
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:

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

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

15 "INITIATIVE



1 Section A. The initiative power is reserved to the people.
2 An initiative measure shall be submitted to the people by
3 presenting to the chief election officer a petition containing
4 the signatures of registered voters equaling not less than
5 fifteen per cent in the case of a law, and not less than twenty
6 per cent in the case of an amendment to the constitution, of the
7 total number of voters who voted for the office of the governor
8 in the last preceding general election for that office. The
9 initiative petition shall be filed with the chief election
10 officer not later than ninety days prior to the general election
11 at which the initiative is to be submitted directly to the
12 people. All initiative measures shall have printed above the
13 title the following:

14 "INITIATIVE MEASURE TO BE
15 SUBMITTED DIRECTLY TO THE PEOPLE"

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

19 "BE IT ENACTED BY THE PEOPLE
20 OF THE STATE OF HAWAII"



1 The initiative measure shall be enacted into law when
2 approved by a majority of votes counted for the measure. If two
3 or more conflicting initiative measures are approved by the
4 people at the same election, the measure receiving the highest
5 number of votes shall prevail.

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

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

18 No initiative measure shall be filed with the chief
19 election officer that may be either similar or contrary in
20 either form or essential substance to a bill already introduced
21 into the legislature. If after the adjournment of the



1 legislature sine die, a bill has not become law, or does not
2 carry over, an initiative measure of either similar or contrary
3 form may be filed with the chief election officer for submission
4 to the people.

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

20 A defeated initiative measure shall not be resubmitted to
21 the people by the initiative petition in either the same form or



1 essential substance, as determined by the attorney general,
2 either affirmatively or negatively, for a period of four years.

3 Prior to the circulation of any initiative petition for
4 signatures, a copy shall be submitted to the attorney general
5 who shall prepare a title and summary of the chief purpose and
6 aim of the proposed measure, as well as a clear explanation
7 written in plain language of the legal effect of a "yes" vote or
8 "no" vote.

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



1 each signer is a registered voter of the State. The chief
2 election officer shall certify that the signers are registered
3 voters of the State.

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

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

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

19 The veto power of the governor shall not extend to
20 initiative measures approved by the people. No measure enacted
21 by the people shall be repealed or amended by the legislature,



1 unless otherwise provided in the measure; provided that the
2 people may amend an initiative at any time.

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

8 REFERENDUM

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

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

19 A referendum measure shall be certified for placement on
20 the ballot by the chief election officer upon the submission of
21 a petition signed by registered voters of the State equal in



1 number to at least fifteen per cent of the total number of
2 voters who voted for the office of the governor in the last
3 preceding general election for that office. The signatures must
4 include at least ten per cent of the voters from a minimum of
5 two counties of the State.

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

16 **RECALL**

17 **Section C.** Every elected public official of the State
18 may be removed from office by the electors entitled to
19 vote for a successor of the incumbent, through the
20 procedure and in the manner set forth in this section.
21 This procedure shall be known as recall and is in addition



1 to any other method of removal provided by law. This
2 section is self-executing, but the legislature may enact
3 legislation to facilitate its operation; provided that the
4 legislation may not restrict or limit the provisions of
5 this section or the powers reserved in this section.

6 A recall measure shall be submitted to the people for
7 a recall vote with the signatures of registered voters of
8 not less than twenty per cent of all votes cast for all
9 candidates for the office subject to recall at the
10 previous general election of that office. Only those
11 registered voters who are entitled to cast votes for the
12 official named on the recall petition shall be qualified
13 to sign the recall petition and to vote in the recall
14 election. The recall petition shall state the reason for
15 the recall vote. Unresponsiveness to the needs of the
16 official's constituents shall be adequate reason for the
17 recall of any elected state official.

18 No recall petition shall be filed against any elected
19 state official unless the official has served more than
20 six months of the official's term of office. No recall
21 petition shall be filed within one year of a primary
22 election in which an elected official is required to seek
23 nomination for reelection. If a recall petition is



1 against an elected state official whose term of office
2 expires at a general election after a forthcoming primary
3 election and the petition is filed no more
4 than _____ days and not less than _____ days prior
5 to the primary election, the chief election officer shall
6 cause the recall measure to be submitted to the people at
7 that general election. All other recall measures shall
8 cause a recall special election to be proclaimed by the
9 chief election officer between _____ and
10 _____ days after the petition has been determined to
11 be sufficient.

