# A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE XVII, SECTION 3 OF THE HAWAII
CONSTITUTION TO SPECIFY THAT THE STANDARD FOR VOTER
APPROVAL OF A CONSTITUTIONAL AMENDMENT PROPOSED BY THE
LEGISLATURE IS A MAJORITY OF ALL THE VOTES TALLIED UPON THE
QUESTION.

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

1   SECTION 1.  The legislature finds that the state

2  constitution is at times amended when voters in a general

3  election approve a proposed amendment that has been placed on

4  the election ballot.  The legislature further finds that the

5  manner in which ballot responses are required to be counted for

6  state constitutional amendment purposes, by deeming ballots left

7  blank, spoiled, or over voted as a vote in opposition to the

8  proposed amendment, is confusing and may lead to a result

9  unintended by the voter.

10   Pursuant to the state constitution, the standard for

11  passage of a proposed constitutional amendment is two-fold.

12  First, a majority of voters must have voted "yes" on the

13  proposed amendment question, based on the "majority of all the

14  votes tallied upon the question" requirement that appears in

15  article XVII, section 2 of the Constitution of the State of

S.B. NO. _1225_

1   Hawaii.   Second, this majority must also represent a majority of

2   all votes cast in the election, based on that same section's

3   requirement that the majority constitute "at least fifty per

4   cent of the total vote cast at the election."   In practical

5   terms, this means that all ballots that are validly returned are

6   considered to have been cast.   So if the voter responded to the

7   proposed amendment question by leaving the answer blank,

8   spoiling the ballot, or over voting, the answer is counted as a

9   "no" vote.   Thus, when factoring in all votes cast, the actual

10  threshold for passage of a state constitutional amendment can be

11  significantly higher than fifty per cent of voters voting "yes"

12  or "no" on the question.

13       Accordingly, the purpose of this Act is to amend article

14  XVII, section 3 of the Constitution of the State of Hawaii

15  regarding the standard for ratification of a constitutional

16  amendment proposed by the legislature to require that a majority

17  of all the votes tallied upon the question be a "yes" vote, and

18  not include blank, spoiled, and over votes in determining

19  whether a majority was reached.   Only ballots that indicate a

20  "no" vote will be counted as "no."

1    The legislature notes that this amendment is not intended

2   to change the standard for tabulating votes on constitutional

3   amendments that are generated by a constitutional convention,

4   and will therefore leave unamended the relevant language in

5   article XVII, section 2 of the Constitution of the State of

6   Hawaii.

7       SECTION 2.  Article XVII, section 3, of the Constitution of

8   the State of Hawaii is amended to read as follows:

9                  **"AMENDMENTS PROPOSED BY LEGISLATURE**

10      **Section 3.**  The legislature may propose amendments to the

11   constitution by adopting the same, in the manner required for

12   legislation, by a two-thirds vote of each house on final reading

13   at any session, after either or both houses shall have given the

14   governor at least ten days' written notice of the final form of

15   the proposed amendment, or, with or without such notice, by a

16   majority vote of each house on final reading at each of two

17   successive sessions.

18      Upon such adoption, the proposed amendments shall be

19   entered upon the journals, with the ayes and noes, and published

20   once in each of four successive weeks in at least one newspaper

21   of general circulation in each senatorial district wherein such

1  a newspaper is published, within the two months' period

2  immediately preceding the next general election.

3      At such general election the proposed amendments shall be

4  submitted to the electorate for approval or rejection upon a

5  separate ballot.

6      [The conditions of and requirements for ratification of

7  such proposed amendments shall be the same as provided in

8  section 2 of this article for ratification at a general

9  election.] The proposed amendments shall be effective only if

10  approved at a general election by a majority of all the votes

11  tallied upon the question."

12      SECTION 3. The question to be printed on the ballot shall

13  be as follows:

14      "Under the current language of the Constitution of the

15      State of Hawaii, there are two requirements to approve a

16      constitutional amendment, whether proposed by the

17      Legislature or by a Constitutional Convention: First, a

18      majority of the votes tallied must be in support of the

19      amendment. Second, a majority of the votes cast must be in

20      support, meaning that blank votes, spoiled votes, and over

21      votes are counted as "no" votes.

# S.B. NO. 1225

1        Shall the Constitution of the State of Hawaii be

2      amended to change the standard for voter approval of

3      constitutional amendments that are proposed by the

4      Legislature, to require solely that a majority of the votes

5      tallied approve of the amendment and to delete the

6      additional requirement that there be approval by a majority

7      of the votes cast so that only ballots that indicate a "no"

8      vote on the constitutional amendment be counted as "no"?"

9      SECTION 4.  This amendment shall take effect upon

10  compliance with article XVII, section 3, of the Constitution of

11  the State of Hawaii.

12

INTRODUCED BY: _____

**Report Title:**
ConAm; General Elections; Amendment Process; Tallying; Votes

**Description:**
Proposes to amend article XVII, section 3 of the Hawaii State
Constitution regarding the standard for ratification of a
constitutional amendment proposed by the legislature, to require
that a majority of all the votes tallied upon the question be a
"yes" vote, and not include blank, spoiled, and over votes in
determining whether a majority was reached.

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*