



COUNTY of HAWAI'I

2009-2010

CHARTER COMMISSION

Report to the County Council
April 13, 2010

April 13, 2010

The Honorable J Yoshimoto, Chair, and
Members of the Hawai'i County Council
County of Hawai'i
Hilo, HI 96720

Dear Chair Yoshimoto and Councilmembers,

The 2009-2010 charter commission hereby submits its report to the county council for its consideration. This report contains information regarding the proceedings of the charter commission, its activities, and the finalized amendments for submission to the voters of our county.

At this time, the commission wishes to thank the administration and the county council for its support of the commission's activities. The commission would also like to thank the citizens and organizations of our county for their input in the charter amendment process.

Thank you very much for the opportunity to serve our community.

Sincerely,

Edmund W. Haitsuka
Chair

David Fuertes
Vice-Chair

Casey Jarman
Parliamentarian

Daphne Honma
Member

Guy Kaulukukui
Member

Jamae Kawauchi
Member

Joseph Kealoha
Member

Alapaki Nahale-a
Member

Susie Osborne
Member

Todd Shumway
Member

Scott Unger
Member

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INTRODUCTION

In 1963, the State legislature passed Act 73, which enabled the various counties to form and adopt a charter for their own self-governance. Three charter commissions were formed; in 1963-1964, 1965-1966, and 1967-1968. The first charter was finally adopted in 1968 and became effective on January 2, 1969. The 1979 charter commission included an amendment that required the charter to be reviewed every ten years starting in 1989.

The charter acts as the county's governing document, outlining the roles and responsibilities of the county government. Since 1969 the charter has been amended several times, most recently in 2008. It provides for the broad structure of county governance and provides the authority for the various county departments to act.

The charter can only be amended by a vote of the citizens of the County of Hawai'i. The charter commission's proposals will be placed on the November 2, 2010 general election ballot with any county council proposed alternatives or citizen initiated amendments. At that time, the voters will decide which changes are desirable for our county.

For the council's consideration, the charter commission respectfully submits its report to the county council for its consideration pursuant to § 50-8, Hawai'i Revised Statutes.

ABOUT THE COMMISSION

The charter commission is composed of eleven members from around the island. The commissioners are appointed by the mayor and confirmed by the council. Since the requirement of the formation of a charter commission every ten years since 1979, this is the third such charter commission. Since 1963, however, this is the seventh charter commission of the county.

For the 2009-2010 commission, a majority of the commissioners were sworn in on March 13, 2009. The commission is comprised of the following officers, members and staff:

Edmund Haitzuka – *Chair*
David Fuertes – *Vice-chair*
Casey Jarman – *Parliamentarian*
Daphne Honma
Guy Kaulukukui
Jamae Kawauchi
Joseph Kealoha
Alapaki Nahale-a
Susie Osborne
Todd Shumway
Scott Unger

Seth Murashige¹

Levi K. Hookano – *Attorney*
Karen Eoff – *Secretary*

The commission is guided by Chapter 50 of the Hawai‘i Revised Statutes, Article XV of the charter, and the commission’s rules of procedure. Hawai‘i Revised Statutes, Chapter 50 requires that the commission submit to the county council a report which includes the commission’s activities, findings, and recommendations.

¹ Resigned from the commission on April 3, 2009. Commissioner Kaulukukui filled the seat vacated by Mr. Murashige.

COMMISSION ACTIVITIES, FINDINGS, & RECOMMENDATIONS

Activities

Since March 13, 2009 the commission has held eleven regular meetings, three special meetings, and six public hearings. Throughout the commission's proceedings up to the March 12, 2010 meeting, the commission received two-hundred-seven submissions of written testimony, and heard eighty-five oral testifiers. The number of testimony received, written and oral, does not take into account repeat testifiers or testimony on multiple agenda items.

The commission considered thirty-eight proposed amendments to the charter. Of those original thirty-eight proposals, the commission decided to move nineteen of them to the voters for approval. Those nineteen proposals, included as the commission's recommendations, may be consolidated based on their content if they are related.

Findings

Overall, the commission has found that the charter is a solid document that does not require extensive amendments. The commission recognizes that the charter is meant to be a broad document to govern the operation of county government. Prior to each proposed charter amendment is a brief description of the proposal. This brief description provides the findings of the commission relating to each proposal.

Recommendations

The recommendations of the commission are best transmitted through its proposed amendments. Each amendment is attached separately, with a brief description prior to the text of the proposal as mentioned above. The brief description *is not* a part of the official charter amendment.

Conclusion

The commission looks forward to completing its obligation to the county. It hopes that the county council thoroughly reviews its proposals and awaits the council's response. All proposals contained herein are now respectfully submitted to the county council for its review. A response from the council is expected by May 13, 2010 in accordance with Hawai'i Revised Statutes, § 50-8.

CA-1: Relating to the Department of Water Supply

This proposal was brought forward by the department of water supply. It would rename the head of the department from “manager” to “manager-chief engineer.” The commission found that the change in title reflects the qualifications required for the position.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. Article VIII, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“ARTICLE VIII DEPARTMENT OF WATER SUPPLY

Section 8-1. Organization.

There shall be a semi-autonomous department of water supply consisting of a water board, a manager-chief engineer and the necessary staff.

Section 8-2. Water Board.

The water board shall consist of nine members who shall be appointed by the mayor with the approval of the council in the manner prescribed in Section 13-4. One member shall be a resident of each council district. The manager-chief engineer of the department of water supply, the planning director and the [chief engineer] director of public works of the county or their designated representatives shall serve as ex-officio members of the water board without power to vote. The water board shall:

- (a) Manage, control and operate the waterworks of the county and all property thereof.
- (b) Adopt rules and regulations which shall have the force and effect of law relating to the management, control, operation, preservation and protection of the waterworks of the county.
- (c) Adopt an annual operating and capital budget for the department, subject to the hearing and advertising provisions of Section 10-4.
- (d) Have the power to acquire by eminent domain, purchase, lease or otherwise, and to sell, lease, or otherwise convey real property in the name of the water board.
- (e) Have the authority to issue revenue bonds under the name of the water board.
- (f) Have such other powers and duties as may be provided by law.

Section 8-3. Manager-Chief Engineer and Deputy.

The manager-chief engineer of the department of water supply shall be appointed by the water board and may be removed by the water board. The deputy shall be

appointed by the manager-chief engineer with the confirmation of the water board and may be removed by the manager with the approval of the water board. The manager-chief engineer shall be a registered engineer and shall have had a minimum of five years['] experience in an administrative capacity.

Section 8-4. Water Fund.

There shall be established a separate water fund which shall be utilized solely for water purposes. State and Federal water grants or appropriations and revenues from operation of the water system shall be included in the water fund.

Section 8-5. Administrative Supervision.

The department of water supply shall come under the general supervision and control of the mayor, through the managing director.”

Section 2. This amendment shall take effect upon its approval by the electorate.

