

JAN 19 2007

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**A BILL FOR AN ACT**

PROPOSING AN AMENDMENT 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 purpose of this Act is to propose  
2 amendments to the Constitution of the State of Hawaii to provide  
3 for initiative, referendum, and recall. The legislature finds  
4 that no method exists for initiative, referendum, or the recall  
5 of elected state officers in Hawaii. The purpose of this Act is  
6 to propose constitutional amendments to provide for all three.

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

10   "INITIATIVE

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

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

7 "INITIATIVE MEASURE TO BE  
8 SUBMITTED DIRECTLY TO THE PEOPLE"

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

12 "BE IT ENACTED BY THE PEOPLE  
13 OF THE STATE OF HAWAII"

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

19 No initiative measure that names any individual to hold any  
20 office, or names or identifies any private corporation to  
21 perform any function or to have any power or duty, shall be



1 submitted or have any effect. No initiative measure shall be  
2 submitted that pertains to land use issues.

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

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

16 If, after an initiative request is made with the attorney  
17 general, any bill introduced into the legislature that may be  
18 contrary, as determined by the attorney general, in either form  
19 or essential substance to the initiative request is enacted into  
20 law, that law and that initiative measure shall be submitted to  
21 the people in order that they may choose between them, except as  
22 provided in the last sentence of this paragraph. The contrary



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

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

13 Prior to the circulation of any initiative petition for  
14 signatures, a copy shall be submitted to the attorney general  
15 who shall prepare a title and summary of the chief purpose and  
16 aim of the proposed measure.

17 All initiative petitions shall be submitted to the chief  
18 election officer for certification. Each sheet containing  
19 petitioners' signatures shall be attached to the title, summary,  
20 and text of the initiative petition. No laws shall be enacted  
21 limiting the number of copies of a petition that may be  
22 circulated. Any registered voter of this State shall be



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

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

19 Any measure under this section shall be presented to the  
20 people in such a form that a "yes" vote, on a yes or no ballot,  
21 shall indicate an affirmative vote for the measure as the  
22 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 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 state officer may be removed from  
2 office by the electors entitled to vote for a successor of the  
3 incumbent. This procedure shall be known as recall and is in  
4 addition to any other method of removal provided by law.  
5 Qualified voters of the State or of the electoral district from  
6 which the state officer was elected may petition for the recall  
7 of any incumbent elective state officer, after the first year of  
8 the term for which the incumbent was elected, by filing a recall  
9 petition with the chief election officer.

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

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

17        The petitioners shall bear all costs of the preparation and  
18 circulation of the petition. After the petition has been filed  
19 with the chief election officer, all further costs shall be part  
20 of the usual expenditures of the State.

21        The legislature shall pass the necessary laws to implement  
22 this provision."





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

3 "LEGISLATIVE POWER

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

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

15 "BILLS; ENACTMENT

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

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



1 "METHODS OF PROPOSAL

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

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

8 "VETO

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

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

15 "CONFLICTING REVISIONS OR AMENDMENTS

16 Section 5. If a revision or amendment proposed by a  
17 constitutional convention is in conflict with a revision or  
18 amendment proposed by the legislature and both are submitted to  
19 the electorate at the same election and both are approved, then  
20 the revision or amendment proposed by the convention shall  
21 prevail. If a revision or amendment proposed by the legislature  
22 is in conflict with the revision or amendment proposed by the



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

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

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

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

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

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

22



# S.B. NO. 185

INTRODUCED BY:

A handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to be "M. J. ...".

**Report Title:**

Initiative; Recall; Referendum

**Description:**

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

