
A BILL FOR AN ACT

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

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

1 SECTION 1. The purpose of this Act is to propose
2 amendments to the Constitution of the State of Hawaii to provide
3 for direct initiative, popular referendum, and recall. The
4 legislature finds that Hawaii voters lack the power to place
5 initiative measures directly onto the ballot, reject recently
6 enacted laws, or recall elected state officials in Hawaii. In
7 order to maintain a vibrant democracy with strong checks and
8 balances, voters must be empowered to take a more active role in
9 these checks and balances. Therefore, the purpose of this Act
10 is to propose constitutional amendments to provide for direct
11 initiative, popular referendum, and recall.

12 SECTION 2. Article II of the Constitution of the State of
13 Hawaii is amended by adding three new sections to be
14 appropriately designated and to read as follows:



1 "BE IT ENACTED BY THE PEOPLE
2 OF THE STATE OF HAWAII"

3 The initiative measure shall be enacted into law when
4 approved by a majority of votes counted for the measure. If two
5 or more conflicting initiative measures are approved by the
6 people at the same election, the measure receiving the highest
7 number of votes shall prevail.

8 No initiative measure shall be submitted that names any
9 individual to hold any office or names or identifies any private
10 corporation to perform any function or to have any power or
11 duty. No initiative measure shall be submitted that pertains to
12 land use issues. No initiative measure shall be submitted that
13 compromises, or potentially compromises, public health or public
14 safety.

15 No initiative petition shall be filed with the chief
16 election officer that may be either similar or contrary in
17 either form or essential substance to a bill already introduced
18 into the legislature. If after the adjournment of the
19 legislature sine die, a bill has not become law, or does not
20 carry over, an initiative petition of either similar or contrary



1 form may be filed with the chief election officer for submission
2 to the people.

3 If, after an initiative request is made with the attorney
4 general, any bill introduced into the legislature that may be
5 contrary, as determined by the attorney general, in either form
6 or essential substance to the initiative request is enacted into
7 law, that law and that initiative measure shall be submitted to
8 the people in order that they may choose between them, except as
9 provided in the last sentence of this paragraph. The contrary
10 law shall remain in effect pending the general election
11 ballot. The measure receiving the highest number of votes shall
12 prevail. If the initiative measure is approved, the contrary
13 law shall be void. If any law is enacted that is the same or
14 similar to, and accomplishes the same purpose as an initiative
15 measure, as determined by the attorney general, the chief
16 election officer shall declare, by a public announcement, that
17 the initiative measure is void and order it stricken from the
18 ballot.

19 A defeated initiative measure shall not be resubmitted to
20 the people by an initiative petition in either the same form or



1 essential substance, as determined by the attorney general,
2 either affirmatively or negatively, for a period of four years.

3 Prior to the circulation of any initiative petition for
4 signatures, a copy shall be submitted to the attorney general,
5 who shall prepare a title and summary of the chief purpose and
6 aim of the proposed measure, as well as a clear explanation
7 written in plain language of the legal effect of a "yes" vote or
8 "no" vote.

9 All initiative petitions shall be submitted to the chief
10 election officer for certification. Each sheet containing
11 petitioners' signatures shall be attached to the title, summary
12 and text of the initiative petition. No laws shall be enacted
13 limiting the number of copies of a petition that may be
14 circulated. Any registered voter of the State shall be
15 competent to solicit signatures. The initiative petition shall
16 be signed by registered voters. All signers shall add their
17 address as shown on their voter registration form and the date
18 upon which they sign the petition. Every sheet of the
19 initiative petition containing signatures shall be verified by
20 affidavit of the initiative petition circulator that each name
21 on the sheet was signed in the presence of the affiant and that,



1 in the belief of the affiant, each signer is a registered voter
2 of the State. The chief election officer shall certify that the
3 signers are registered voters of the State.

4 The chief election officer shall not release any initiative
5 petition for inspection by the public or any governmental
6 agency, except if the supreme court orders inspection of the
7 initiative petition when a question has been raised regarding
8 the sufficiency of an initiative petition. If any initiative
9 petition under this section has been determined to be
10 insufficient, the initiative petition shall be returned to the
11 circulators within thirty days of its filing with the notations
12 of specific insufficiencies.

13 Any initiative measure shall be presented to the people in
14 a form that a "yes" vote, on a yes or no ballot, shall indicate
15 approval of the initiative measure as the initiative measure is
16 written; provided that an initiative measure proposing to
17 prohibit a specific activity or to terminate an existing right
18 or privilege shall be submitted to the people in a form that a
19 "yes" vote, on a yes or no ballot, shall indicate that they
20 favor the right to engage in the activity or continuance of the
21 right or privilege and disapproval of the initiative measure.