CA-2: Relating to Data Systems

This proposal was originally brought forward to correct an inadvertent error in previous editions of the charter. The data systems department needs to be moved from Article V of the charter, to Article VI under the supervision of the managing director. During the course of discussions with the administration, it was found to be desirable to change the name from data systems to “department of information technology” to more accurately reflect the function of the department. The duties and scope of the department remain unchanged.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. Article V, chapter 2, Hawai‘i County Charter, is repealed. All subsequent chapters shall be appropriately re-numbered.

Section 2. Article VI, Hawai‘i County Charter, is amended by adding a new chapter to read as follows:

“CHAPTER 11 DEPARTMENT OF INFORMATION TECHNOLOGY

Section 6-11.1. Organization.

There shall be a department of information technology consisting of the director of information technology and necessary staff.

Section 6-11.2. Appointment and Removal.

The director of information technology shall be appointed by the mayor, confirmed by the council and may be removed by the mayor.

Section 6-11.3. Qualifications.

The director of information technology shall have had a minimum of five years of experience in the field of electronic data processing, telecommunications networking, and development, implementation and operation of business-oriented applications, at least three years of which shall have been in an administrative and managerial capacity in a computer system environment at least comparable to that of the county’s system.

Section 6-11.4. Powers, Duties and Functions.

The director of information technology shall:

- (a) Operate the central data processing system, and coordinate and oversee the operations of departmental data processing systems, except for those systems maintained by the department of water supply.
- (b) Provide technical expertise in data processing and telecommunication to applicable departments and agencies of the county.
- (c) Assist in the development of management information.
- (d) Advise the mayor on matters relating to data processing and telecommunication.
- (e) Perform such other duties as may be required by law.”

Section 3. This amendment shall take effect upon its approval by the electorate.

CA-3: Relating to the Fire Department

This proposal would correct an inadvertent error in previous editions of the charter. When the provisions provided below were first approved by the electorate, it was placed in Article VI of the charter. The fire department, however, should be placed in Article VII because it is a department that serves under a board or commission. No substantive changes have been made to the existing provisions of this chapter.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. Article VI, chapter 4, Hawai‘i County Charter, is repealed in its entirety. All subsequent chapters shall be appropriately re-numbered.

Section 2. Article VII, Hawai‘i County Charter, is amended by adding a new chapter to read as follows:

“CHAPTER 4 HAWAI‘I FIRE DEPARTMENT

Section 6-4.1. Organization.

There shall be a Hawai‘i fire department consisting of a fire chief, a deputy fire chief, a fire commission and the necessary staff. The fire chief shall be the administrative head of the Hawai‘i fire department.

Section 6-4.2. Statement of Policy.

It is hereby declared to be the purpose of this chapter to establish in the county a system of fire protection and prevention and emergency services which shall be based on qualified and professional leadership and personnel. In order to achieve this purpose, the Hawai‘i fire department shall be operated in accordance with the following:

- (a) Standards for recruitment shall be designed to attract into the department persons with high degrees of education, intelligence and personal stability.
- (b) Promotions and other personnel actions shall be based upon fair and appropriate standards of merit, ability and work performance.
- (c) Appropriate training shall be provided to the maximum extent possible and practicable.

Section 6-4.3. Fire Chief.

The fire chief shall be appointed by the fire commission and may be removed by the fire commission at its sole discretion. Any motion for removal of the fire chief must contain a statement of reasons, and the fire chief must be allowed to respond to the statement of reasons before being removed. The fire chief shall have had a minimum of five years training and experience in fire control, including at least three years experience in a responsible administrative capacity.

Section 6-4.4. Powers, Duties and Functions.

The fire chief shall:

- (a) Perform firefighting and emergency services in order to save lives and property from fires and from emergencies arising on land, on the sea and hazardous terrain.
- (b) Train, equip, maintain and supervise a force of firefighting and emergency services personnel.
- (c) Monitor the construction and occupancy standards of buildings for the purposes of fire prevention and life safety.
- (d) Provide educational programs related to fire prevention and life safety.
- (e) Appoint the deputy fire chief and the private secretaries to the fire chief and the deputy fire chief.
- (f) Have such powers, duties and functions as may be required by ordinance.

Section 6-4.5. Fire Commission.

There shall be a fire commission, which shall consist of nine members. One member shall be a resident of each council district. The commission may appoint such staff and engage such consultants as necessary for the performance of its duties. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4.

Section 6-4.6. Powers, Duties and Functions.

The fire commission shall:

- (a) Adopt rules necessary for the conduct of its business and review rules for the administration of the department.
- (b) Review the annual budget prepared by the fire chief and make recommendations thereon to the mayor, the managing director and the council.
- (c) Review the department's operations, as deemed necessary, for the purposes of recommending improvements to the fire chief.
- (d) Evaluate at least annually the performance of the fire chief and submit a report to the mayor, the managing director and the council.
- (e) Review personnel actions within the department for conformance with the policies under section 6-4.2 of this charter.
- (f) Hear complaints of citizens concerning the department or its personnel and, if necessary, make recommendations to the fire chief on appropriate corrective actions.
- (g) Submit an annual report to the mayor, managing director and the council on its activities.

Except for purposes of inquiry or as otherwise provided in this charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department.

Section 3. This amendment shall take effect upon its approval by the electorate.

CA-4: Relating to Civil Service Laws

This proposal was brought forth by the director of human resources. It deletes several references to civil service laws from the charter. The reason for this change is because the state law is controlling when it comes to civil service laws. Thus, any references to civil services laws may be trumped by state provisions. To avoid any confusion or perceived conflicts, all references in the charter are proposed to be removed.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. The Hawai‘i County Charter contains numerous references to civil service laws that are under the jurisdiction of the State of Hawai‘i.

Section 2. Article III, section 3-6(b), Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“ARTICLE III LEGISLATIVE BRANCH COUNTY COUNCIL

Section 3-6. Organization of the Council; Officers; Employees

- (b) The council shall appoint the county clerk [which position shall be exempt from civil service laws and classifications]. The county clerk shall:
- (1) Be the clerk of the council.
 - (2) Be custodian of the county seal.
 - (3) Conduct all elections held within the county.
 - (4) Appoint the deputy county clerk, with the approval of the council [and such position shall be exempt from civil service laws and classifications].
 - (5) Perform such other functions as the council may prescribe.
 - (6) Appoint necessary staff for which appropriations have been made by the council[, subject to civil service laws and classifications,] and exercise the same power with respect to the personnel of the clerk’s office as the department heads in the executive branch, with the exception of the office of the legislative auditor.”

Section 3. Article IV, section 4-5(a), Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“ARTICLE IV EXECUTIVE BRANCH GENERAL PROVISIONS

Section 4-5. Powers and Duties of Agency Heads.

Subject to the provisions of this charter, the administrative heads of each agency or executive agency of the county shall have the power to:

- (a) Appoint and remove a deputy or assistant and a private secretary [and such positions shall be exempt from civil service laws and classifications]. No such appointment shall be made unless the positions have been created and appropriations therefor have been made by the council.”

