

JAN 24 2018

S.B. NO. 2123

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## A BILL FOR AN ACT

PROPOSING AMENDMENTS TO ARTICLES II, III, AND XVII OF THE  
CONSTITUTION OF THE STATE OF HAWAII TO PROVIDE FOR DIRECT  
INITIATIVE.

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

1       SECTION 1. The purpose of this Act is to propose an  
2 amendment to articles II, III, and XVII of the Constitution of  
3 the State of Hawaii to provide for direct initiative.

4       SECTION 2. Article II of the Constitution of the State of  
5 Hawaii is amended by adding a new section to be appropriately  
6 designated and to read as follows:

7                                   **"INITIATIVE**

8       Section . The initiative power is reserved to the  
9 people. An initiative measure shall be submitted to the people  
10 by presenting to the chief election officer a petition  
11 containing the signatures of registered voters equaling not less  
12 than ten per cent of the total number of voters who voted for  
13 the office of the governor in the last preceding general  
14 election for that office. The initiative petition shall be  
15 filed with the chief election officer no later than ninety days  
16 prior to the general election at which the initiative is to be



1 submitted directly to the people. All initiative measures shall  
2 have printed above the title the following:

3 "INITIATIVE MEASURE TO BE

4 SUBMITTED DIRECTLY TO THE PEOPLE".

5 Each initiative measure shall embrace but one subject,  
6 which shall be expressed in its title. The enacting clause  
7 shall be:

8 "BE IT ENACTED BY THE PEOPLE

9 OF THE STATE OF HAWAII".

10 The initiative measure shall be enacted into law when  
11 approved by a majority of votes counted for the measure. If two  
12 or more conflicting initiative measures are approved by the  
13 people at the same election, the measure receiving the highest  
14 number of votes shall prevail.

15 No initiative measure that names any individual to hold any  
16 office, or names or identifies any private corporation to  
17 perform any function or to have any power or duty, shall be  
18 submitted or have any effect. No initiative measure shall be  
19 submitted that pertains to a specific state budget item.

20 An initiative measure proposing to prohibit a specific  
21 activity or to terminate an existing right or privilege shall be



1 submitted to the people in such a form that they may vote in the  
2 affirmative if they favor the right to engage in the activity or  
3 continuance of the right or privilege.

4 No initiative measure shall be filed with the chief  
5 election officer that may be either similar or contrary in form  
6 or essential substance to a bill already introduced into the  
7 legislature. If after the adjournment of the legislature sine  
8 die, a bill has not become law, does not carry over or is not  
9 adopted to propose an amendment to this constitution, an  
10 initiative measure of either similar or contrary form may be  
11 filed with the chief election officer for submission to the  
12 people.

13 If, after an initiative request is made with the attorney  
14 general, any bill introduced into the legislature that may be  
15 contrary, as determined by the attorney general, in form or  
16 essential substance to the initiative request is enacted into  
17 law or adopted to propose an amendment to this constitution,  
18 that law or proposed amendment and that initiative measure shall  
19 be submitted to the people in order that they may choose between  
20 them, except as provided in this section. The contrary law  
21 shall remain in effect pending the general election ballot. The



1 measure receiving the highest number of votes shall prevail. If  
2 the initiative measure is approved, the contrary law or proposed  
3 amendment shall be void. If any law is enacted that is the same  
4 or similar to, and accomplishes the same purpose as an  
5 initiative measure, as determined by the attorney general, the  
6 chief election officer shall declare, by a public announcement,  
7 that the initiative measure is void and order it stricken from  
8 the ballot.

9 A defeated initiative measure shall not be resubmitted to  
10 the people by the initiative petition in the same form or  
11 essential substance, as determined by the attorney general,  
12 either affirmatively or negatively, for a period of four years.

13 Prior to the circulation of any initiative petition for  
14 signatures, a copy shall be submitted to the attorney general  
15 who shall prepare a title and summary of the chief purpose and  
16 aim of the proposed measure, as well as a clear explanation  
17 written in plain language of the legal effect of a "yes" vote or  
18 "no" vote.

19 All initiative petitions shall be submitted to the chief  
20 election officer for certification. Each sheet containing  
21 petitioners' signatures shall be attached to the title, summary,



1 and text of the initiative petition. No laws shall be enacted  
2 limiting the number of copies of a petition that may be  
3 circulated. Any registered voter of the State shall be  
4 competent to solicit signatures. The petition shall be signed  
5 by registered voters. All signers shall add their address as  
6 shown on their voter registration form and the date upon which  
7 they sign the petition. Every sheet of the petition containing  
8 signatures shall be verified by affidavit of the petition  
9 circulator that each name on the sheet was signed in the  
10 presence of the affiant and that, in the belief of the affiant,  
11 each signer is a registered voter of the State. The chief  
12 election officer shall certify that the signers are registered  
13 voters of the State.