1 the referendum extend to any matter governed by collective
2 bargaining contracts.

3 A referendum measure may be proposed by filing with the
4 chief election officer, within ninety days after the enactment
5 date of a statute, a referendum petition asking that the statute
6 or part of it be submitted for a referendum measure.

7 A referendum measure shall be certified for placement on
8 the ballot by the chief election officer upon the submission of
9 a referendum petition signed by registered voters of the State
10 equal in number to at least fifteen percent of the total number
11 of voters who voted for the office of the governor in the last
12 preceding general election for that office. The signatures must
13 include at least ten percent of the voters from a minimum of two
14 counties of the State.

15 The referendum measure shall be phrased to require a "yes"
16 or "no" response by the voter. The chief election officer shall
17 submit the referendum measure at the next general election held
18 at least thirty-one days after it is certified or at a special
19 statewide election held prior to that general election. A
20 referendum measure that is approved by a majority of voters
21 shall be effective, if approved, one day after the election



1 results are announced, unless the referendum measure provides
2 otherwise. If a referendum petition is filed against a part of
3 a statute, the remainder of the statute shall not be delayed
4 from becoming effective.

5 **RECALL**

6 **Section C.** Every elected public official of the State may
7 be removed from office by the electors entitled to vote for a
8 successor of the incumbent, through the procedure and in the
9 manner set forth in this section. This procedure shall be known
10 as recall and shall be in addition to any other method of
11 removal provided by law. This section shall be self-executing,
12 but the legislature may enact legislation to facilitate its
13 operation; provided that the legislation shall not restrict or
14 limit the provisions of this section or the powers reserved in
15 this section.

16 A recall measure may be submitted to the people for a
17 recall vote by filing with the chief election officer a recall
18 petition bearing the signatures of registered voters of not less
19 than twenty percent of all votes cast for all candidates for the
20 office subject to recall at the previous general election of
21 that office. Only those registered voters who are entitled to



1 cast votes for the official named on the recall petition shall
2 be qualified to sign the recall petition and to vote in the
3 recall election. The recall petition shall state the reason for
4 the recall vote. Unresponsiveness to the needs of the
5 official's constituents shall be an adequate reason for the
6 recall of any elected state official.

7 No recall petition shall be filed against any elected state
8 official unless the official has served more than six months of
9 the official's term of office. No recall petition shall be
10 filed within one year of a primary election in which an elected
11 official is required to seek nomination for reelection. If a
12 recall petition is against an elected state official whose term
13 of office expires at a general election after a forthcoming
14 primary election and the petition is filed no more
15 than _____ days and not less than _____ days prior to the
16 primary election, the chief election officer shall cause the
17 recall measure to be submitted to the people at that general
18 election. All other recall measures shall cause a recall
19 special election to be proclaimed by the chief election officer
20 between _____ and _____ days after the recall petition
21 has been determined to be sufficient.



1 A recall measure shall be approved by the majority of the
2 votes cast indicating "yes" or "no" thereon but not including
3 blank ballots. Any vacancy that may be created shall be filled
4 as prescribed by law.

5 If a recall vote fails to recall the affected official, the
6 affected official shall not be subject to another recall measure
7 for the remainder of the term of office to which the official
8 was elected to serve.

9 Prior to the circulation of any recall petition for
10 signature, a copy shall be submitted to the attorney general,
11 who shall prepare a title and summary of the chief purpose and
12 aim of the proposed recall measure within seven business
13 days. The title and summary shall not exceed _____ words.

14 All recall petitions shall be submitted for certification
15 to the chief election officer. Every sheet of the recall
16 petition containing signatures shall be attached to the title,
17 summary and text of the recall petition. No laws shall be
18 enacted limiting the number of copies of a recall petition that
19 may be circulated. Any registered voter of this State shall be
20 competent to solicit signatures. No person circulating a recall
21 petition shall be eligible to receive any compensation for



1 services as a recall petition circulator. All signers shall add
2 their address as shown on their voter registration form and the
3 date upon which they signed the recall petition. When fewer
4 than five thousand signatures are required on a recall petition,
5 the recall petition circulators shall have sixty days in which
6 to obtain the required number of signatures of qualified voters;
7 when between five thousand and ten thousand signatures are
8 required, the recall petition circulators shall have ninety
9 days; when between ten thousand and fifty thousand signatures
10 are required, the recall petition circulators shall have one
11 hundred twenty days; when between fifty thousand and one hundred
12 thousand signatures are required, the recall petition
13 circulators shall have one hundred sixty days; and when more
14 than one hundred thousand signatures are required, the recall
15 petition circulators shall have one hundred eighty days.

