

JAN 18 2013

A BILL FOR AN ACT

PROPOSING AMENDMENTS TO 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 no method exists for  
2 initiative, referendum, or the recall of elected state officers  
3 in Hawaii. The purpose of this Act is to amend the Constitution  
4 of the State of Hawaii to provide for initiative, referendum,  
5 and recall.

6 SECTION 2. Article II, of the Constitution of the State of  
7 Hawaii is amended by adding three new sections to be  
8 appropriately designated and to read as follows:

9 "INITIATIVE"

10 Section A. The initiative power is reserved to the  
11 people. An initiative measure shall be submitted to the people  
12 by presenting to the chief election officer a petition  
13 containing the signatures of registered voters equaling not less  
14 than percent in the case of a law, and not less than  
15 percent in the case of an amendment to the constitution, of  
16 all votes counted for all candidates for governor at the general  
17 election preceding the filing of the petition. The initiative



1 petition shall be filed with the chief election officer not  
2 later than ninety days prior to the general election at which  
3 the initiative is to be submitted directly to the people. All  
4 initiative measures shall have printed above the title the  
5 following:

6 "INITIATIVE MEASURE TO BE  
7 SUBMITTED DIRECTLY TO THE PEOPLE."

8 Each initiative measure shall embrace but one subject,  
9 which shall be expressed in its title. The enacting clause  
10 shall be:

11 "BE IT ENACTED BY THE PEOPLE  
12 OF THE STATE OF HAWAII."

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

18 No initiative measure that names any individual to hold any  
19 office, or names or identifies any private entity to perform any  
20 function or to have any power or duty, shall be submitted or  
21 have any effect. No initiative measure shall be submitted that  
22 pertains to land use issues.



1       An initiative measure proposing to prohibit a specific  
2 activity or to terminate an existing right or privilege shall be  
3 submitted to the people in such a form that they may vote in the  
4 affirmative if they favor the right to engage in the activity or  
5 continuance of the right or privilege.

6       Prior to the circulation of any initiative petition for  
7 signatures, a copy shall be submitted to the attorney general  
8 who shall prepare a title and summary of the chief purpose and  
9 aim of the proposed measure.

10       If, after an initiative petition is submitted to the  
11 attorney general, any bill introduced into the legislature that  
12 may be contrary, as determined by the attorney general, in  
13 either form or essential substance to the initiative request is  
14 enacted into law, that law and that initiative measure shall be  
15 submitted to the people in order that they may choose between  
16 them. The contrary law shall remain in effect pending the  
17 general election ballot. The measure receiving the highest  
18 number of votes shall prevail. If the initiative measure is  
19 approved, the contrary law shall be void. If any law is enacted  
20 that is the same or similar to, and accomplishes the same  
21 purpose as an initiative measure, as determined by the attorney  
22 general, the chief election officer shall declare, by a public



1 announcement, that the initiative measure is void and order it  
2 stricken from the ballot.

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

11 A defeated initiative measure shall not be resubmitted to  
12 the people by the 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 years.

15 All initiative petitions shall be submitted to the chief  
16 election officer for certification. Each sheet containing  
17 petitioners' signatures shall be attached to the title, summary,  
18 and text of the initiative petition. No laws shall be enacted  
19 limiting the number of copies of a petition that may be  
20 circulated. Any registered voter of this State shall be  
21 competent to solicit signatures. The petition shall be signed  
22 by registered voters. All signers shall add their address as



1 shown on their voter registration form and the date upon which  
2 they sign the petition. Every sheet of the petition containing  
3 signatures shall be verified by affidavit of the petition  
4 circulator that each name on the sheet was signed in the  
5 presence of the affiant and that, in the belief of the affiant,  
6 each signer is a registered voter of the State. The chief  
7 election officer shall certify that the signers are registered  
8 voters of the State.

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

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



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

4       The veto power of the governor shall not extend to  
5 initiative measures approved by the people. No measure enacted  
6 by the people shall be repealed or amended by the legislature,  
7 unless otherwise provided in the measure; provided that the  
8 people may repeal or amend an initiative at any time.

