

**NOTICE OF PROPOSED CONSTITUTIONAL AMENDMENTS TO THE  
CONSTITUTION OF THE STATE OF HAWAII**

During the Regular Session of 2002, Twenty-first Legislature, three (3) measures containing a proposed constitutional amendment were adopted in conformance with the requirement specified in Article XVII, Section 3 of the Hawaii State constitution.

**H.B. No. 1012, S.D. 1, C.D. 1**

A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE III, SECTION 6, OF THE HAWAII CONSTITUTION, TO CHANGE THE ELIGIBILITY TO SERVE AS A MEMBER OF THE SENATE OR HOUSE OF REPRESENTATIVES.

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

SECTION 1. The purpose of this Act is to propose an amendment to article III, section 6, of the Constitution of the State of Hawaii to require that a candidate for a state legislative office be a qualified voter in the district in which the candidate seeks to represent prior to filing nomination papers for the primary election.

At present, candidates have until the day of the general election to qualify for office from a particular district, and are not required to become a qualified voter in that district until after the results of the primary election are known. The proposed amendment requires candidates to be a qualified voter in the district they aspire to represent as a condition of filing nomination papers and of having their name placed on the ballot at the primary election.

The amendment would improve public confidence in the election process by reducing the potential for candidates to seek office in a particular district based on their chances of success, and eliminating the ability of candidates to move to the appropriate district only upon a favorable result at the primary election. The amendment also increases the likelihood that candidates will be more knowledgeable and interested in the district for which they seek office by virtue of having lived in the community.

SECTION 2. Article III, section 6, of the Constitution of the State of Hawaii is amended to read as follows:

**"QUALIFICATIONS OF MEMBERS**

**Section 6.** No person shall be eligible to serve as a member of the senate unless the person ~~shall have~~ has been a resident of the State for not less than three years, ~~have~~ has attained the age of majority and ~~be~~ 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 ~~shall have~~ has been a resident of the State for not less than three years, ~~have~~ has attained the age of majority and ~~be~~ 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."~~

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall a candidate seeking office in a senatorial or representative district be required to become a qualified voter in that district prior to filing nomination papers for the primary election?"

SECTION 4. Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

Note: H.B. No. 1012, S.D. 1, C.D. 1 passed Final Reading in the House of Representatives on April 30, 2002, with 50 members voting in the affirmative, and in the Senate on the same day, with 25 members voting in the affirmative.

**H.B. No. 2848 H.D. 1, S.D. 2, C.D. 1**

A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE VII, SECTION 12, AND ARTICLE X, SECTION 1, OF THE CONSTITUTION OF THE STATE OF HAWAII TO AUTHORIZE THE STATE TO ISSUE SPECIAL PURPOSE REVENUE BONDS AND USE THE PROCEEDS FROM THE BONDS TO ASSIST NOT-FOR-PROFIT PRIVATE ELEMENTARY SCHOOLS, SECONDARY SCHOOLS, COLLEGES, AND UNIVERSITIES.

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

SECTION 1. The purpose of this Act is to:

- (1) Propose amendments to article VII, section 12, and article X, section 1, of the Constitution of the State of Hawaii to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist not-for-profit private elementary schools, secondary schools, colleges, and universities; and
- (2) Propose amendments to article VII, section 12 of the Constitution of the State of Hawaii to authorize the State to combine into a single issue of special purpose revenue bonds two or more proposed issues of special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities, separately authorized, in the total amount of not exceeding the aggregate of the proposed separate issues of special purpose revenue bonds.

SECTION 2. Article VII, section 12, of the Constitution of the State of Hawaii is amended to read as follows:

**"DEFINITIONS; ISSUANCE OF INDEBTEDNESS**

**Section 12.** For the purposes of this article:

1. The term "bonds" shall include bonds, notes and other instruments of indebtedness.
2. The term "general obligation bonds" means all bonds for the payment of the principal and interest of which the full faith and credit of the State or a political subdivision are

pledged and, unless otherwise indicated, includes reimbursable general obligation bonds.

3. The term "net revenues" or "net user tax receipts" means the revenues or receipts derived from:

- a. A public undertaking, improvement or system remaining after the costs of operation, maintenance and repair of the public undertaking, improvement or system, and the required payments of the principal of and interest on all revenue bonds issued therefor, have been made; or
- b. Any payments or return on security under a loan program or a loan thereunder, after the costs of operation and administration of the loan program, and the required payments of the principal of and interest on all revenue bonds issued therefor, have been made.

4. The term "person" means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of the foregoing.

5. The term "rates, rentals and charges" means all revenues and other moneys derived from the operation or lease of a public undertaking, improvement or system, or derived from any payments or return on security under a loan program or a loan thereunder; provided that insurance premium payments, assessments and surcharges, shall constitute rates, rentals and charges of a state property insurance program.

6. The term "reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement or system from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.

7. The term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law, including a loan program to provide loans to a state property insurance program providing hurricane insurance coverage to the general public.

8. The term "special purpose revenue bonds" means all bonds payable from rental or other payments made to an issuer by a person pursuant to contract and secured as may be provided by law.

9. The term "user tax" means a tax on goods or services or on the consumption thereof, the receipts of which are substantially derived from the consumption, use or sale of goods and services in the utilization of the functions or services furnished by a public undertaking, improvement or system; provided that mortgage recording taxes shall constitute user taxes of a state property insurance program.

