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AMENDING THE HAWAII CONSTITUTION

By Wendell K. Kimura

In every legislative session, bills are introduced proposing amendments to the Hawaii Constitution. This note describes how an amendment is made, and the role of the Legislature in that process.

Q1: *How can we amend our State Constitution?*

A1: There are two ways to amend our constitution. The most popular way is for an amendment to be proposed by the Legislature. If adopted by the Legislature, the proposed amendment is submitted to the electorate at the next general election for their approval. This note will deal with this method.

Amendments may also be proposed by a duly convened constitutional convention. The convention's proposed amendments must also be submitted to the voters for approval.

Q2: *For amendments proposed by the Legislature, does the Legislature have to act in a particular manner?*

A2: Yes. Proposed constitutional amendments by the Legislature must be adopted by a two-thirds vote of the House and Senate on the final reading at any session. Before this vote is taken, either or both houses must have given the Governor at least ten days' written notice of the final form of the proposed amendment.

Alternatively, the Legislature may adopt a proposed amendment to the Constitution by a majority vote of each house on final reading at each of two successive legislative sessions. In this event, notice may or may not be given to the Governor.

Q3: *What happens after the Legislature adopts a proposed amendment?*

A3: The proposed amendment is entered into the journals, with the ayes and noes. It is published once in each of four successive weeks in a newspaper of general circulation in each senatorial district where such a newspaper is published. This publication is made within two months immediately preceding the general election.

The proposed amendment is then placed on a separate ballot and submitted to the voters at the general election for their approval or rejection.

Q4: *Can the Governor veto the Legislature's proposed amendment?*

A4: No.

Q5: *How many votes by the electorate are needed for approval of the amendment?*

A5: To be effective, the Constitution says the proposed amendment proposed by the legislature must be approved at a general election "by a majority of all the votes tallied upon the question, this majority constituting at least fifty percent of the total vote cast at the election." At least fifty percent of all ballots cast must be for approval. The "ballots cast" include blank, spoiled, and invalid ballots. Thus, casting a "blank" vote or an overvote (marking both "yes" and "no") will have the same effect as casting a "no" vote. Only a "yes" vote will be counted as a ballot cast in the affirmative on the question.

Q6: *How does our method of amending the state constitution compare with the methods of other states?*

A6: In all other states, the legislature, like the Hawaii legislature, has the power to propose amendments to the state constitution. Some states require a mere majority vote of the legislature to adopt the proposal to be placed on the ballot. Some states require a two-thirds vote, or a three-fifths vote of the legislature. A few states require that the proposal be considered at two legislative sessions.

Nearly all states require a majority vote on the amendment for ratification. As stated above, Hawaii requires that at least fifty percent of the total votes cast be in the affirmative for ratification.

In nineteen states, proposed amendments to the state constitution are allowed by the initiative process. Hawaii does not allow this method. In a few states (five states),

there is a limit on the number of amendments that can be submitted at one election. In Hawaii, there is no such limit.

In some states, there is a constitutional commission that studies and reviews the constitution and makes recommendations for amendments to the legislature. These commissions are created by the legislature and are advisory only.