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

#### 14                                   REFERENDUM

15       Section B. Referendum is the power of the people to  
16 approve or reject statutes or parts of statutes by ballot.  
17 Referendum shall not be used to make or repeal any appropriation  
18 of public funds or to make, amend, or repeal the levy of taxes,  
19 nor shall the referendum extend to any matter governed by  
20 collective bargaining contracts.

21       A voter referendum may be proposed by presenting to the  
22 chief election officer, within ninety days after the enactment



1 date of a statute, a petition asking that the statute or part of  
2 it be submitted for a referendum.

3 A referendum measure shall be certified for placement on  
4 the ballot by the chief election officer upon the submission of  
5 a petition signed by registered voters of the State equal in  
6 number to at least ten percent of the total number of voters who  
7 voted for the office of the governor in the last preceding  
8 general election for that office. That ten percent shall  
9 include at least ten percent of the total number of those voters  
10 in each of at least two counties of the State.

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

21 RECALL

1        Section C. Every elected public officer of the State may  
2 be removed from office by the electors entitled to vote for a  
3 successor of the incumbent, through the procedure and in the  
4 manner set forth in this section. This procedure shall be known  
5 as recall and it exists in addition to any other method of  
6 removal provided by law. This section is self-executing, but  
7 the legislature may enact legislation to facilitate its  
8 operation, including the timing and manner of a recall election;  
9 provided that the legislation may not restrict or limit the  
10 provisions of this section or the powers reserved in this  
11 section.

12        A recall measure shall be submitted to the people for a  
13 recall vote with the signatures of registered voters of not less  
14 than twenty-five percent of all votes cast for all candidates  
15 for the office subject to recall at the general election  
16 preceding the filing of the recall petition.

17        In districts in which the people cast their votes for  
18 multiple representation in a particular office in that district,  
19 the total votes cast for all candidates for that office in the  
20 last general election shall be divided by the number of persons  
21 in that particular office to obtain the number of signatures  
22 needed.





1        Only those registered voters who are entitled to cast votes  
2 for the officer named on the recall petition shall be qualified  
3 to sign the recall petition and to vote in the recall election.

4        The recall petition shall state the reason for the recall  
5 vote. Unresponsiveness to the needs of the officer's  
6 constituents shall be adequate reason for the recall of any  
7 elected state officer.

8        No recall petition shall be filed against any elected state  
9 officer unless the officer has served more than one hundred  
10 eighty days of the officer's term of office. No recall petition  
11 shall be filed within one hundred eighty days of the end of an  
12 elected state officer's term of office. Upon receipt of a  
13 properly filed recall petition, the chief election officer shall  
14 proclaim a recall special election within thirty days after the  
15 petition has been certified to be sufficient.

16        A recall shall be approved by the majority of the votes  
17 cast indicating "yes" or "no" thereon but not including blank  
18 ballots. Any vacancy that may be created shall be filled as  
19 prescribed by law.

20        If a recall vote fails to recall the affected officer, the  
21 affected officer shall not be subject to another recall vote for



1 the remainder of the term of office to which the officer was  
2 elected to serve.

3 Prior to the circulation of any recall petition for  
4 signature, a copy shall be submitted to the attorney general who  
5 shall prepare a title and summary of the chief purpose and aim  
6 of the proposed measure within seven business days. The title  
7 shall not exceed ten words and the summary shall not exceed  
8 fifty words.

9 All recall petitions shall be submitted for certification  
10 to the chief election officer. Every sheet of the petition  
11 containing signatures shall be attached to the title, summary,  
12 and text of the recall petition. No laws shall be enacted  
13 limiting the number of copies of a petition which may be  
14 circulated. Any registered voter of this State shall be  
15 competent to solicit signatures. No person circulating a  
16 petition shall be eligible to receive any compensation for  
17 services as a petition circulator. All signers shall add their  
18 name and address as shown on their voter registration form, and  
19 the date upon which they signed the petition.

