



STATE OF HAWAII
OFFICE OF ELECTIONS
802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
www.hawaii.gov/elections

FACTSHEET

CONSTITUTIONAL AMENDMENTS

GENERAL INFORMATION

The State of Hawaii's Constitution ensures representation of the people, openness and disclosure, an equal balance of power, and accountability. To maintain these objectives, our State Constitution cannot be revised or amended unless amendments are proposed by a constitutional convention or by the state legislature and approved by the voters of the State.

AMENDMENTS PROPOSED BY CONSTITUTIONAL CONVENTION

In accordance with Hawaii State Constitution, Article XVII, Section 2, each amendment proposed by the Constitutional Convention shall be submitted to the electorate on the ballot in the form of a question that encompasses only one subject. Each question shall be in a form so as to solicit a "YES" or "NO" answer.

At least 30 days before the election, the convention shall make the full text of the proposed amendments available for public inspection. Every public library, the Offices of the City/County Clerk, and the Chief Election Officer will make this information available to the public. The full text of the proposed amendments shall also be available on election day at each polling place.

AMENDMENTS PROPOSED BY THE LEGISLATURE

Pursuant to Hawaii State Constitution, Article XVII, Section 3, proposed amendments by the state legislature must be adopted by a two-thirds vote in each house or by a majority vote of each house on final reading at each of two successive sessions. These proposed amendments are entered in the legislative journals, and are published once in each of four successive weeks in at least one newspaper of general circulation within two months immediately preceding the next general election. The full text of the proposed amendments will also be available on election day at each polling place.

Amendments proposed by the Legislature are subject to the same conditions of and requirements for ratification provided in Hawaii State Constitution, Article XVII, Section 2.

Question 1 – BOARD OF REGENTS

(S.B.1256 H.D.1)

House passed Third Reading on 04/12/05 with 41 members (41>34 – 2/3)

Senate passed Final Reading on 04/25/05 with 21 members (21>16 – 2/3)

Question 2 – SALARY COMMISSION

(H.B.1917 H.D. 2, S.D.2, C.D.1)

House passed Final Reading on 05/02/06 with 51 members (51>34 – 2/3)

Senate passed Final Reading on 05/02/06 with 20 members (20>16 – 2/3)

Question 3 – JUSTICES AND JUDGES RETIREMENT AGE

(S.B.995 S.D.1, H.D.1, C.D.1)

House passed Final Reading on 05/02/06 with 38 members (38>34 – 2/3)

Senate passed Final Reading on 05/02/06 with 19 members (19>16 – 2/3)

Question 4 – SEXUAL ASSAULT AGAINST MINORS

(S.B.2246 S.D.1, H.D.1, C.D.1)

House passed Final Reading on 05/02/06 with 51 members (51>34 – 2/3)

Senate passed Final Reading on 05/02/06 with 25 members (25>16 – 2/3)

Question 5 – AGRICULTURAL ENTERPRISE REVENUE BONDS

(S.B.2479 H.D.1, C.D. 1)

House passed Third Reading on 05/02/06 with 51 members (51>34 – 2/3)

Senate passed Final Reading on 05/02/06 with 25 members (25>16 – 2/3)

RATIFICATION OF AMENDMENTS

Pursuant to Haw. Const. Art. XVII, Sec. 3, amendments to the constitution shall be effective only if approved 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, or at a special election by a majority of all the votes tallied upon the question, this majority constituting at least thirty per cent of the total number of registered voters.

Additionally, Attorney General's Opinion 82-7 concludes that "BLANK and SPOILED"¹ ballots are included as part of the total vote cast at an election.

¹The term spoiled ballot in the case denotes over votes.

CALCULATING WHETHER AMENDMENT IS ADOPTED/REJECTED

The State conducts a two-part test of ratification on each question to ascertain whether the Constitutional requirements were met for ratification by the electorate.

A. TEST ONE: Calculating Majority of All Votes Tallied on Question

The first part of the test of ratification is to ascertain that the number of votes tallied in favor of ratification ("YES" votes) constituted a majority of all the votes tallied on the question ("YES" and "NO" votes).

NOTE: Majority means 50% of the votes plus one vote. A majority of the votes tallied on the question means that the "YES" votes divided by the "YES" and "NO" votes must equal at least 50% of the votes plus one vote.

AMENDMENT #1 – BOARD OF REGENTS

1. Shall the governor be required to select board of regents candidates from a pool of qualified candidates screened and proposed by a candidate advisory council for the board of regents of the University of Hawaii as provided by law?

