

JAN 18 2019

A BILL FOR AN ACT

PROPOSING AMENDMENTS TO THE CONSTITUTION OF THE STATE OF HAWAII
TO PROVIDE FOR REFERENDUM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the 2016
2 presidential election marked the fifth consecutive presidential
3 election in which Hawaii ranked last in the nation in voter
4 turnout. The legislature further finds that active and
5 participatory citizenship is a fundamental principle, which
6 underpins the modern democratic process.

7 The legislature also finds that the state constitution does
8 not provide for referendums allowing for direct legislative
9 enactment by the voting public. The legislature further finds
10 that giving additional power directly to the people outside of
11 the constraints of existing partisan systems will engage the
12 citizenry and encourage them to participate in the electoral
13 process.

14 The purpose of this Act is to propose amendments to
15 articles II and III of the Constitution of the State of Hawaii
16 to provide for referendum.



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

4 "REFERENDUM

5 Section . The referendum power is reserved to the
6 people. A referendum shall be submitted to the people by
7 presenting to the chief election officer a referendum measure
8 adopted by the legislature, in the same manner required for
9 legislation, by a percent vote of each house on final
10 reading at any session. Upon such adoption, the referendum
11 measure shall be entered upon the journals, with the ayes and
12 noes, and published once in each of four successive weeks in at
13 least one newspaper of general circulation in each senatorial
14 district wherein such a newspaper is published, within the two-
15 month period immediately preceding the next general election.

16 At such general election, the referendum measure shall be
17 submitted to the electorate for approval or rejection upon a
18 separate ballot.

19 The referendum measure shall be filed with the chief
20 election officer no later than ninety days prior to the general
21 election at which the referendum is to be submitted directly to



1 the people. All referendum measures shall have printed above
2 the title the following:

3 "REFERENDUM MEASURE TO BE

4 SUBMITTED DIRECTLY TO THE PEOPLE"

5 Each referendum measure shall be submitted in the form of a
6 question embracing but one subject, which shall be expressed in
7 its title; provided that each question shall have designated
8 spaces to mark YES or NO on the measure. The enacting clause
9 shall be:

10 "BE IT ENACTED BY THE PEOPLE

11 OF THE STATE OF HAWAII:"

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

17 No referendum measure that names any individual to hold any
18 office, or names or identifies any private corporation to
19 perform any function or to have any power or duty, shall be
20 submitted or have any effect. No referendum measure shall be
21 submitted that compromises or potentially compromises public



1 health or public safety. No referendum measure shall be
2 submitted that pertains to a specific state budget item or any
3 specific state tax or fee.

4 A referendum measure proposing to prohibit a specific
5 activity or to terminate an existing right or privilege shall be
6 submitted to the people in such a form that they may vote in the
7 affirmative if they favor the right to engage in the activity or
8 continuance of the right or privilege.

9 Prior to the submission of any referendum measure to the
10 chief election officer for certification, a copy shall be
11 submitted to the attorney general who shall prepare a title and
12 summary of the chief purpose and aim of the proposed measure, as
13 well as a clear explanation written in plain language of the
14 legal effect of a "yes" vote or "no" vote.

15 If, after a referendum measure is submitted to the attorney
16 general, any bill introduced into the legislature that may be
17 contrary, as determined by the attorney general, in form or
18 essential substance to the referendum request is enacted into
19 law, that law and that referendum measure shall be submitted to
20 the people so they may choose between them, except as provided
21 in this section. The contrary law shall remain in effect



1 pending the general election ballot. The measure receiving the
2 highest number of votes shall prevail. If the referendum
3 measure is approved, the contrary law shall be void. If any law
4 is enacted that is the same or similar to, and accomplishes the
5 same purpose as a referendum measure, as determined by the
6 attorney general, the chief election officer shall declare, by a
7 public announcement, that the referendum measure is void and
8 order it stricken from the ballot.

9 A referendum shall be presented to the people in such a
10 form that a "yes" vote, on a yes or no ballot, shall indicate an
11 affirmative vote for the measure as the measure is written.

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

15 A defeated referendum measure shall not be passed by the
16 legislature in a subsequent referendum measure in the same form
17 or essential substance, as determined by the attorney general,
18 either affirmatively or negatively, for a period of four years.

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



1 without a two-thirds vote and unless five years have passed from
2 the effective date of the referendum, unless otherwise provided
3 in the measure."

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

6 "LEGISLATIVE POWER

7 Section 1. [The] Except as provided in Article II,
8 Section , the legislative power of the State shall be vested
9 in a legislature, which shall consist of two houses, a senate
10 and a house of representatives [~~Such power~~], except that the
11 people reserve to themselves the power of referendum as set
12 forth in Article II, Section . The legislative power shall
13 extend to all rightful subjects of legislation not inconsistent
14 with this constitution or the Constitution of the United States.

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

17 "BILLS; ENACTMENT

18 Section 14. No law shall be passed by the legislature
19 except by bill. Each law shall embrace but one subject, which
20 shall be expressed in its title. The enacting clause of each



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1 law shall be, "Be it enacted by the legislature of the State of
2 Hawaii."

3 SECTION 5. The question to be printed on the ballot shall
4 be as follows:

5 "Shall the State Constitution be amended to provide for
6 referendum?"

7 SECTION 6. Constitutional material to be repealed is
8 bracketed and stricken. New constitutional material is
9 underscored.

10 SECTION 7. This amendment shall take effect upon
11 compliance with article XVII, section 3, of the Constitution of
12 the State of Hawaii.

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INTRODUCED BY:

Breene Hunt
Ronny Tani
Si Nivies
Paul E. P...



S.B. NO. 312

Report Title:

Referendum; Proposed Constitutional Amendment

Description:

Proposes amendments to the state constitution to provide for referendum.

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