16 Every sheet of the recall petition containing signatures
17 shall be verified by affidavit of the recall petition circulator
18 that each name on the sheet was signed in the presence of the
19 affiant and that in the belief of the affiant each signer is a
20 registered voter of the State, and of the affected district in
21 the case of a recall petition so limited. The chief election



1 officer shall certify that the signers are registered voters of
2 the State, and of the affected district in the case of a recall
3 petition so limited.

4 The chief election officer shall not release a recall
5 petition for inspection by the public or any governmental
6 agency, except where the supreme court orders inspection of the
7 recall petition, when a question has been raised regarding the
8 sufficiency of the recall petition. If any recall petition
9 under this section has been determined to be insufficient, the
10 recall petition shall be returned to the circulators within
11 sixty days of its filing with a statement of the specific
12 insufficiencies. Recall petition circulators shall have
13 additional time in which to correct the specific insufficiencies
14 of a recall petition, in accordance with the provisions of this
15 section governing the amount of time allowed to obtain
16 petitioners' signatures.

17 Any recall measure shall be presented to the people in a
18 form that a "yes" vote, on a yes or no ballot, shall indicate an
19 affirmative vote for the measure as the measure is written.



1 A recall measure shall be effective, if approved, one day
2 after the election results are announced, unless otherwise
3 provided for in the recall measure.

4 The petitioners shall bear all costs of the preparation and
5 circulation of the recall petition, except for the services
6 performed by the attorney general under this section. After the
7 recall petition has been filed with the chief election officer,
8 all further costs shall be part of the usual expenditures of the
9 State."

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

12 **"LEGISLATIVE POWER**

13 **Section 1.** [The] Except as provided in Section A of
14 Article II, the legislative power of the State shall be vested
15 in a legislature, which shall consist of two houses, a senate
16 and a house of representatives[. — Such power], but the people
17 reserve to themselves the powers of initiative and referendum as
18 set forth in Sections A and B of Article II. The legislative
19 power shall extend to all rightful subjects of legislation not
20 inconsistent with this constitution or the Constitution of the
21 United States."



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

3 "BILLS; ENACTMENT

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

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

11 "METHODS OF PROPOSAL

12 **Section 1.** Revisions of or amendments to this constitution
13 may be proposed by constitutional convention or by the
14 legislature[-] or by the people under Section A of Article II
15 through the initiative process."

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

18 "VETO

19 **Section 4.** No proposal for amendment of the constitution
20 adopted in either manner provided by this article or by Section



1 A or B of Article II on initiative or referendum shall be
2 subject to veto by the governor."

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

5 "CONFLICTING REVISIONS OR AMENDMENTS

6 Section 5. If a revision or amendment proposed by a
7 constitutional convention is in conflict with a revision or
8 amendment proposed by the legislature and both are submitted to
9 the electorate at the same election and both are approved, then
10 the revision or amendment proposed by the convention shall
11 prevail. If a revision or amendment proposed by the legislature
12 is in conflict with the revision or amendment proposed by the
13 people under Section A of Article II by initiative, and both are
14 approved, then the revision or amendment proposed by initiative
15 shall prevail. If conflicting revisions or amendments are
16 proposed by the same body and are submitted to the electorate at
17 the same election and both are approved, then the revision or
18 amendment receiving the highest number of votes shall prevail."

19 SECTION 8. The question to be printed on the ballot shall
20 be as follows:



1 "Shall the State Constitution be amended to provide for
2 initiative, referendum, and recall?"

3 SECTION 9. In codifying the new sections added to article
4 II of the Constitution of the State of Hawaii by section 2 of
5 this Act and any cross references thereto, the revisor of
6 statutes shall substitute appropriate section numbers for the
7 letters used in designating the new sections in this Act.

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

11 SECTION 11. This amendment shall take effect upon
12 compliance with article XVII, section 3, of the Constitution of
13 the State of Hawaii.

14

INTRODUCED BY:



JAN 24 2023



H.B. NO. 1173

Report Title:

Amendments to Hawaii Constitution; Initiative; Referendum;
Recall

Description:

Adds new sections to the Hawaii Constitution. Allows for amendments by initiative to prevail and reserves the powers of initiative and referendum to the people. Specifies a procedure for vote recalls.

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