Section 4. Article V, Chapter 1, section 5-1.3, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE V
EXECUTIVE BRANCH
THE MAYOR AND STAFF AGENCIES**

**CHAPTER 1
MAYOR**

Section 5-1.3. Powers, Duties and Functions.

The mayor shall be the chief executive officer of the county vested with all the executive powers of the county, except as otherwise provided by this charter. The mayor shall have the power to:

- (a) Through the managing director supervise and coordinate all executive agencies of the county, except as otherwise provided by this charter.
- (b) Appoint necessary staff for which appropriations have been made by the council. [All positions in the mayor’s office shall be exempt from civil service laws and classifications.]
- (c) Create positions, including position of deputy or assistant to each head of an agency where such position has not been created by this charter, for which appropriations have been made by the council and abolish positions with the consent of the council.
- (d) Make transfers of positions between agencies or between subdivisions of agencies [subject to applicable civil service regulations].
- (e) Recommend to the council a pay plan for all officers and employees of the county or any of its boards and commissions, except those whose pay is otherwise provided for; provided that the salary of any officer or employee who is exempt from civil service laws shall be subject to approval by the council and the mayor.
- (f) Submit an operating budget, an operating program, a capital budget and a capital program annually to the council.”

Section 5. Article VI, Chapter 3, section 6-3.4, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE VI
EXECUTIVE BRANCH
THE MANAGING DIRECTOR AND AGENCIES
UNDER THE MANAGING DIRECTOR**

**CHAPTER 3
DEPARTMENT OF PARKS AND RECREATION**

Section 6-3.4. County Bands.

The county bands shall be a part of the department of parks and recreation for administrative purposes[. The bandmasters shall be appointed by the mayor and may be removed by the mayor. The members of the bands and other employees connected therewith shall be appointed by the bandmasters and may be removed by the bandmasters with the approval of the managing director, and all positions in the bands shall be exempt from civil service laws and classifications.]; provided, the appointing authority for the bandmasters shall be the mayor, and the appointing authority for the band members shall be the appropriate bandmaster.”

Section 6. Article VI, Chapter 9, section 6-9.1, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE VI
EXECUTIVE BRANCH
THE MANAGING DIRECTOR AND AGENCIES
UNDER THE MANAGING DIRECTOR**

**CHAPTER 9
MISCELLANEOUS**

Section 6-9.1. Clerical Pool.

There may be a clerical pool consisting of such positions as the mayor may recommend and for which appropriations have been made by the council. The purpose of such pool shall be to provide periodic staff assistance to the various agencies of the county when necessitated by heavy workloads. The clerical pool shall be attached to the mayor’s office for purposes of administration, assignment and coordination [but the personnel of the clerical pool shall be subject to the civil service laws of the State].”

Section 7. Article VII, Chapter 1, section 7-1.5, Hawai‘i County Charter, is deleted in its entirety with subsequent sections appropriately renumbered, with deleted language bracketed:

**“ARTICLE VII
EXECUTIVE BRANCH-DEPARTMENTS OR
AGENCIES UNDER COMMISSIONS**

**CHAPTER 1
DEPARTMENT OF HUMAN RESOURCES**

[Section 7-1.5. Position Classification Plan; Compensation.

Except as otherwise provided by law or this charter, all positions in the service of the county shall be classified within a position classification plan, and all persons holding such positions shall be compensated as provided by the compensation law of the state.]”

Section 8. Article VII, Chapter 2, section 7-2.5, Hawai‘i County Charter, is deleted in its entirety with subsequent sections appropriately renumbered, with deleted language bracketed:

**“ARTICLE VII
EXECUTIVE BRANCH-DEPARTMENTS OR
AGENCIES UNDER COMMISSIONS**

**CHAPTER 2
POLICE DEPARTMENT**

[Section 7-2.5. Dismissal, Suspension, Demotion, or Grievance.

The dismissal, suspension, demotion, or grievance of any police officer or employee in the police department shall be under procedures set forth by civil service laws and regulations.]”

Section 9. Article XIII, section 13-3, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE XIII
GENERAL PROVISIONS**

Section 13-3. Appointments, civil service, exemptions.

- (a) All appointments to positions prescribed in this charter shall be subject to applicable provisions of the civil service laws of the State. Where civil service laws are not applicable, a position shall be considered exempt from civil service, provided, civil service laws may exempt certain positions yet require such position to be included in the position classification plan prescribed by such civil service laws.

- (b) No appointing authority shall appoint any person to any office or position which is exempt from the civil service laws until satisfied by proper investigation that the person to be appointed is fully qualified by experience and ability to perform the duties of that office or position.”

Section 10. Article XIII, section 13-9, is deleted in its entirety with subsequent sections appropriately renumbered, with deleted language bracketed:

**“ARTICLE XIII
GENERAL PROVISIONS**

[Section 13-9. Non-Civil Service Status and Classification.

From and after the full effective date of this charter, no employees or officers of the county who are exempt from the civil service laws shall have their positions included in a position classification plan established under the civil service laws.]”

Section 3. This amendment shall take effect upon its approval by the electorate.

CA-5: Relating to Membership of the Merit Appeals Board

This proposal was brought forth by the director of human resources and seeks to stagger the terms of the merit appeals board membership. It provides the process for the transition.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. Article VII, Chapter 1, section 7-1.2, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“ARTICLE VII EXECUTIVE BRANCH-DEPARTMENTS OR AGENCIES UNDER COMMISSIONS

CHAPTER 1 DEPARTMENT OF HUMAN RESOURCES

Section 7-1.2. Merit Appeals Board.

- (a) The merit appeals board shall consist of five members who shall be appointed by the mayor and confirmed by the council [~~in the manner prescribed in section 13-4~~].
- (1) The new board member who will replace the board member whose term expires on December 31, 2010 shall serve a four year term ending on December 31, 2014.
- (2) Of the two new board members who will replace the board members whose terms expire on December 31, 2012, one shall serve a three year term ending on December 31, 2015 and the other shall serve a four year term ending on December 31, 2016.
- (3) Of the two new board members who will replace the board members whose terms expire on December 31, 2013, one shall serve a four year term ending on December 31, 2017, and the other shall serve a five year term ending on December 31, 2018.
- Thereafter, board members shall serve five year terms in the manner prescribed in section 13-4.
- (b) Board membership shall be representative of the community, and the members shall all be in sympathy with and believe in the principles of the merit system in public employment.”

Section 2. This amendment shall take effect upon its approval by the electorate.

CA-6: Removal of Directors Serving Under Commissions

This proposal was also brought forth by the director of human resources. It would require additional steps to remove directors who serve under commissions. These steps would require a statement of reasons for the removal as well as a hearing by the commission where the director sought to be removed has an opportunity to respond to the reasons for removal. The directors affected are the director of human resources, director of liquor control, the fire chief, and the director of water supply. Under the 2008 edition of the charter, the chief of police is already afforded these protections and this proposal would make the other provisions consistent with the police practice.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. Article VII, Chapter 1, section 7-1.3, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE VII
EXECUTIVE BRANCH-DEPARTMETNS OR
AGENCIES UNDER COMMISSIONS**

**CHAPTER 1
DEPARTMENT OF HUMAN RESOURCES**

Section 7-1.3. Director.

