
A BILL FOR AN ACT

RELATING TO CONSTITUTIONAL AMENDMENTS.

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

SECTION 1. Section 11-118.5, Hawaii Revised Statutes, is amended to read as follows:

"§11-118.5 Constitutional amendments, proposed; attorney general statement. (a) Any constitutional amendment proposed by the legislature shall include in final form the exact constitutional ratification question to be printed on a ballot. The constitutional ratification question shall be phrased in a manner to enable voters to express their choice on the constitutional amendment by providing a "yes" or "no" response. The language and meaning of a constitutional amendment and a constitutional ratification question shall be ~~[clear and it shall be neither misleading nor deceptive.]~~ simple, concise, and direct to the extent possible.

(b) The attorney general, in consultation with the legislative reference bureau, shall prepare a statement in English and Hawaiian for each proposed constitutional amendment in language that is ~~[clear]~~ simple, concise, and direct to the



1 extent practicable and that indicates the purpose, limitations,
2 and effects of the proposed amendment. The attorney general
3 shall distribute each statement to the state office of elections
4 and all county clerks for further distribution. The office of
5 elections and county clerks shall make the statement available
6 to the public at all polling places in the State and on a
7 website operated by the office of elections."

8 SECTION 2. Section 602-5, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Except as otherwise provided, the supreme court shall
11 have jurisdiction and powers as follows:

12 (1) To hear and determine all questions of law, or of
13 mixed law and fact, which are properly brought before
14 it by application for a writ of certiorari to the
15 intermediate appellate court or by transfer as
16 provided in this chapter;

17 (2) To answer, in its discretion, any question of law
18 reserved by a circuit court, the land court, or the
19 tax appeal court, or any question or proposition of
20 law certified to it by a federal district or appellate
21 court if the supreme court shall so provide by rule;



- 1 (3) To exercise original jurisdiction in all questions
2 arising under writs directed to courts of inferior
3 jurisdiction and returnable before the supreme court,
4 or if the supreme court consents to receive the case
5 arising under writs of mandamus directed to public
6 officers to compel them to fulfill the duties of their
7 offices; and [~~such~~] any other original jurisdiction as
8 may be expressly conferred by law;
- 9 (4) To issue writs of habeas corpus, or orders to show
10 cause as provided by chapter 660, returnable before
11 the supreme court or a circuit court, and any justice
12 may issue writs of habeas corpus or [~~such~~] any orders
13 to show cause, returnable as above stated;
- 14 (5) To make or issue any order or writ necessary or
15 appropriate in aid of its jurisdiction, and in [~~such~~]
16 that case, any justice may issue a writ or an order to
17 show cause returnable before the supreme court; [~~and~~]
- 18 (6) To make and award [~~such~~] any judgments, decrees,
19 orders and mandates, issue [~~such~~] any executions and
20 other processes, and do [~~such~~] any other acts and take
21 [~~such~~] any other steps as may be necessary to carry



1 into full effect the powers [~~which~~] that are or shall
2 be given to it by law or for the promotion of justice
3 in matters pending before it[-]; and

4 (7) To issue, upon a written request by the president of
5 the senate, the speaker of the house of
6 representatives, or both, a written opinion of the
7 justices of the supreme court, or a majority thereof,
8 stating whether a proposed amendment to the Hawaii
9 State Constitution and the corresponding
10 constitutional ratification question is simple,
11 concise, and direct to the extent practicable, as
12 required by section 11-118.5; provided that:

13 (A) Within forty-eight hours of receipt of a written
14 request for a written opinion pursuant to this
15 paragraph, the supreme court shall render and
16 deliver a written opinion to the requester or
17 requesters;

18 (B) Any written opinion that invalidates the
19 constitutional ratification question
20 corresponding to a proposed amendment to the
21 Hawaii State Constitution shall include a



1 detailed and specific explanation of the reasons
2 for the invalidation of the constitutional
3 ratification question; and

4 (C) Any decision established in a written opinion
5 rendered pursuant to this paragraph shall not be
6 appealable."

7 SECTION 3. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

13
INTRODUCED BY:

ADAM AM 8/12

JAN 24 2022



H.B. NO. 2038

Report Title:

Hawaii State Supreme Court; Written Opinions; Constitutional Amendments; Ratification Question

Description:

Requires the language and meaning of any proposed constitutional amendment and ratification question to be simple, concise, and direct to the extent practicable. Allows the presiding officers of the Legislature to request a written opinion of the Supreme Court regarding the legality of a proposed amendment to the Hawaii State Constitution and the corresponding constitutional ratification question. Requires the supreme court to provide a written opinion within 48 hours of receipt of the request. Requires, for any written opinion by the supreme court that invalidates a constitutional ratification question, a detailed and specific explanation of the reasons for this opinion. Prohibits any appeal of a written opinion.

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