

S .B. NO. 1322

JAN 22 2007

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE XVII OF THE CONSTITUTION OF
THE STATE OF HAWAII.

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

1 SECTION 1. The purpose of this Act is to propose an
2 amendment to article XVII of the Constitution of the State of
3 Hawaii to establish that only YES or NO votes will be counted
4 for purposes of determining whether the electorate has ratified
5 a proposed amendment to the constitution.

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

8 **"CONSTITUTIONAL CONVENTION**

9 **Section 2.** The legislature may submit to the electorate at
10 any general or special election the question, "Shall there be a
11 convention to propose a revision of or amendments to the
12 Constitution?" If any nine-year period shall elapse during
13 which the question shall not have been submitted, the lieutenant
14 governor shall certify the question, to be voted on at the first
15 general election following the expiration of such period.

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If a majority of the ballots cast upon such a question be in the affirmative, delegates to the convention shall be chosen at the next regular election unless the legislature shall provide for the election of delegates at a special election.

Notwithstanding any provision in this constitution to the contrary, other than Section 3 of Article XVI, any qualified voter of the district concerned shall be eligible to membership in the convention.

The legislature shall provide for the number of delegates to the convention, the areas from which they shall be elected and the manner in which the convention shall convene. The legislature shall also provide for the necessary facilities and equipment for the convention. The convention shall have the same powers and privileges, as nearly as practicable, as provided for the convention of 1978.

MEETING

The constitutional convention shall convene not less than five months prior to the next regularly scheduled general election.

ORGANIZATION; PROCEDURE

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2 The convention shall determine its own organization and
3 rules of procedure. It shall be the sole judge of the
4 elections, returns and qualifications of its members and, by a
5 two-thirds vote, may suspend or remove any member for cause.
6 The governor shall fill any vacancy by appointment of a
7 qualified voter from the district concerned.

RATIFICATION; APPROPRIATIONS

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9 The convention shall provide for the time and manner in
10 which the proposed constitutional revision or amendments shall
11 be submitted to a vote of the electorate; provided that each
12 amendment shall be submitted in the form of a question embracing
13 but one subject; and provided further, that each question shall
14 have designated spaces to mark YES or NO on the amendment.

15 At least thirty days prior to the submission of any
16 proposed revision or amendments, the convention shall make
17 available for public inspection, a full text of the proposed
18 amendments. Every public library, office of the clerk of each
19 county, and the chief election officer shall be provided such
20 texts and shall make them available for public inspection. The
21 full text of any proposed revision or amendments shall also be
22 made available for inspection at every polling place on the day

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1 of the election at which such revision or amendments are
2 submitted.

3 The convention shall, as provided by law, be responsible
4 for a program of voter education concerning each proposed
5 revision or amendment to be submitted to the electorate.

6 The revision or amendments shall be effective only if
7 approved at a general election by a majority of all the votes
8 [~~tallied~~] cast upon the question, [~~this majority constituting at~~
9 ~~least fifty per cent of the total vote cast at the election,~~] or
10 at a special election by a majority of all the votes [~~tallied~~]
11 cast upon the question, this special election majority
12 constituting at least thirty per cent of the total number of
13 registered voters. Only ballots that are voted either YES or NO
14 shall be tallied as votes cast upon the question.

15 The provisions of this section shall be self-executing, but
16 the legislature shall make the necessary appropriations and may
17 enact legislation to facilitate their operation."

18 SECTION 3. The question to be printed on the ballot shall
19 be as follows:

20 "Shall the Constitution of the State of Hawaii be amended
21 to provide that only ballots that are voted either YES or

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1 NO shall be counted in determining whether a proposed
2 constitutional amendment has been adopted?"

3 SECTION 4. Constitutional material to be repealed is
4 bracketed and stricken. New constitutional material is
5 underscored.

6 SECTION 5. This amendment shall take effect upon
7 compliance with article XVII, section 3, of the Constitution of
8 the State of Hawaii.

9
10 INTRODUCED BY: _____

11 BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE XVII OF THE CONSTITUTION OF THE STATE OF HAWAII.

PURPOSE: Prohibit the counting of blank votes and overvotes in determining whether a proposed constitutional amendment has been ratified.

MEANS: Amend section 2 of Article XVII of the State Constitution.

JUSTIFICATION: By removing the inclusion of blank votes and overvotes, the amendment will resolve the present anomaly of treating blank votes and overvotes functionally as NO votes, in the context of determining whether a proposed constitutional amendment has been ratified.

Impact on the public: This bill will ensure that the will of the electorate will be followed, and that the decision of those voters who choose to take no position on a proposed constitutional amendment question will be respected.

Impact on the department or other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Office of Elections

EFFECTIVE DATE: Upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.