(H.B. 1256, H.D.1)

- a. Number of Votes Needed for a Majority:

"YES" votes	=	195,909
"NO" votes	=	122,454
Votes tallied on the question	=	318,363

$318,363 \text{ votes} \times 50\% = 159,182 \text{ votes}$

$159,182 \text{ votes} + 1 \text{ vote} = 159,183 \text{ votes}$

- b. Calculation of Majority
195,909 ("YES" votes) is greater than 159,183 (the number needed for a majority).

- c. Results of Test One

Since 195,909 is greater than the 159,183 votes needed for a majority, this question passes the first part of the test for ratification.

AMENDMENT #2 – SALARY COMMISSION

2. Shall the Constitution be amended to provide for a salary commission to review and recommend salaries for justices, judges, state legislators, the governor, the lieutenant governor, the administrative director of the State, state department heads or executive officers of the executive departments, and the deputies or assistants to department heads of the executive departments, excluding the superintendent of education and the president of the University of Hawaii?

(H.B. 1917, H.D.2, S.D.2, C.D. 1)

- a. Number of Votes Needed for a Majority:
- | | | |
|-------------------------------|---|---------|
| "YES" votes | = | 184,101 |
| "NO" votes | = | 129,806 |
| Votes tallied on the question | = | 313,907 |

$313,907 \text{ votes} \times 50\% = 156,954 \text{ votes}$

$156,954 \text{ votes} + 1 \text{ vote} = 156,955 \text{ votes}$

- b. Calculation of Majority
184,101 ("YES" votes) is greater than 156,955 (the number needed for a majority).

- c. Results of Test One

Since 184,101 is greater than the 156,955 votes needed for a majority, this question passes the first part of the test for ratification.

AMENDMENT #3 – JUSTICES AND JUDGES RETIREMENT AGE

3. Shall the mandatory retirement age of seventy for all state court justices and judges be repealed?

(S.B. 995, S.D.1, H.D. 1, C.D. 1)

- a. Number of Votes Needed for a Majority:

"YES" votes = 121,418

"NO" votes = 201,476

Votes tallied on the question = 322,894

$322,894 \text{ votes} \times 50\% = 161,447 \text{ votes}$

$161,447 \text{ votes} + 1 \text{ vote} = 161,427 \text{ votes}$

- b. Calculation of Majority

121,405 ("YES" votes) is less than 161,427 (the number needed for a majority).

- c. Results of Test One

Since 121,405 is less than the 161,427 votes needed for a majority, this question does not pass the first part of the test for ratification.

AMENDMENT #4 – SEXUAL ASSAULT AGAINST MINORS

4. Shall the Constitution of the State of Hawaii be amended to provide that in continuous sexual assault crimes against minors younger than fourteen years of age, the legislature may define:

- (1) What behavior constitutes a continuing course of conduct; and
- (2) What constitutes the jury unanimity that is required for a conviction?

(S.B. 22461, S.D.1, H.D.2, C.D.1)

a. Number of Votes Needed for a Majority:

"YES" votes	=	240,789
"NO" votes	=	71,306
Votes tallied on the question	=	312,099

$312,099 \text{ votes} \times 50\% = 156,048 \text{ votes}$

$156,048 \text{ votes} + 1 \text{ vote} = 156,049 \text{ votes}$

b. Calculation of Majority
240,789 ("YES" votes) is greater than 156,048 (the number needed for a majority).

c. Results of Test One

Since 240,789 is greater than the 156,048 votes needed for a majority, this question passes the first part of the test for ratification.

AMENDMENT #5 – AGRICULTURAL ENTERPRISE REVENUE BONDS

5. Shall the State be authorized to issue special purpose revenue bonds and use the proceeds from the bonds to assist agricultural enterprises serving important agricultural lands?

(S.B. 2479, H.D.1, C.D.1)

- a. Number of Votes Needed for a Majority:

"YES" votes	=	222,072
"NO" votes	=	90,319
Votes tallied on the question	=	312,391

$312,391 \text{ votes} \times 50\% = 156,196 \text{ votes}$

$156,196 \text{ votes} + 1 \text{ vote} = 156,197 \text{ votes}$

- b. Calculation of Majority
222,072 ("YES" votes) is greater than 156,197 (the number needed for a majority).

- c. Results of Test One

Since 222,072 is greater than the 156,197 votes needed for a majority, this question passes the first part of the test for ratification.

- B. TEST TWO: Calculating Whether the "YES" Votes Constitutes at Least 50% of the Total Vote Cast at the Election

The second part of the test of ratification is to ascertain whether the "YES" votes constitute at least 50% of the total vote cast at the election. In this test, "blank" and "over" votes are included in the calculations.