20 When fewer than five thousand signatures are required on a  
21 petition, the petition circulators shall have sixty days in  
22 which to obtain the required number of signatures of qualified



1 voters. When between five thousand and ten thousand signatures  
2 are required on a petition, the petition circulators shall have  
3 ninety days in which to obtain the required number of signatures  
4 of qualified voters. When between ten thousand and fifty  
5 thousand signatures are required on a petition, the petition  
6 circulators shall have one hundred twenty days in which to  
7 obtain the required number of signatures of qualified voters.  
8 When between fifty thousand and one hundred thousand signatures  
9 are required on a petition, the petition circulators shall have  
10 one hundred sixty days in which to obtain the required number of  
11 signatures of qualified voters. When more than one hundred  
12 thousand signatures are required on a petition, the petition  
13 circulators shall have one hundred eighty days in which to  
14 obtain the required number of signatures of qualified voters.

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



1 and of the affected district in the case of a recall petition so  
2 limited.

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

15 Any measure under this section shall be presented to the  
16 people in such a form that a "yes" vote, on a yes or no ballot,  
17 shall indicate an affirmative vote for the measure as the  
18 measure is written.

19 The recall measure shall be effective, if approved, one day  
20 after the election results are announced unless otherwise  
21 provided for in the measure.



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

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

8                                   **"LEGISLATIVE POWER**

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

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

20                                   **"BILLS; ENACTMENT**

21       **Section 14.** No law shall be passed by the legislature  
22 except by bill. Each law shall embrace but one subject, which



1 shall be expressed in its title. The enacting clause of each  
2 law shall be, "Be it enacted by the legislature of the State of  
3 Hawaii."

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

6 **"METHODS OF PROPOSAL**

7 **Section 1.** Revisions of or amendments to this constitution  
8 may be proposed by constitutional convention, ~~or~~ by the  
9 legislature~~[-]~~, or by the people under Article II, section A,  
10 through the initiative process."

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

13 **"VETO**

14 **Section 4.** No proposal for amendment of the constitution  
15 adopted in either manner provided by this article or by Article  
16 II, sections A or B, on initiative or referendum shall be  
17 subject to veto by the governor."

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

20 **"CONFLICTING REVISIONS OR AMENDMENTS**

21 **Section 5.** If a revision or amendment proposed by a  
22 constitutional convention is in conflict with a revision or



1 amendment proposed by the legislature and both are submitted to  
2 the electorate at the same election and both are approved, then  
3 the revision or amendment proposed by the convention shall  
4 prevail. If a revision or amendment proposed by the legislature  
5 is in conflict with the revision or amendment proposed by the  
6 people under Article II, section A, by initiative, and both are  
7 approved, then the measure receiving the highest number of votes  
8 shall prevail. If conflicting revisions or amendments are  
9 proposed by the same body and are submitted to the electorate at  
10 the same election and both are approved, then the revision or  
11 amendment receiving the highest number of votes shall prevail."

12 SECTION 8. The question to be printed on the ballot shall  
13 be as follows:

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

16 SECTION 9. Constitutional material to be repealed is  
17 bracketed and stricken. New constitutional material is  
18 underscored.

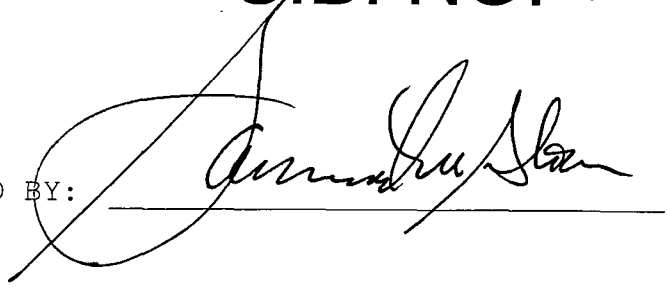
19 SECTION 10. This amendment shall take effect upon  
20 compliance with article XVII, section 3, of the Constitution of  
21 the State of Hawaii.

22



# S.B. NO. 771

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Amanda J. Stan", is written over a horizontal line. The signature is stylized and cursive.





# S.B. NO. 771

**Report Title:**

Initiative; Referendum; Recall

**Description:**

Amends the State constitution to provide for initiative, referendum, and recall.

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