The director of human resources shall be appointed by the merit appeals board and may be removed by the merit appeals board. Any motion for removal of the director of human resources must contain a statement of reasons, and the board shall not vote to remove the director of human resources unless the director of human resources has been given an opportunity to respond to the statement of reasons at a hearing before the board.”

Section 2. Article VII, Chapter 3, section 7-3.4, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE VII
EXECUTIVE BRANCH-DEPARTMETNS OR
AGENCIES UNDER COMMISSIONS**

**CHAPTER 3
DEPARTMENT OF LIQUOR CONTROL**

Section 7-3.4. Director of the Department of Liquor Control.

- (a) The director of the department of liquor control shall be appointed by the liquor commission and may be removed by the liquor commission. Any motion for removal of the director of the department of liquor control must contain a statement of reasons, and the commission shall not vote to remove the director of the department of liquor control unless the director of the department of liquor control has been given an opportunity to respond to the statement of reasons at a hearing before the commission.
- (b) The director of the department of liquor control shall:
 - (1) Be the administrative head of the department.
 - (2) Provide clerical and administrative services for the liquor commission and the liquor control adjudication board, including the submission of budget for the operation of the department.
 - (3) Investigate complaints regarding violations of the liquor control laws of the State or complaints regarding violations of rules and regulations established by the liquor commission and report such violations to the prosecuting officer of the county.”

Section 3. Article VI, Chapter 4, section 6-4.3, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE VI
EXECUTIVE BRANCH
THE MANAGING DIRECTOR AND AGENCIES
UNDER THE MANAGING DIRECTOR**

**CHAPTER 4
FIRE DEPARTMENT**

Section 6-4.3. Fire Chief.

- (a) The fire chief shall be appointed by the fire commission and may be removed by the fire commission at its sole discretion. Any motion for removal of the fire chief must contain a statement of reasons, and the commission shall not vote to remove the fire chief unless the fire chief [must be allowed] has been given an opportunity to respond to the statement of reasons [before being removed] at a hearing before the commission.
- (b) The fire chief shall have had a minimum of five years’ training and experience in fire control, including at least three years experience in a responsible administrative capacity.”

Section 4. Article VIII, section 8-3, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE VIII
DEPARTMENT OF WATER SUPPLY**

Section 8-3. Manager and Deputy.

- (a) The manager of the department of water supply shall be appointed by the water board and may be removed by the water board. Any motion for removal of the manager of the department of water supply must contain a statement of reasons, and the board shall not vote to remove the manager of the department of water supply unless the manager of the department of water supply has been given an opportunity to respond to the statement of reasons at a hearing before the board.
- (b) The deputy shall be appointed by the manager with the confirmation of the water board and may be removed by the manager with the approval of the water board.
- (c) The manager shall be a registered engineer and shall have had a minimum of five years' experience in an administrative capacity.”

Section 5. This amendment shall take effect upon approval by the electorate.

CA-7: Relating to Recall

This proposal would amend the recall provisions of the charter. It was found that the number of signatures required for a recall petition were overly prohibitive. Therefore, the number of signatures required is proposed to be based on the total number of valid votes cast in the last general election instead of the number of persons who were registered to vote in the last general election. The number of votes required in a recall election would also be based on the valid votes cast in the last general election. This makes all the terms consistent. Also, the information required to be collected of a signer of a recall petition are proposed to be amended to better allow the county clerk to verify the identity and validity of a signature. Lastly, this proposal would give the county clerk more time to verify a recall petition to ease the burden on staff.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. Article XII, Chapter 1, sections 12-1.1(a) and (b), Hawai‘i County Charter, are amended to read as follows, with added language underscored and deleted language bracketed and stricken through:

“ARTICLE XII REMOVAL OF ELECTED OFFICERS

CHAPTER 1 RECALL

Section 12-1.1. Recall Procedure.

- (a) A petition demanding recall of an elected official at-large, or by voters of the entire county, as the case may be, shall be signed by qualified voters equal to or greater than twenty-five percent of the total [~~number of persons who registered~~] valid votes cast in the last general election.
- (b) A petition demanding recall of a district council member shall be signed by qualified voters equal to or greater than twenty-five percent of the total [~~number of persons who registered~~] valid votes cast in the district in the last general election.”

Section 2. Article XII, Chapter 1, section 12-1.3, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“Section 12-1.3. Signatures.

Signers of a recall petition shall print their [~~names and their signature, their residence address, and the date of signing on said petition~~] name, which shall be reasonably similar to their name as it appears on the general county register for the County of Hawai‘i, and add their signature, residence address, month and day of their birth date, and the last four digits of their social security number on said petition. To each such petition paper there shall be attached an affidavit of the circulator thereof, stating the number of signers to such part of the petition and that each signature of the person whose name it purports to be, and that each signer understood the nature of the recall petition.”

Section 3. Article XII, Chapter 1, section 12-1.4, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“Section 12-1.4. Filing and Certification.

All papers comprising a recall petition shall be assembled and filed with the county clerk as one instrument within [~~thirty (30) days~~] one hundred twenty days in the case of recall of an elected official at-large and ninety days in the case of recall of a council member after the filing with the clerk of the affidavit stating the name and office of the officer sought to be removed. Within thirty working days from the filing of such petition, the clerk shall determine if the petition contains sufficient signatures and prepare a certificate showing the result of the examination. If the clerk shall certify that the petition is insufficient, the clerk shall set forth in the certificate the particulars in which the petition is defective and shall return a copy of the certificate to the person designated in such petition to receive it.

Section 4. Article XII, Chapter 1, section 12-1.5, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“Section 12-1.5. Supplemental Petitions.

In the event the initial petition contained insufficient signatures, such recall petition may be supported by supplemental signatures of voters signed in the manner required in Section 12-3 of this article appended to petitions issued, signed, and filed as required for the original petition at any time within ten days after the date of the certificate of insufficiency by the clerk. The clerk shall, within [~~five~~] ten working days after such supplemental petitions are filed, make a like examination of them, and if the certificate shall show the same to be still insufficient, the clerk shall return it in the manner described in Section 12-1.4 of this article to the person designed in such petition to receive the same, and no new petition for the recall of the officer sought to be removed shall be filed within one year thereafter.”

Section 5. Article XII, Chapter 1, section 12-1.6, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

If a recall petition or supplemental petition shall be certified by the clerk to be sufficient, the clerk shall at once submit the same with the certificate to the council and shall notify the officer sought to be recalled of such action. If the official whose removal is sought does not resign within ten (10) days after such notice, the council shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than sixty (60) nor more than ninety (90) days after the petition has been presented to the council, or at the same time as any other special election held within such period, the council shall call a special recall election to be held within the time aforesaid. If less than fifty percent of the total [~~number of persons who registered~~] valid votes cast in the last general election shall vote at such election to recall an official elected at-large, or by voters of the entire county, as the case may be, or in the case of a recall of a district council member, if less than fifty percent of the total [~~number of persons who registered~~] valid votes cast in the district in the last general election shall vote at such recall election, the officer sought to be recalled shall not be deemed recalled.

