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

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

12 **"INITIATIVE"**

13 **Section A.** The initiative power is reserved to the
14 people. An initiative measure may be submitted to the people by
15 filing with the chief election officer an initiative petition
16 containing the signatures of registered voters equaling not less



1 than fifteen per cent in the case of a law, and not less than
 2 twenty per cent in the case of an amendment to the constitution,
 3 of the total number of voters who voted for the office of the
 4 governor in the last preceding general election for that
 5 office. The initiative petition shall be filed with the chief
 6 election officer not later than ninety days prior to the general
 7 election at which the initiative measure is to be submitted
 8 directly to the people. All initiative measures shall have
 9 printed above the title the following:

10 "INITIATIVE MEASURE TO BE

11 SUBMITTED DIRECTLY TO THE PEOPLE"

12 Each initiative measure shall embrace but one subject,
 13 which shall be expressed in its title. The enacting clause
 14 shall be:

15 "BE IT ENACTED BY THE PEOPLE

16 OF THE STATE OF HAWAII"

17 The initiative measure shall be enacted into law when
 18 approved by a majority of votes counted for the measure. If two
 19 or more conflicting initiative measures are approved by the
 20 people at the same election, the measure receiving the highest
 21 number of votes shall prevail.



1 No initiative measure shall be submitted that names any
2 individual to hold any office or names or identifies any private
3 corporation to perform any function or to have any power or
4 duty. No initiative measure shall be submitted that pertains to
5 land use issues. No initiative measure shall be submitted that
6 compromises, or potentially compromises, public health or public
7 safety.

8 No initiative petition shall be filed with the chief
9 election officer that may be either similar or contrary in
10 either form or essential substance to a bill already introduced
11 into the legislature. If after the adjournment of the
12 legislature sine die, a bill has not become law, or does not
13 carry over, an initiative petition of either similar or contrary
14 form may be filed with the chief election officer for submission
15 to the people.

16 If, after an initiative request is made with the attorney
17 general, any bill introduced into the legislature that may be
18 contrary, as determined by the attorney general, in either form
19 or essential substance to the initiative request is enacted into
20 law, that law and that initiative measure shall be submitted to
21 the people in order that they may choose between them, except as



1 provided in the last sentence of this paragraph. The contrary
2 law shall remain in effect pending the general election
3 ballot. The measure receiving the highest number of votes shall
4 prevail. If the initiative measure is approved, the contrary
5 law shall be void. If any law is enacted that is the same or
6 similar to, and accomplishes the same purpose as an initiative
7 measure, as determined by the attorney general, the chief
8 election officer shall declare, by a public announcement, that
9 the initiative measure is void and order it stricken from the
10 ballot.

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

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



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

17 The chief election officer shall not release any initiative
18 petition for inspection by the public or any governmental
19 agency, except if the supreme court orders inspection of the
20 initiative petition when a question has been raised regarding
21 the sufficiency of an initiative petition. If any initiative



1 petition under this section has been determined to be
2 insufficient, the initiative petition shall be returned to the
3 circulators within thirty days of its filing with the notations
4 of specific insufficiencies.

5 Any initiative measure shall be presented to the people in
6 a form that a "yes" vote, on a yes or no ballot, shall indicate
7 approval of the initiative measure as the initiative measure is
8 written; provided that an initiative measure proposing to
9 prohibit a specific activity or to terminate an existing right
10 or privilege shall be submitted to the people in a form that a
11 "yes" vote, on a yes or no ballot, shall indicate that they
12 favor the right to engage in the activity or continuance of the
13 right or privilege and disapproval of the initiative measure.

14 The initiative measure shall be effective, if approved, one
15 day after the election results are announced, unless otherwise
16 provided for in the initiative measure.

17 The veto power of the governor shall not extend to
18 initiative measures approved by the people. No initiative
19 measure enacted by the people shall be repealed or amended by
20 the legislature, unless otherwise provided in the initiative



1 measure; provided that the people may amend an enacted
2 initiative measure by a subsequent initiative measure.

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

9 **REFERENDUM**

10 **Section B.** Referendum is the power of the people to amend
11 or repeal statutes or parts of statutes by ballot. Referendum
12 shall not be used to make or repeal any appropriation of public
13 funds or to make, amend or repeal the levy of taxes, nor shall
14 the referendum extend to any matter governed by collective
15 bargaining contracts.

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

20 A referendum measure shall be certified for placement on
21 the ballot by the chief election officer upon the submission of



1 a referendum petition signed by registered voters of the State
2 equal in number to at least fifteen per cent of the total number
3 of voters who voted for the office of the governor in the last
4 preceding general election for that office. The signatures must
5 include at least ten per cent of the voters from a minimum of
6 two counties of the State.

7 The referendum measure shall be phrased to require a "yes"
8 or "no" response by the voter. The chief election officer shall
9 submit the referendum measure at the next general election held
10 at least thirty-one days after it is certified or at a special
11 statewide election held prior to that general election. A
12 referendum measure that is approved by a majority of voters
13 shall be effective, if approved, one day after the election
14 results are announced, unless the referendum measure provides
15 otherwise. If a referendum petition is filed against a part of
16 a statute, the remainder of the statute shall not be delayed
17 from becoming effective.

