature, the members of the board of education, the members of the national guard, State or county employees who possess police powers, district court judges, and all those whose appointment requires the consent of the senate. [Ren and am Const Con 1978 and election Nov 7, 1978; am SB 1440 (1992) and election Nov 3, 1992]

## ARTICLE XVII REVISION AND AMENDMENT

### METHODS OF PROPOSAL

**Section 1.** Revisions of or amendments to this constitution may be proposed by constitutional convention or by the legislature. [Ren Const Con 1978 and election Nov 7, 1978]

### CONSTITUTIONAL CONVENTION

**Section 2.** The legislature may submit to the electorate at any general or special election the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" If any nine-year period shall elapse during which the question shall not have been submitted, the lieutenant governor shall certify the question, to be voted on at the first general election following the expiration of such period.

### ELECTION OF DELEGATES

If a majority of the ballots cast upon such a question be in the affirmative, delegates to the convention shall be chosen at the next regular election unless the legislature shall provide for the election of delegates at a special election.

Notwithstanding any provision in this constitution to the contrary, other than Section 3 of Article XVI, any qualified voter of the district concerned shall be eligible to membership in the convention.

The legislature shall provide for the number of delegates to the convention, the areas from which they shall be elected and the manner in which the convention shall convene. The

# HAWAII STATE CONSTITUTION

legislature shall also provide for the necessary facilities and equipment for the convention. The convention shall have the same powers and privileges, as nearly as practicable, as provided for the convention of 1978.

## MEETING

The constitutional convention shall convene not less than five months prior to the next regularly scheduled general election.

## ORGANIZATION; PROCEDURE

The convention shall determine its own organization and rules of procedure. It shall be the sole judge of the elections, returns and qualifications of its members and, by a two-thirds vote, may suspend or remove any member for cause. The governor shall fill any vacancy by appointment of a qualified voter from the district concerned.

## RATIFICATION; APPROPRIATIONS

The convention shall provide for the time and manner in which the proposed constitutional revision or amendments shall be submitted to a vote of the electorate; provided that each amendment shall be submitted in the form of a question embracing but one subject; and provided further, that each question shall have designated spaces to mark YES or NO on the amendment.

At least thirty days prior to the submission of any proposed revision or amendments, the convention shall make available for public inspection, a full text of the proposed amendments. Every public library, office of the clerk of each county, and the chief election officer shall be provided such texts and shall make them available for public inspection. The full text of any proposed revision or amendments shall also be made available for inspection at every polling place on the day of the election at which such revision or amendments are submitted.

The convention shall, as provided by law, be responsible for a program of voter education concerning each proposed revision or amendment to be submitted to the electorate.

The revision or amendments shall be effective only if approved at a general election by a majority of all the votes tallied upon the question, this majority constituting at least fifty per cent of the total vote cast at the election, or at a special election by a majority of all the votes tallied upon the question, this majority constituting at least thirty per cent of the total number of registered voters.

The provisions of this section shall be self-executing, but the legislature shall make the necessary appropriations and may enact legislation to facilitate their operation. [Am Const Con 1968 and election Nov 5, 1968; ren and am Const Con 1978 and election Nov 7, 1978; am SB 578 (1979) and SB 1703 (1980) and election Nov 4, 1980]

## AMENDMENTS PROPOSED BY LEGISLATURE

**Section 3.** The legislature may propose amendments to the constitution by adopting the same, in the manner required for legislation, by a two-thirds vote of each house on final reading at any session, after either or both houses shall have given the governor at least ten days' written notice of the final form of the proposed amendment, or, with or without such notice, by a majority vote of each house on final reading at each of two successive sessions.

Upon such adoption, the proposed amendments shall be entered upon the journals, with the ayes and noes, and published once in each of four successive weeks in at least one newspaper of general circulation in each senatorial district wherein such a newspaper is published, within the two months' period immediately preceding the next general election.

## HAWAII STATE CONSTITUTION

At such general election the proposed amendments shall be submitted to the electorate for approval or rejection upon a separate ballot.

