
A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE XVII, SECTION 3 OF THE HAWAII STATE 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 Hawaii 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 Hawaii 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 Hawaii State Constitution.



1 Second, this majority must also represent a majority of all
2 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 propose an
14 amendment to article XVII, section 3, of the Hawaii State
15 Constitution regarding the standard for ratification of a
16 constitutional amendment proposed by the legislature to require
17 that a majority of all the votes tallied upon the question be a
18 "yes" vote, and not include blank, spoiled, and over votes in
19 determining whether a majority was reached. Only ballots that
20 indicate a "no" vote will be counted as "no".



1 The legislature notes that this proposed amendment is not
2 intended to change the standard for tabulating votes on
3 constitutional amendments that are generated by a constitutional
4 convention, and will therefore leave unamended the relevant
5 language in article XVII, section 2 of the Hawaii State
6 Constitution.

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 "Shall the Constitution of the State of Hawaii be amended
15 to change how votes are counted for constitutional
16 amendments proposed by the Legislature so that only ballots
17 that vote "yes" or "no" on the amendment are counted, and
18 blank, spoiled, or over votes are not counted as votes
19 against the amendment?"



1 SECTION 4. Constitutional material to be repealed is
2 bracketed and stricken. New constitutional material is
3 underscored.

4 SECTION 5. This amendment shall take effect on July 1,
5 2050, upon compliance with article XVII, section 3, of the
6 Constitution of the State of Hawaii.



Report Title:

Constitutional Amendment; 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 provide that proposed amendments shall be effective only if approved at a general election by a majority of all the votes tallied upon the question. Effective 7/1/2050. (HD1)

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