18 **RECALL**

19 **Section C.** Every elected public official of the State,
20 appointed justice of the state supreme court, and appointed
21 judge of any state court may be removed from their position by



1 the electors entitled to vote through the procedure and in the
2 manner set forth in this section. This procedure shall be known
3 as recall and shall be in addition to any other method of
4 removal provided by law. This section shall be self-executing,
5 but the legislature may enact legislation to facilitate its
6 operation; provided that the legislation shall not restrict or
7 limit the provisions of this section or the powers reserved in
8 this section.

9 A recall measure may be submitted to the people for a
10 recall vote by filing with the chief election officer a recall
11 petition bearing the signatures of registered voters of not less
12 than twenty per cent of all votes cast for all candidates for
13 the office subject to recall at the previous general election of
14 that office. Only those registered voters who are entitled to
15 cast votes for the official named on the recall petition shall
16 be qualified to sign the recall petition and to vote in the
17 recall election. The recall petition shall state the reason for
18 the recall vote. Unresponsiveness to the needs of the
19 official's constituents shall be an adequate reason for the
20 recall of any elected or appointed state official.



1 For a recall measure of an appointed justice or judge, the
2 petition must bear the signatures of registered voters of not
3 less than twenty per cent of the total number of voters who
4 voted for the office of the governor in the last preceding
5 general election for that office. All registered voters of the
6 State are qualified to sign the recall petition for an appointed
7 justice or judge. The recall petition shall state the reason
8 for the recall vote.

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



1 proclaimed by the chief election officer
2 between _____ and _____ days after the recall petition
3 has been determined to be sufficient.

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

8 If a recall vote fails to recall the affected official or
9 appointee, the affected official or appointee shall not be
10 subject to another recall measure for the remainder of the term
11 of office or appointment to which the individual was elected or
12 appointed to serve.

13 Prior to the circulation of any recall petition for
14 signature, 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 recall measure within seven business
17 days. The title and summary shall not exceed _____ words.

18 All recall petitions shall be submitted for certification
19 to the chief election officer. Every sheet of the recall
20 petition containing signatures shall be attached to the title,
21 summary and text of the recall petition. No laws shall be



1 enacted limiting the number of copies of a recall petition that
2 may be circulated. Any registered voter of this State shall be
3 competent to solicit signatures. No person circulating a recall
4 petition shall be eligible to receive any compensation for
5 services as a recall petition circulator. All signers shall add
6 their address as shown on their voter registration form and the
7 date upon which they signed the recall petition. When fewer
8 than five thousand signatures are required on a recall petition,
9 the recall petition circulators shall have sixty days in which
10 to obtain the required number of signatures of qualified voters;
11 when between five thousand and ten thousand signatures are
12 required, the recall petition circulators shall have ninety
13 days; when between ten thousand and fifty thousand signatures
14 are required, the recall petition circulators shall have one
15 hundred twenty days; when between fifty thousand and one hundred
16 thousand signatures are required, the recall petition
17 circulators shall have one hundred sixty days; and when more
18 than one hundred thousand signatures are required, the recall
19 petition circulators shall have one hundred eighty days.

20 Every sheet of the recall petition containing signatures
21 shall be verified by affidavit of the recall petition circulator



1 that each name on the sheet was signed in the presence of the
2 affiant and that in the belief of the affiant each signer is a
3 registered voter of the State, and of the affected district in
4 the case of a recall petition so limited. The chief election
5 officer shall certify that the signers are registered voters of
6 the State, and of the affected district in the case of a recall
7 petition so limited.

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



1 Any recall measure shall be presented to the people in 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 A recall measure shall be effective, if approved, one day
5 after the election results are announced, unless otherwise
6 provided for in the recall measure.

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

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

15 **"LEGISLATIVE POWER**

16 **Section 1.** [The] Except as provided in Section A of
17 Article II, the legislative power of the State shall be vested
18 in a legislature, which shall consist of two houses, a senate
19 and a house of representatives[. ~~Such power~~], but the people
20 reserve to themselves the powers of initiative and referendum as
21 set forth in Sections A and B of Article II. The legislative



1 power shall extend to all rightful subjects of legislation not
2 inconsistent with this constitution or the Constitution of the
3 United States."

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

6 "BILLS; ENACTMENT

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

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

14 "METHODS OF PROPOSAL

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

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

21 "VETO



1 **Section 4.** No proposal for amendment of the constitution
2 adopted in either manner provided by this article or by Section
3 A or B of Article II on initiative or referendum shall be
4 subject to veto by the governor."

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

7 **"CONFLICTING REVISIONS OR AMENDMENTS**

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



1 SECTION 8. The question to be printed on the ballot shall
2 be as follows:

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

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

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

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

16

INTRODUCED BY:

[Handwritten signatures: Daniel Hironaka, Ken Wada, and others]



H.B. NO. 1723

Report Title:

Minority Caucus Package; Constitutional Amendment; Initiative

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 recall of elected officials and appointed justices and judges.

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