The conditions of and requirements for ratification of such proposed amendments shall be the same as provided in section 2 of this article for ratification at a general election. [Ren and am Const Con 1978 and election Nov 7, 1978]

### VETO

**Section 4.** No proposal for amendment of the constitution adopted in either manner provided by this article shall be subject to veto by the governor. [Ren Const Con 1978 and election Nov 7, 1978]

### CONFLICTING REVISIONS OR AMENDMENTS

**Section 5.** If a revision or amendment proposed by a constitutional convention is in conflict with a revision or amendment proposed by the legislature and both are submitted to the electorate at the same election and both are approved, then the revision or amendment proposed by the convention shall prevail. If conflicting revisions or amendments are proposed by the same body and are submitted to the electorate at the same election and both are approved, then the revision or amendment receiving the highest number of votes shall prevail. [Add Const Con 1968 and election Nov 5, 1968; ren Const Con 1978 and election Nov 7, 1978]

## ARTICLE XVIII

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### 1978 SENATORIAL ELECTIONS

**Section 2.** Article III, Section 4, to the contrary notwithstanding, the terms of office of the members of the senate elected in the 1978 general election shall be as follows: members of the senate shall be divided into two classes. The first class shall consist of the following number elected with the highest number of votes from their respective senatorial districts: first district, one; second district, one; third district, one; fourth district, two; fifth district, two; sixth district, two; seventh district, two; eighth district, one. Members of the first class shall hold office for a term of four years beginning with their election and ending on the day of the second general election held thereafter. The remaining members elected shall constitute the second class and shall hold office for a term of two years beginning with their election and ending on the day of the next general election held thereafter. [Add Const Con 1978 and election Nov 7, 1978]

### SALARIES OF LEGISLATORS

**Section 3. REPEALED.** [Repeal HB 1917 (2006) and election Nov 7, 2006]

### EFFECTIVE DATE FOR TERM LIMITATIONS FOR GOVERNOR AND LIEUTENANT GOVERNOR

**Section 4.** The amendments to Sections 1 and 2 of Article V shall limit the term of any person elected to the office of governor or lieutenant governor in the 1978 general election to two consecutive full terms commencing from noon on the first Monday in December, 1978. [Add Const Con 1978 and election Nov 7, 1978]

# HAWAII STATE CONSTITUTION

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## 1978 BOARD OF EDUCATION ELECTIONS

**Section 7.** Members elected to the board of education in the 1978 general election shall serve for two-year terms. [Add Const Con 1978 and election Nov 7, 1978]

## EFFECTIVE DATE FOR OFFICE OF HAWAIIAN AFFAIRS

**Section 8.** The legislature shall provide for the implementation of the amendments to Article XII in Sections 5 and 6 on or before the first general election following ratification of the amendments to Article XII in Sections 5 and 6. [Add Const Con 1978 and election Nov 7, 1978]

## CONTINUITY OF LAWS

**Section 9.** All laws in force at the time amendments to this constitution take effect that are not inconsistent with the constitution as amended shall remain in force, mutatis mutandis, until they expire by their own limitations or are amended or repealed by the legislature.

Except as otherwise provided by amendments to this constitution, all existing writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights shall continue unaffected notwithstanding the taking effect of the amendments and may be maintained, enforced or prosecuted, as the case may be, before the appropriate or corresponding tribunals or agencies of or under the State or of the United States, in all respects as fully as could have been done prior to the taking effect of the amendments. [Ren and am Const Con 1968 and election Nov 5, 1968; ren Const Con 1978 and election Nov 7, 1978]

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## RESIDENCE, OTHER QUALIFICATIONS

**Section 11.** Requirements as to residence, citizenship or other status or qualifications in or under the State prescribed by this constitution shall be satisfied pro tanto by corresponding residence, citizenship or other status or qualifications in or under the Territory. [Ren Const Con 1968 and election Nov 5, 1968; ren Const Con 1978 and election Nov 7, 1978]

## EFFECTIVE DATE

This constitution shall take effect and be in full force immediately upon the admission of Hawaii into the Union as a State. Done in Convention, at Iolani Palace, Honolulu, Hawaii, on the twenty-second day of July, in the year one thousand nine hundred fifty and of the Independence of the United States of America the one hundred and seventy-fifth.