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## 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:**

SECTION 1. The purpose of this Act is to propose amendments to the Constitution of the State of Hawaii to provide for direct initiative, popular referendum, and recall. The legislature finds that Hawaii voters lack the power to get initiative measures directly onto the ballot, reject recently enacted laws, or recall elected state officials in Hawaii. In order to maintain a vibrant democracy with strong checks and balances, voters must be empowered to take a more active role in such checks and balances. Therefore, the purpose of this Act is to propose constitutional amendments to provide for direct initiative, popular referendum, and recall.

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

**"INITIATIVE**

**Section A.** The initiative power is reserved to the people.

An initiative measure shall be submitted to the people by



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

"INITIATIVE MEASURE TO BE

SUBMITTED DIRECTLY TO THE PEOPLE"

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

"BE IT ENACTED BY THE PEOPLE

OF THE STATE OF HAWAII"

The initiative measure shall be enacted into law when approved by a majority of votes counted for the measure. If two or more conflicting initiative measures are approved by the



people at the same election, the measure receiving the highest number of votes shall prevail.

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

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

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



If, after an initiative request is made with the attorney general, any bill introduced into the legislature that may be contrary, as determined by the attorney general, in either form or essential substance to the initiative request is enacted into law, that law and that initiative measure shall be submitted to the people in order that they may choose between them, except as provided in the last sentence of this paragraph. The contrary law shall remain in effect pending the general election ballot. The measure receiving the highest number of votes shall prevail. If the initiative measure is approved, the contrary law shall be void. If any law is enacted that is the same or similar to, and accomplishes the same purpose as an initiative measure, as determined by the attorney general, the chief election officer shall declare, by a public announcement, that the initiative measure is void and order it stricken from the ballot.

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

Prior to the circulation of any initiative petition for signatures, a copy shall be submitted to the attorney general who shall prepare a title and summary of the chief purpose and



aim of the proposed measure, as well as a clear explanation written in plain language of the legal effect of a "yes" vote or "no" vote.

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

The chief election officer shall not release any petition for inspection by the public or any governmental agency, except if the supreme court orders inspection of the petition when a



question has been raised regarding the sufficiency of a petition. If any petition under this section has been determined to be insufficient, the petition shall be returned to the circulators within thirty days of its filing with the notations of specific insufficiencies.

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

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

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

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



REFERENDUM

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

A voter referendum may be proposed by presenting to the chief election officer, within ninety days after the enactment date of a statute, a petition asking that the statute or part of it be submitted for a referendum.

A referendum measure shall be certified for placement on the ballot by the chief election officer upon the submission of a petition signed by registered voters of the State equal in number to at least fifteen per cent of the total number of voters who voted for the office of the governor in the last preceding general election for that office. The signatures must include at least ten per cent of the voters from a minimum of two counties of the State.

The referendum measure shall be phrased to require a "yes" or "no" response by the voter. The chief election officer shall submit the referendum measure at the next general election held



at least thirty-one days after it is certified or at a special statewide election held prior to that general election. A referendum that is approved by a majority of voters shall be effective, if approved, one day after the election results are announced, unless the measure provides otherwise. If a referendum is filed against a part of a statute, the remainder shall not be delayed from becoming effective."

#### **RECALL**

**Section C.** Every elected public official of the State may be removed from office by the electors entitled to vote for a successor of the incumbent, through the procedure and in the manner set forth in this section. This procedure shall be known as recall and is in addition to any other method of removal provided by law. This section is self-executing, but the legislature may enact legislation to facilitate its operation; provided that the legislation may not restrict or limit the provisions of this section or the powers reserved in this section.

A recall measure shall be submitted to the people for a recall vote with the signatures of registered voters of not less than twenty per cent of all votes cast for all candidates for the office subject to recall at the previous general election of that office. Only those





registered voters who are entitled to cast votes for the official named on the recall petition shall be qualified to sign the recall petition and to vote in the recall election. The recall petition shall state the reason for the recall vote. Unresponsiveness to the needs of the official's constituents shall be adequate reason for the recall of any elected state official.

No recall petition shall be filed against any elected state official unless the official has served more than six months of the official's term of office. No recall petition shall be filed within one year of a primary election in which an elected official is required to seek nomination for reelection. If a recall petition is against an elected state official whose term of office expires at a general election after a forthcoming primary election and the petition is filed no more than \_\_\_\_\_ days and not less than \_\_\_\_\_ days prior to the primary election, the chief election officer shall cause the recall measure to be submitted to the people at that general election. All other recall measures shall cause a recall special election to be proclaimed by the chief election officer between \_\_\_\_\_ and \_\_\_\_\_ days after the petition has been determined to be sufficient.



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

If a recall vote fails to recall the affected official, the affected official shall not be subject to another recall vote for the remainder of the term of office to which the official was elected to serve.

Prior to the circulation of any recall petition for signature, a copy shall be submitted to the attorney general who shall prepare a title and summary of the chief purpose and aim of the proposed measure within seven business days. The title and summary shall not exceed \_\_\_\_\_ words.

All recall petitions shall be submitted for certification to the chief election officer. Every sheet of the petition containing signatures shall be attached to the title, summary, and text of the recall petition. No laws shall be enacted limiting the number of copies of a petition which may be circulated. Any registered voter of this State shall be competent to solicit signatures. No person circulating a petition shall be eligible to receive any compensation for services as a petition circulator. All signers shall add their address as shown on their



voter registration form and the date upon which they signed the petition. When fewer than five thousand signatures are required on a petition, the petition circulators shall have sixty days in which to obtain the required number of signatures of qualified voters; when between five thousand and ten thousand signatures are required, the petition circulators shall have ninety days; when between ten thousand and fifty thousand signatures are required, the petition circulators shall have one hundred twenty days; when between fifty thousand and one hundred thousand signatures are required, the petition circulators shall have one hundred sixty days; and when more than one hundred thousand signatures are required, the petition circulators shall have one hundred eighty days.

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



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

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

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

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

The petitioners shall bear all costs of the preparation and circulation of the petition, except for



the services performed by the attorney general under this section. After the petition has been filed with the chief election officer, all further costs shall be part of the usual expenditures of the State."

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

**"LEGISLATIVE POWER**

**Section 1.** [The] Except as provided in Article II, Section A, the legislative power of the State shall be vested in a legislature, which shall consist of two houses, a senate and a house of representatives~~[.—Such power]~~, but the people reserve to themselves the powers of initiative and referendum as set forth in Article II, Sections A and B. The legislative power shall extend to all rightful subjects of legislation not inconsistent with this constitution or the Constitution of the United States."

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

**"BILLS; ENACTMENT**

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



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

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

**"METHODS OF PROPOSAL**

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

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

**"VETO**

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

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

**"CONFLICTING REVISIONS OR AMENDMENTS**

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



amendment proposed by the legislature and both are submitted to the electorate at the same election and both are approved, then the revision or amendment proposed by the convention shall prevail. If a revision or amendment proposed by the legislature is in conflict with the revision or amendment proposed by the people under Article II, Section A, by initiative, and both are approved, then the revision or amendment proposed by initiative shall prevail. If conflicting revisions or amendments are proposed by the same body and are submitted to the electorate at the same election and both are approved, then the revision or amendment receiving the highest number of votes shall prevail."

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

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

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



# H.B. NO. 1202

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

SECTION 11. These amendments shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

INTRODUCED BY:



JAN 24 2017





# H.B. NO. 1202

**Report Title:**

Initiative; Referendum; Recall

**Description:**

Amends the state constitution to provide for direct initiative, popular 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.*