14 The chief election officer shall not release any petition  
15 for inspection by the public or any governmental agency, except  
16 if the supreme court orders inspection of the petition when a  
17 question has been raised regarding the sufficiency of a  
18 petition. If any petition under this section has been  
19 determined to be insufficient, the petition shall be returned to  
20 the circulators within thirty days of its filing with the  
21 notations of specific insufficiencies.



1        An initiative shall be presented to the people in such a  
2        form that a "yes" vote, on a yes or no ballot, shall indicate an  
3        affirmative vote for the measure as the measure is written.

4        The initiative measure shall be effective, if approved, one  
5        day after the election results are announced, unless otherwise  
6        provided for in the measure.

7        The veto power of the governor shall not extend to  
8        initiative measures approved by the people. No measure enacted  
9        by the people shall be repealed or amended by the legislature  
10       without a two-thirds vote and unless five years have passed from  
11       the effective date of the initiative, unless otherwise provided  
12       in the measure; provided that the people may amend an initiative  
13       at any time.

14       The petitioners shall bear all cost of the preparation and  
15       circulation of the petition, except for the services performed  
16       by the attorney general under this section. After the petition  
17       has been filed with the chief election officer, all further  
18       costs shall be part of the usual expenditures of the State."

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

21                    **"LEGISLATIVE POWER**



1       **Section 1.**   ~~[The]~~ Except as provided in Article II, Section  
2                 , the legislative power of the State shall be vested in a  
3       legislature, which shall consist of two houses, a senate and a  
4       house of representatives~~[-. Such power]~~, except that the people  
5       reserve to themselves the power of initiative as set forth in  
6       Article II, Section           . The legislative power shall extend  
7       to all rightful subjects of legislation not inconsistent with  
8       this constitution or the Constitution of the United States."

9       SECTION 4.   Article III, section 14, of the Constitution of  
10      the State of Hawaii is amended to read as follows:

11                               **"BILLS; ENACTMENT**

12      **Section 14.**   No law shall be passed by the legislature  
13      except by bill.   Each law shall embrace but one subject, which  
14      shall be expressed in its title.   The enacting clause of each  
15      law shall be, "Be it enacted by the legislature of the State of  
16      Hawaii.""

17      SECTION 5.   Article XVII, section 1, of the Constitution of  
18      the State of Hawaii is amended to read as follows:

19                               **"METHODS OF PROPOSAL**

20      **Section 1.**   Revisions of or amendments to this constitution  
21      may be proposed by constitutional convention or by the



1 legislature[~~-~~] or by the people under Article II, Section \_\_\_\_\_,  
2 through the initiative process."

3 SECTION 6. Article XVII, section 4, of the Constitution of  
4 the State of Hawaii is amended to read as follows:

5 "VETO

6 Section 4. No proposal for amendment of the constitution  
7 adopted in either manner provided by this article or by Article  
8 II, Section \_\_\_\_\_, shall be subject to veto by the governor."

9 SECTION 7. Article XVII, section 5, of the Constitution of  
10 the State of Hawaii is amended to read as follows:

11 "CONFLICTING REVISIONS OR AMENDMENTS

12 Section 5. If a revision or amendment proposed by a  
13 constitutional convention is in conflict with a revision or  
14 amendment proposed by the legislature and both are submitted to  
15 the electorate at the same election and both are approved, then  
16 the revision or amendment proposed by the convention shall  
17 prevail. If a revision or amendment proposed by the legislature  
18 is in conflict with a revision or amendment proposed by the  
19 people under Article II, Section \_\_\_\_\_, by initiative, and both  
20 are approved, then the revision or amendment proposed by  
21 initiative shall prevail. If conflicting revisions or





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1 amendments are proposed by the same body and are submitted to  
2 the electorate at the same election and both are approved, then  
3 the revision or amendment receiving the highest number of votes  
4 shall prevail."

5 SECTION 8. The question to be printed on the ballot shall  
6 be as follows:

7 "Shall the State Constitution be amended to provide for  
8 initiative?"

9 SECTION 9. Constitutional material to be repealed is  
10 bracketed and stricken. New constitutional material is  
11 underscored.

12 SECTION 10. This amendment shall take effect upon  
13 compliance with article XVII, section 3, of the Constitution of  
14 the State of Hawaii.

15 INTRODUCED BY:

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# S.B. NO. 2723

**Report Title:**

Initiative; Proposed Constitutional Amendment

**Description:**

Proposes amendments to the state constitution to provide for direct initiative.

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