Section 6. This amendment shall take effect upon approval by the electorate.

CA-9: Relating to Notices of Special Meetings

This proposal would add a requirement of posting notices of special meetings in an electronic format. This would be in addition to all other requirements for posting a notice of a special meeting. During the discussions of the commission it was found that at times, it may not be practicable to post an electronic notice of a special meeting in the event there is a loss of power. If the electronic posting was mandated for every special meeting, a loss of power at the time of posting would prohibit the meeting from being held. Therefore, the language requires the electronic posting only if it is possible to do so.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. Article XIII, section 13-20, Hawai‘i County Charter, is amended by amending subsection (c) to read as follows, with added language underscored and deleted language bracketed:

“Section 13-20. Records and Meetings Open to The Public.

(c) The time and place of all regular meetings of the council, board or commission shall be provided in the rules adopted for the conduct of its business. Except as otherwise provided in this charter, a special meeting may be called by the presiding officer of the council, board or commission when the date, time and place of such special meeting are announced prior to adjournment of a regular meeting; otherwise a special meeting can be called only upon the publication of a notice of such meeting in at least two daily newspapers of general circulation in this county at least twenty-four hours in advance of such meeting. If the requirement with respect to publication of notice cannot be met because of insufficient time, the meeting notice shall be made by broadcasting a minimum of three announcements in the English language over FCC licensed public radio stations in this county or television stations with local audience. Such announcements shall be broadcast at least twenty-four hours in advance of such meeting. To assure the widest possible coverage, the meeting notice shall be released to radio stations in this county and the announcements shall be programmed to be heard between the hours of 7:00 A.M. to 5:00 P.M. In addition to the above requirements, notice of such special meeting shall be conspicuously posted on the bulletin board of the Hawai‘i County Building and, if possible, an electronic notice shall be linked on the appropriate council, board or commission webpage. A brief resume of the principal business to be taken up at such meeting shall be stated in the posted notice as well as in the notice released to the news media.”

Section 2. This amendment shall take effect upon approval by the electorate.

**CA-10:
Relating to the Powers, Duties, and Functions of the Department of Environmental
Management**

This proposal was brought forth by the director of environmental management. The commission found that it is desirable for the director of environmental management to have some flexibility in carrying out their duties by permitting some direction from the mayor as prescribed in addition to the charter's other requirements or those prescribed by ordinance.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI'I:

Section 1. Article VI, Chapter 10, section 6-10.4, Hawai'i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“Section 6-10.4. Powers, Duties and Functions.

The department of environmental management shall manage the solid waste, wastewater, and recycling programs of the county, and exercise other functions as prescribed by the mayor or prescribed by ordinance.”

Section 2. This amendment shall take effect upon approval by the electorate.

**CA-11:
Relating to the Qualifications of the Director of Environmental Management**

This proposal was brought forth by the director of environmental management. It would require the director of the department of environmental management to possess certain educational qualifications. The commission determined that the environmental issues of the county are complex and that setting minimum educational qualifications for the director of that department are desirable.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI'I:

Section 1. Article VI, Chapter 10, section 6-10.3, Hawai'i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“Section 6-10.3.

The director of environmental management shall be appointed by the mayor, confirmed by the council, and may be removed by the mayor. The director shall have had a minimum of five [~~years~~²] year's administrative experience in a related field and an engineering degree or a degree in a related field.”

Section 2. This amendment shall take effect upon approval by the electorate.

CA-12: Relating to the Initiation of Charter Amendments or Revisions

This proposal would amend the number of signatures required for a citizen initiated charter amendment or revision. It also amends the required information that a signer of a petition must provide, and gives the county clerk more time to verify the signatures on a petition. The commission found that the current number of signatures required for a petition is unduly high. Therefore, the commission decided to amend the required number from twenty percent of the registered voters in the last general election, to twenty percent of the valid votes cast in the last general election. While the percentage remains the same, the number that the percent is based on is reduced. Additionally, the new information required of signers would give the county clerk more information to verify the authenticity of the signature on a petition and the additional time for verifying a petition would ease the burden on staff.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI'I:

Section 1. Article XV, section 15-1, Hawai'i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“Section 15-1. Initiation of Amendments or Revisions.

Amendments or revisions of this charter may be initiated only in the following manner:

- (a) By ordinance of the council adopted after three readings on separate days and passed by the affirmative vote of two-thirds of the entire membership.
- (b) By petition presented to the council, signed by qualified electors equal in number to at least twenty percent of the ~~[registered voters for]~~ valid votes cast in the last preceding general election, setting forth the proposed amendments or revisions. Such petition shall designate and authorize not less than three nor more than five of the signers thereto to approve any alteration or change in the form or language or any restatement of the text of the proposed amendments or revisions which may be made by the corporation counsel.

Each elector signing such petition shall print their ~~[names, add their signatures, residence address, and the dates of signing on said petition]~~ name, which shall be reasonably similar to their name as it appears on the general county register for the County of Hawai'i, residence address, and add their signature, month and day of their birth date, and the last four digits of their social security number on said petition. Signatures may be on separate sheets but each sheet shall have appended to it the affidavit of some person that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the county, that they signed with knowledge of the contents of the petition and that their residences are correctly given.

Upon filing of such petition with the council, the county clerk shall examine the same to see whether it contains a sufficient number of apparently genuine signatures of registered voters. The clerk may question the genuineness of any signature appearing on the petition or affidavit. If the clerk finds that any such signature on the petition or affidavit is not genuine, the clerk shall disregard such signature. The clerk shall eliminate any sheet of the petition which is not accompanied by a valid affidavit. The invalidity of any sheet shall not affect the validity of the petition if a sufficient number of signatures remain after eliminating such invalid sheet. The clerk shall complete the examination of the petition within [~~twenty~~] thirty working days.”

Section 2. This amendment shall take effect upon approval by the electorate.

CA-13: Relating to Mandatory Charter Review

This proposal would change the appointment date of the members of the charter commission. The commission found that it was initially very pressed for time in fulfilling their duties. Currently, the commission must be in place by January 15 of a charter review year. This proposal would require the commission to be in place by July 1 of the year *prior to* a charter review year. The state law would still require that the commission submit a report to the county council within a year of its appointment. The benefit of this proposal would be at the tail end during the public education portion.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. Article XI, section 10-3, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“Section 15-3. Mandatory Charter Review.

The charter shall be reviewed in 1989 and every tenth year thereafter. Not later than the ~~[fifteenth day of January of the charter review year]~~ first day of July prior to the charter review year, the mayor with the confirmation of the council, shall appoint a charter commission composed of eleven members to study and review the operation of the government of the county under this charter. Commission members, no more than a majority of whom shall belong to the same political party, shall be representative of the various geographical areas of Puna, Ka‘u, Kona, Kohala, Hamakua, and Hilo. The council shall appropriate funds to enable the commission to carry out its duties, including the hiring of necessary staff.