The legislature, by a majority vote of the members to which each house is entitled, shall authorize the issuance of all general obligation bonds, bonds issued under special improvement statutes and revenue bonds issued by or on behalf of the State and shall prescribe by general law the manner and procedure for such issuance. The legislature by general law shall authorize political subdivisions to issue general obligation

bonds, bonds issued under special improvement statutes and revenue bonds and shall prescribe the manner and procedure for such issuance. All such bonds issued by or on behalf of a political subdivision shall be authorized by the governing body of such political subdivision.

Special purpose revenue bonds shall only be authorized or issued to finance facilities of or for, or to loan the proceeds of such bonds to assist:

1. Manufacturing, processing or industrial enterprises;
2. Utilities serving the general public;
3. Health care facilities provided to the general public by not-for-profit corporations;
4. Early childhood education and care facilities provided to the general public by not-for-profit corporations; [or]
5. Low and moderate income government housing programs[;]; or
6. Not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges and universities,

each of which is hereinafter referred to in this paragraph as a special purpose entity.

The legislature, by a two-thirds vote of the members to which each house is entitled, may enact enabling legislation for the issuance of special purpose revenue bonds separately for each special purpose entity, and, by a two-thirds vote of the members to which each house is entitled and by separate legislative bill, may authorize the State to issue special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the legislature[-]; and provided further that the State may combine into a single issue of special purpose revenue bonds two or more proposed issues of special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities, separately authorized as aforesaid, in the total amount of not exceeding the aggregate of the proposed separate issues of special purpose revenue bonds. The legislature may enact enabling legislation to authorize political subdivisions to issue special purpose revenue bonds. If so authorized, a political subdivision by a two-thirds vote of the members to which its governing body is entitled and by separate ordinance may authorize the issuance of special purpose revenue bonds for each single project or multi-project program of each special purpose entity; provided that the issuance of such special purpose revenue bonds is found to be in the public interest by the governing body of the political subdivision. No special purpose revenue bonds shall be secured directly or indirectly by the general credit of the issuer or by any revenues or taxes of the issuer other than receipts derived from payments by a person or persons under contract or from any security for such contract or contracts or special purpose revenue bonds and no moneys other than such receipts shall be applied to the payment thereof. The governor shall provide the legislature in November of each year with a report on the cumulative amount of all special purpose revenue bonds authorized and issued, and such other information as may be necessary."

SECTION 3. Article X, section 1, of the Constitution of the State of Hawaii is amended to read as follows:

#### "PUBLIC EDUCATION

**Section 1.** The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable,

including physical facilities therefor. There shall be no discrimination in public educational institutions because of race, religion, sex or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or nonsectarian private educational institution, except that proceeds of special purpose revenue bonds authorized or issued under section 12 of Article VII may be appropriated to finance or assist [~~not for-profit corporations~~];

1. Not-for-profit corporations that provide early childhood education and care facilities serving the general public[-]; and

2. Not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges and universities."

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

"Shall the State be authorized to issue special purpose revenue bonds and use the proceeds from the bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities; and to combine into a single issue of special purpose revenue bonds two or more proposed issues of special purpose revenue bonds to assist not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities, separately authorized, in a total amount not exceeding the aggregate of the proposed separate issues of special purpose revenue bonds?"

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

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

Note: H.B. No. 2848, H.D. 1, S.D. 2, C.D. 1 passed Final Reading in the House of Representatives on April 30, 2002, with 50 members voting in the affirmative, and in the Senate on the same day, with 22 members voting in the affirmative.

**S.B. No. 996, H.D. 1, C.D. 1**

A BILL FOR AN ACT PROPOSING AMENDMENTS TO ARTICLE I, SECTION 10, OF THE HAWAII CONSTITUTION.

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

SECTION 1. The purpose of this Act is to propose an amendment to article I, section 10, of the Constitution of the State of Hawaii to permit prosecutors and the attorney general to initiate felony criminal charges by filing a written information signed by the prosecutor or the attorney general setting forth the charge in accordance with procedures and conditions to be provided by the state legislature.

SECTION 2. Article I, section 10, of the Constitution of the State of Hawaii is amended to read as follows:

"INDICTMENT; PRELIMINARY HEARING;  
INFORMATION; DOUBLE JEOPARDY; SELF-  
INCRIMINATION

**Section 10.** No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury or upon a finding of probable cause after a preliminary hearing held as provided by law[-] or upon information in writing signed by a legal prosecuting officer under conditions and in accordance with procedures that the legislature may provide, except in cases arising in the armed forces when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy; nor shall any person be compelled in any criminal case to be a witness against oneself."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall Hawaii's constitutional provision regarding the initiation of criminal charges be amended to permit criminal charges for felonies to be initiated by a legal prosecuting officer through the filing of a signed, written information setting forth the charge in accordance with procedures and conditions to be provided by the state legislature?"

SECTION 4. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

Note: S.B. No. 996, H.D. 1, C.D. 1 passed Final Reading in the House of Representatives on April 30, 2002, with 46 members voting in the affirmative, and in the Senate on the same day, with 25 members voting in the affirmative.

(Hon S.-B.: Oct. 30; Nov. 1, 3, 4, 2002)