AMENDMENT #1 – BOARD OF REGENTS

1. Shall the governor be required to select board of regents candidates from a pool of qualified candidates screened and proposed by a candidate advisory council for the board of regents of the University of Hawaii as provided by law?

(H.B. 1256, H.D.1)

a.	Total Votes Cast:		
	"YES" votes	=	195,909
	"NO" votes	=	122,454
	"BLANK" votes	=	30,181
	"OVER" votes	=	207
	Votes tallied on the question	=	348,751

$348,751 \text{ votes} \times 50\% = 174,376 \text{ votes}$

- b Results of Test Two

195,909 votes is greater than the 174,376 votes needed to pass Test Two, this question passes the second part of the test for ratification.

AMENDMENT #2 – SALARY COMMISSION

2. Shall the Constitution be amended to provide for a salary commission to review and recommend salaries for justices, judges, state legislators, the governor, the lieutenant governor, the administrative director of the State, state department heads or executive officers of the executive departments, and the deputies or assistants to department heads of the executive departments, excluding the superintendent of education and the president of the University of Hawaii?

(H.B. 1917, H.D.2, S.D.2, C.D. 1)

a.	Total Votes Cast:		
	"YES" votes	=	184,101
	"NO" votes	=	129,806
	"BLANK" votes	=	34,709
	"OVER" votes	=	135
	Votes tallied on the question	=	348,751

$348,751 \text{ votes} \times 50\% = 174,376 \text{ votes}$

- b. Results of Test Two

184,101 votes is greater than the 174,376 votes needed to pass Test Two, this question passes the second part of the test for ratification.

AMENDMENT #3 – JUSTICES AND JUDGES RETIREMENT AGE

3. Shall the mandatory retirement age of seventy for all state court justices and judges be repealed?

(S.B. 995, S.D.1, H.D. 1, C.D. 1)

a.	Total Votes Cast:		
	"YES" votes	=	121,418
	"NO" votes	=	201,476
	"BLANK" votes	=	25,329
	"OVER" votes	=	528
	Votes tallied on the question	=	348,751

$348,751 \text{ votes} \times 50\% = 174,376 \text{ votes}$

- b. Results of Test Two

121,418 votes is less than the 174,376 votes needed to pass Test Two, this question does not pass the second part of the test for ratification.

AMENDMENT #4 – SEXUAL ASSAULT AGAINST MINORS

4. Shall the Constitution of the State of Hawaii be amended to provide that in continuous sexual assault crimes against minors younger than fourteen years of age, the legislature may define:

- (1) What behavior constitutes a continuing course of conduct; and
- (2) What constitutes the jury unanimity that is required for a conviction?

(S.B. 22461, S.D.1, H.D.2, C.D.1)

a.	Total Votes Cast:		
	"YES" votes	=	240,789
	"NO" votes	=	71,306
	"BLANK" votes	=	36,421
	"OVER" votes	=	235
	Votes tallied on the question	=	348,751

348,751 votes x 50% = 174,376 votes

b Results of Test Two

240,789 votes is greater than the 174,376 votes needed to pass Test Two, this question passes the second part of the test for ratification.

AMENDMENT #5 – AGRICULTURAL ENTERPRISE REVENUE BONDS

5. Shall the State be authorized to issue special purpose revenue bonds and use the proceeds from the bonds to assist agricultural enterprises serving important agricultural lands?

(S.B. 2479, H.D.1, C.D.1)

a.	Total Votes Cast:		
	"YES" votes	=	222,072
	"NO" votes	=	90,319
	"BLANK" votes	=	36,269
	"OVER" votes	=	91
	Votes tallied on the question	=	348,751

348,751 votes x 50% = 174,376 votes

- b Results of Test Two

222,072 votes is greater than the 174,376 votes needed to pass Test Two, this question passes the second part of the test for ratification.

C. Results of Two-Part Test

1. Based on the calculations in the two-part test, the following amendments would be adopted:

Amendment #1 – Passed
Amendment #2 – Passed
Amendment #3 – Did Not Pass
Amendment #4 – Passed
Amendment #5 – Passed

This Fact Sheet is intended for informational purposes only and should not be used as an authority on the Hawaii election law and candidate deadlines. Requirements and/or deadlines may change pending changes in legislation. Consult the Hawaii Revised Statutes and other sources for more detailed and accurate requirements.

Office of Elections - FSBO133F
07/16/07