The commission shall hold at least one public hearing in each of the geographical areas. The commission may propose amendments to the existing charter or a draft of a new charter which shall be submitted to the county clerk. Upon receipt of the amendments or charter in the form as proposed by the commission, the county clerk shall provide for the submission of such amendments or charter to the electors of the county at either a special election as determined by the commission or at the first general election following the charter review year. The commission shall prepare the language of the question to be submitted to the voters for each of the amendments it proposes.

The commission shall publish not less than forty-five days before any election, at least once in at least two daily newspapers of general circulation within the county, a brief digest of the amendments or charter and the purpose thereof and a notice to the electorate that copies of the amendments or charter are available at the office of the county clerk.

If the majority of voters voting upon a charter amendment votes in favor of it or a new charter, if a new charter is proposed, the amendment or new charter shall become effective at the time fixed in the amendment or charter.”

Section 2. This amendment shall take effect upon approval by the electorate.

CA-15: Relating to a Public Access, Open Space, and Natural Preservation Fund

This proposal would memorialize certain aspects of the current open space fund in the county charter. The commission found that this was by far one of the more controversial proposals considered by the commission. Overall, the commission found that it is desirable for the county to have an open space fund. The proposal below is entirely new charter language which would establish the open space fund and the provisions of what it may be used for. Additionally, it sets a minimum payment of one percent of the certified real property tax revenues, including penalty and interest, to be paid into the fund in addition to other sources of revenue. This proposal does not conflict with the current open space ordinance and will not go into effect until July 1, 2011, when the current moratorium of payments into the fund sunsets.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI'I:

Section 1. Article X, Hawai'i County Charter, is amended to add a new section to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 10-__ . Public Access, Open Space, and Natural Resources Preservation Fund.

- (a) In adopting each fiscal year's budget and capital program, the council shall appropriate a minimum of [~~one half of one percent (.5%)~~] one percent of the certified real property tax revenues, including penalty and interest, to a fund known as the public access, open space, and natural resources preservation fund. Deposits to the fund shall occur at a minimum, on a quarterly basis.
- (b) Funding shall consist of a minimum of [~~one half of one percent (.5%)~~] one percent of actual revenue received in the fiscal year. [~~Additional revenue may consist of grants and private contributions intended for the purpose of this section; voluntary contributions of any amount as specified on the real property tax bill; and any other source of revenue.~~] Additional revenue may consist of grants and private contributions intended for the purpose of this section, voluntary contributions of any amount as specified on the real property tax bill, proceeds from the sale of general obligation bonds authorized and issued for the purpose of this section, council appropriations for the purpose of this section, and grants and private contributions intended for the purpose of this section, and any other source of revenue.
- (c) Monies in this fund shall be used solely to:
 - (1) Purchase or otherwise acquire lands or property entitlements in the County of Hawai'i for public outdoor recreation and education, including:
 - (A) [~~access~~] Access to beaches and mountains;
 - (B) [~~preservation~~] Preservation of historic or culturally important land areas and sites;

- (C) [~~protection~~] Protection of natural resources, significant habitat or eco-systems, including buffer zones;
 - (D) [~~preservation~~] Preservation of forests, beaches, coastal areas, natural beauty and agricultural lands; and
 - (E) [~~protection~~] Protection of watershed lands to preserve water quality and water supply.
- (2) Pay the principal, interest and premium, if any, due with respect to bonds issued in whole for the purpose of this fund.
- (d) Any balance remaining in the fund at the end of any fiscal year shall not lapse, but shall remain in the fund accumulating interest from year to year. The moneys in this fund shall not be used for any purpose except those listed in this section.
- (e) The [~~Council~~] council shall by ordinance establish procedures for the administration and expenditure of moneys in this fund.”

Section 2. This amendment shall take effect on July 1, 2011.

CA-17: Relating to the Reapportionment Commission

This proposal would rename the reapportionment commission to the “redistricting commission” and adherence to the redistricting criteria. The commission found that the reapportionment commission should be renamed to the redistricting commission to better reflect the actual duties of the commission. The redrawing of district lines is more accurately referred to as redistricting, and not reapportionment, although the terms are sometimes used synonymously. Additionally, the commission found that it is desirable for the redistricting commission to be appointed much earlier so that the commissioners can get up to speed on their duties and their legal obligations while serving on the commission. This provision, however, does not go into effect for the 2011 commission. Also, a report of the redistricting commission must be filed with the county clerk with a clear explanation of the reasons for their redistricting plan and how their plan complies with the requirements of charter section 3-17(g). Public hearing requirements were also added because the commission determined that public input on such a plan is highly desirable. Lastly, the commission determined that more weight should be given to the criteria of section 3-17(g); therefore the redistricting commission shall now “adhere” to the criteria instead of merely being “guided” by them.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. Article III, section 3-17, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed and stricken through:

“Section 3-17. County [~~Reapportionment~~] Redistricting Commission.

- (a) There shall be a county [~~reapportionment~~] redistricting commission which shall establish the boundaries of the council districts.
- (b) The initial [~~reapportionment~~] redistricting commission shall consist of seven members, two of whom shall be residents of the combined judicial districts of North and South Hilo, one from the judicial district of Puna, one from the judicial district of [~~Ka‘u~~] Ka‘u, one from the combined judicial districts of North and South Kona, one from the combined judicial districts of North and South Kohala, and one from the judicial district of [~~Hamakua~~] Hāmākua. The members shall be appointed by the mayor and confirmed [~~by the council~~] in the manner prescribed in Section 13-4.
- (c) Each subsequent [~~reapportionment~~] redistricting commission shall consist of nine members. One member shall be a resident of each council district as established by the previous [~~reapportionment~~] redistricting commission. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4.

- (d) The year 1991 and every tenth year thereafter shall be ~~[reapportionment]~~ redistricting years. The ~~[reapportionment]~~ redistricting commission shall be appointed and confirmed by ~~[March 1 of the reapportionment year]~~ July 1 of the year immediately preceding the redistricting year, and shall file a ~~[reapportionment]~~ redistricting plan with the county clerk by December 31 of the ~~[reapportionment]~~ redistricting year. A report shall be filed with the redistricting plan providing an explanation of the commission's reasoning for the plan and how the plan complies with the criteria provided in Section 3-17(g). The ~~[reapportionment]~~ redistricting commission shall be dissolved after the filing of the ~~[reapportionment]~~ redistricting plan.
- (e) Prior to completing a draft of the redistricting plan, the commission shall hold at least one public hearing in each of the nine council districts. Upon completion of a draft redistricting plan, the commission shall hold at least one public hearing in east Hawai'i and one in west Hawai'i.
- (f) The county clerk shall furnish all necessary technical and secretarial services for the ~~[reapportionment]~~ redistricting commission. The council shall appropriate necessary funds to enable the commission to carry out its duties.
- (g) The ~~[reapportionment]~~ redistricting commission shall ~~[be guided]~~ adhere to the following criteria in establishing the boundaries of the council districts:
 - (1) No district shall be drawn to unduly favor or penalize a person or political faction;
 - (2) Insofar as possible, districts should be contiguous and compact;
 - (3) District lines shall, where possible, follow permanent and easily recognizable features;
 - (4) Districts shall have approximately equal resident populations as required by applicable constitutional provisions.
- (h) The district boundaries as established by the ~~[reapportionment]~~ redistricting commission shall be in effect at the first regularly scheduled council election following the filing of the plan and for any subsequent council election. The district boundaries in effect prior to the filing of the ~~[reapportionment]~~ redistricting plan shall remain in effect during the duration of the term of all councilmembers elected or appointed to represent such districts until the expiration of the full term of such councilmembers, including any election held to fill an unexpired term under Section 3-5.