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

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

20 Prior to the circulation of any recall petition for
21 signature, a copy shall be submitted to the attorney
22 general who shall prepare a title and summary of the chief
23 purpose and aim of the proposed measure within seven



1 business days. The title and summary shall not
2 exceed _____ words.

3 All recall petitions shall be submitted for
4 certification to the chief election officer. Every sheet
5 of the petition containing signatures shall be attached to
6 the title, summary, and text of the recall petition. No
7 laws shall be enacted limiting the number of copies of a
8 petition which may be circulated. Any registered voter of
9 this State shall be competent to solicit signatures. No
10 person circulating a petition shall be eligible to receive
11 any compensation for services as a petition circulator.

12 All signers shall add their address as shown on their
13 voter registration form and the date upon which they
14 signed the petition. When fewer than five thousand
15 signatures are required on a petition, the petition
16 circulators shall have sixty days in which to obtain the
17 required number of signatures of qualified voters; when
18 between five thousand and ten thousand signatures are
19 required, the petition circulators shall have ninety days;
20 when between ten thousand and fifty thousand signatures
21 are required, the petition circulators shall have one
22 hundred twenty days; when between fifty thousand and one
23 hundred thousand signatures are required, the petition



1 circulators shall have one hundred sixty days; and when
2 more than one hundred thousand signatures are required,
3 the petition circulators shall have one hundred eighty
4 days.

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

15 The chief election officer shall not release a
16 petition for inspection by the public or any governmental
17 agency, except where the supreme court orders inspection
18 of the petition, when a question has been raised regarding
19 the sufficiency of the petition. If any petition under
20 this section has been determined to be insufficient, the
21 petition shall be returned to the circulators within sixty
22 days of its filing with a statement of the specific
23 insufficiencies. Petition circulators shall have



1 additional time in which to correct the specific
2 insufficiencies of a petition, in accordance with the
3 provisions of this section governing the amount of time
4 allowed to obtain petitioners' signatures.

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

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

12 The petitioners shall bear all costs of the
13 preparation and circulation of the petition, except for
14 the services performed by the attorney general under this
15 section. After the petition has been filed with the chief
16 election officer, all further costs shall be part of the
17 usual expenditures of the State."
18

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

21 "LEGISLATIVE POWER

22 Section 1. [The] Except as provided in Article II, Section
23 A, the legislative power of the State shall be vested in a



1 legislature, which shall consist of two houses, a senate and a
2 house of representatives [~~Such power~~], but the people reserve
3 to themselves the powers of initiative and referendum as set
4 forth in Article II, Sections A and B. The legislative power
5 shall extend to all rightful subjects of legislation not
6 inconsistent with this constitution or the Constitution of the
7 United States."

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

10 **"BILLS; ENACTMENT**

11 **Section 14.** No law shall be passed by the legislature
12 except by bill. Each law shall embrace but one subject, which
13 shall be expressed in its title. The enacting clause of each
14 law shall be, "Be it enacted by the legislature of the State of
15 Hawaii."

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

18 **"METHODS OF PROPOSAL**

19 **Section 1.** Revisions of or amendments to this constitution
20 may be proposed by constitutional convention or by the



1 legislature[-] or by the people under Article II, Section A
2 through the initiative process."

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

5 "VETO

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

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

12 "CONFLICTING REVISIONS OR AMENDMENTS

13 Section 5. If a revision or amendment proposed by a
14 constitutional convention is in conflict with a revision or
15 amendment proposed by the legislature and both are submitted to
16 the electorate at the same election and both are approved, then
17 the revision or amendment proposed by the convention shall
18 prevail. If a revision or amendment proposed by the legislature
19 is in conflict with the revision or amendment proposed by the
20 people under Article II, Section A, by initiative, and both are
21 approved, then the revision or amendment proposed by initiative



1 shall prevail. If conflicting revisions or amendments are
2 proposed by the same body and are submitted to the electorate at
3 the same election and both are approved, then the revision or
4 amendment receiving the highest number of votes shall prevail."

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

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

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

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

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

20

21



H.B. NO. 2072

INTRODUCED BY: *Gene Wood*

JAN 17 2020



H.B. NO. 2072

Report Title:

Initiative; Referendum; Recall

Description:

Amend 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.

