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# 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 amend  
14 article XVII, section 3 of the Hawaii State Constitution  
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 Hawaii State Constitution.

6           SECTION 2. Article XVII, section 3, of the Constitution of  
7 the State of Hawaii is amended to read as follows:

8                           **"AMENDMENTS PROPOSED BY LEGISLATURE**

9           **Section 3.** The legislature may propose amendments to the  
10 constitution by adopting the same, in the manner required for  
11 legislation, by a two-thirds vote of each house on final reading  
12 at any session, after either or both houses shall have given the  
13 governor at least ten days' written notice of the final form of  
14 the proposed amendment, or, with or without such notice, by a  
15 majority vote of each house on final reading at each of two  
16 successive sessions.

17           Upon such adoption, the proposed amendments shall be  
18 entered upon the journals, with the ayes and noes, and published  
19 once in each of four successive weeks in at least one newspaper  
20 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: First, a majority of voters must  
17 vote "yes" on the proposed amendment, based on the  
18 "majority of all votes tallied" requirement. Second, this  
19 majority must also represent a majority of all votes  
20 "cast", including blank votes, spoiled votes, and over  
21 votes.



1            Shall the Constitution of the State of Hawaii be amended to  
2            change the standard for voter approval of constitutional  
3            amendments that are proposed by the Legislature, to require  
4            solely that a majority of the votes tallied approve of the  
5            amendment and that only ballots that indicate a "no" vote  
6            be counted as "no"?"

7            SECTION 4. Constitutional material to be repealed is  
8 bracketed and stricken. New constitutional material is  
9 underscored.

10           SECTION 5. This amendment shall take effect on July 1,  
11 2050, upon compliance with article XVII, section 3, of the  
12 Constitution of the State of Hawaii.



S.B. NO. 2315  
S.D. 2

**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 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. (SD2)

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