Section 2. The provision of appointing the members of the redistricting commission by July 1 of the year immediately preceding the redistricting year shall not apply to the 2011 redistricting commission. The 2011 redistricting commission shall be appointed in the manner of Section 3-17(d) of the 2008 edition of the charter.

Section 3. This amendment shall take effect upon approval by the electorate.

CA-23: Relating to Electronic Notification with Newspaper Notification

This proposal would require notification via an electronic medium, such as the internet, whenever newspaper notifications are required. The commission found that electronic communication is becoming increasingly common. As such, the county should take advantage of technology for distributing information. The requirement to issue notifications via the newspaper was retained because many citizens depend on print sources for information.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. Article III, section 3-10, Hawai‘i County Charter, is amended by amending subsection (c) to read as follows, with added language underscored and deleted language bracketed and stricken through:

“(c) Bills embracing:

- (1) ~~[the]~~ The fixing of special assessments for the cost of improvements;
- (2) ~~[the]~~ The appropriation of public funds or authorization of the issuance of general obligation bonds; or
- (3) ~~[the]~~ The imposition of a duty or penalty on any person, shall pass first reading by a vote taken by ayes and noes, and digests of such bills shall be advertised once in at least two daily newspapers of general circulation in the county~~[-]~~ and shall also be distributed via an electronic medium, such as the Internet, with ayes and noes, at least three days before final reading by the council. Not less than three copies of such bills shall be filed for use and examination by the public in the office of the county clerk at least three days prior to the final reading thereof.”

Section 2. Article III, section 3-10, Hawai‘i County Charter, is amended by amending subsection (h) to read as follows, with added language underscored and deleted language bracketed and stricken through:

“(h) After enactment, ordinances shall be published once in at least two daily newspapers of general circulation in the county~~[-]~~ and shall also be distributed via an electronic medium, such as the Internet. Such publication shall be by title only and shall specify the ayes and noes.”

Section 3. Article VI, section 6-7.5, Hawai‘i County Charter, is amended by amending subsection (a) to read as follows, with added language underscored and deleted language bracketed and stricken through:

“(a) Both commissions shall:

- (1) Advise the mayor, council and the planning director on planning and land use matters pursuant to law and this charter.
- (2) Review the general plan, its amendments and other plans and modifications thereof and transmit such plans with recommendations thereon through the mayor to the council for consideration and action.
- (3) Review proposed subdivision and zoning ordinances and amendments thereto and transmit such ordinances with recommendations thereon through the mayor to the council for consideration and action.
- (4) Conduct public hearings in every case prior to action on any matter upon which the commission is required by law or this charter to act. Notice of the time and place of the hearing shall be published at least ten days prior to such hearing in at least two daily newspapers of general circulation in the county[-] and shall also be distributed via an electronic medium, such as the Internet.
- (5) Perform such other related duties and functions as may be necessary or required pursuant to law and this charter.

Section 4. Article X, section 10-4, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed and stricken through:

“Section 10-4. Operating Budget and Capital Budget: Notice and Hearing.

The council shall hold a public hearing on the operating budget and capital budget at any time after March 1, but prior to the first reading on the budget bills. At this hearing all persons interested shall have an opportunity to be heard. At least one week before the hearing, the county council shall publish in at least two daily newspapers of general circulation in the county as well as via an electronic medium, such as the Internet, the general summaries of the operating budget and capital budget and a notice setting forth the time and place for public hearing thereon and for their consideration by the council. The council shall also allow public testimony at any meeting at which the operating budget or capital budget, or amendments thereto, are considered.”

Section 5. Article XI, section 11-4, Hawai‘i County Charter, is amended by amending subsection (p) to read as follows, with added language underscored and deleted language bracketed and stricken through:

Section 11-4. Initiative and Referendum Process

“(p) The clerk shall publish the ballot title, ballot question, ballot summary and arguments for and against the measure in the Sunday paper of two Hawai‘i Island daily papers with the largest circulation, for the three Sundays preceding the election. The ballot title, ballot question, ballot summary and arguments for and against the measure shall also be distributed via an electronic medium, such as the Internet at least three weeks prior to the election. The committee shall be given the opportunity to write the argument in favor of the measure. If a group of five qualified voters of Hawai‘i County give notice to the clerk that they wish to write the arguments against the measure, the clerk shall publish their arguments. Both sets of arguments shall be published in the same papers, on the same page, on the

same days, utilizing the same size print. The names and addresses of the committee and the opposing group as they appear on the general county register for the County of Hawai‘i shall appear in the publication.”

Section 6. Article XIII, section 13-20, Hawai‘i County Charter, is amended by amending subsection (c) to read as follows, with added language underscored and deleted language bracketed and stricken through:

- (c) The time and place of all regular meetings of the council, board or commission shall be provided in the rules adopted for the conduct of its business. Except as otherwise provided in this charter, a special meeting may be called by the presiding officer of the council, board or commission when the date, time and place of such special meeting are announced prior to adjournment of a regular meeting; otherwise a special meeting can be called only upon the publication of a notice of such meeting in at least two daily newspapers of general circulation in this county at least twenty-four hours in advance of such meeting as well as via an electronic medium, such as the Internet. If the requirement with respect to publication of notice cannot be met because of insufficient time, the meeting notice shall be made by broadcasting a minimum of three announcements in the English language over FCC licensed public radio stations in this county or television stations with local audience. Such announcements shall be broadcast at least twenty-four hours in advance of such meeting. To assure the widest possible coverage, the meeting notice shall be released to radio stations in this county and the announcements shall be programmed to be heard between the hours of 7:00 A.M. to 5:00 P.M. In addition to the above requirements, notice of such special meeting shall be conspicuously posted on the bulletin board of the Hawai‘i County Building. A brief resume of the principal business to be taken up at such meeting shall be stated in the posted notice as well as in the notice released to the news media.”

Section 7. Article XV, section 15-2, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed and stricken through:

“Section 15-2. Elections to be Called.

Upon adoption of an ordinance proposing amendments or revisions of this charter, or upon the determination by the clerk that a petition for proposed amendments or revisions of this charter contains the required number of signatures, the council shall by resolution provide that the proposed amendments or revisions be submitted to the electors of the county for approval at the next general election. Any such resolution shall provide for the publication of the full text of the proposed amendments or revisions in a daily newspaper of general circulation in the county at least forty-five days prior to submission to the electors of the county~~[-]~~ as well as via an electronic medium, such as the Internet.”

Section 8. Article XV, section 15-3, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed and stricken

through:

Section 15-3. Mandatory Charter Reviews.

The charter shall be reviewed in 1989 and every tenth year thereafter. Not later than the fifteenth day of January of the charter review year, the mayor with the confirmation of the council, shall appoint a charter commission composed of eleven members to study and review the operation of the government of the county under this charter. Commission members, no more than a majority of whom shall belong to the same political party, shall be representative of the various geographical areas of Puna, Ka‘u, Kona, Kohala, [~~Hamakua~~] Hāmakua, and Hilo. The council shall appropriate funds to enable the commission to carry out its duties, including the hiring of necessary staff.

The commission shall hold at least one public hearing in each of the geographical areas. The commission may propose amendments to the existing charter or a draft of a new charter which shall be submitted to the county clerk. Upon receipt of the amendments or charter in the form as proposed by the commission, the county clerk shall provide for the submission of such amendments or charter to the electors of the county at either a special election as determined by the commission or at the first general election following the charter review year. The commission shall prepare the language of the question to be submitted to the voters for each of the amendments it proposes. The commission shall publish not less than forty-five days before any election, at least once in at least two daily newspapers of general circulation within the county, as well as via an electronic medium, such as the Internet, a brief digest of the amendments or charter and the purpose thereof and a notice to the electorate that copies of the amendments or charter are available at the office of the county clerk.

Members of the commission shall hold office until the amendments or charter is ratified or rejected.

If the majority of the voters voting upon a charter amendment votes in favor of it or a new charter, if a new charter is proposed, the amendment or new charter shall become effective at the time fixed in the amendment or charter.”

Section 9. This amendment shall take effect upon approval by the electorate.

CA-26: Relating to Conservation of Natural and Cultural Resources

This proposal is to memorialize the county's duty to conserve its natural and cultural resources. The commission found that it would be beneficial to reinforce the county's duty to conserve these resources for future generations. The commission also found that this should not be construed to mean that these resources cannot be utilized, but that they be utilized responsibly.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI'I:

Section 1. Article XIII, Hawai'i County Charter, is amended to add a new section to read as follows with added language underscored:

“Section 13- . Conservation of Natural and Cultural Resources.

For the benefit of present and future generations, the county shall conserve and protect Hawai'i's natural beauty and all natural and cultural resources, including but not limited to land, water, air, minerals, energy sources, wahi pana, surf spots, historic sites, and historic structures, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the county. All public natural and cultural resources are held in trust by the county for the benefit of the people.”

Section 2. The revisor shall appropriately renumber charter chapter numbers, section numbers, and cross references pursuant to amendments approved by the electorate that displace existing or newly enacted charter provisions.

Section 3. This amendment shall take effect upon its approval by the electorate.

CA-29: Relating to the Powers, Duties, and Functions of the Prosecuting Attorney

This proposal was brought forth by the prosecuting attorney. It would allow the prosecuting attorney more flexibility in providing education relating to crime prevention and research. The commission found that these provisions would benefit the county by giving the prosecuting attorney the authority to provide educational opportunities to county agencies and private citizens.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAII:

Section 1. Article IX, section 9-3, Hawai'i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed and stricken through:

“Section 9-3. Powers, Duties and Functions.

(a) The prosecuting attorney shall:

~~[(a)]~~(1) Attend all courts in the county and conduct on behalf of the people all prosecutions therein for offenses against the laws of the State and the ordinances and regulations of the county.

~~[(b)]~~(2) Prosecute offenses against the laws of the State under the authority of the attorney general of the State.

~~[(c)]~~(3) Appear in every criminal case where there is a change of venue from the courts in the county and prosecute the same in any jurisdiction to which the same is changed or removed. The expense of such proceeding shall be paid by the county.

~~[(d)]~~(4) Institute proceedings, or direct the chief of police to do so, before the district judges for the arrest of persons charged with or reasonably suspected of public offenses, when the prosecuting attorney has information that any such offenses have been committed, and for that purpose take charge of criminal cases before the district judges, either in person or by a deputy or by such other prosecuting officer as the prosecuting attorney shall designate.

~~[(e)]~~(5) Draw all indictments and attend before and give advice to the grand jury whenever cases are presented to it for its consideration. Nothing herein contained shall prevent the conduct of proceedings by private counsel before district judges or courts of record under the direction of the prosecuting attorney.

~~[(f)]~~(6) Investigate all matters which may properly come before the prosecuting attorney.

(b) The prosecuting attorney may:

(1) Research, evaluate, and make recommendations regarding crime, crime prevention, and the criminal justice system to the governor, the legislature, the judiciary, the council, the mayor, the Hawai'i police department and other criminal justice agencies, or the general public, as the prosecuting attorney deems appropriate.

- (2) Provide crime prevention training programs for law enforcement agencies, citizens, businesses, and civic groups.
- (3) Develop public education programs through various broadcast or print media, to provide the general public information that will assist citizens in developing the knowledge and confidence to prevent crime and to avoid being victims of crime.
- (4) Receive and expend financial grants, donations and other funds as permitted by the provisions of the revised charter, city ordinances and applicable city, state, and federal financial and budget policies for crime research, prevention, and education.”

Section 2. This amendment shall take effect upon approval by the electorate.

CA-36: Housekeeping Amendments

This proposal is a housekeeping proposal. The commission found that there are numerous instances of formatting and spelling errors in the charter and that it is desirable to have a clean document with consistent formatting. Since the charter can only be amended by a vote of the people, and due to the importance of the charter, the commission is seeking to make the charter the cleanest document possible. This proposal addresses only spelling and formatting issues in the charter and does not propose any substantive changes to the charter.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI‘I:

Section 1. The Preamble, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed and stricken through:

“WE, THE PEOPLE OF THE COUNTY OF [~~HAWAII~~] HAWAI‘I, in the State of [~~Hawaii~~] Hawai‘i, with due respect for and in support of the laws of the land, do adopt
this
CHARTER OF THE COUNTY OF [~~HAWAII~~] HAWAI‘I
STATE OF [~~HAWAII~~] HAWAI‘I”

Section 2. Article I, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“ARTICLE I INCORPORATION AND GEOGRAPHICAL LIMITS

Section 1-1. Incorporation.

The people of the county of [~~Hawaii~~] Hawai‘i shall be and continue as a body politic and corporate by the name of “County of [~~Hawaii~~] Hawai‘i,” hereinafter in the charter called “county.” By that name it shall have perpetual succession.

Section 1-2. Geographical Limits.

The island of [~~Hawaii~~] Hawai‘i and all other islands within the shores thereof and the waters adjacent thereto shall be the county of [~~Hawaii~~] Hawai‘i.”

Section 3. Article II, section 2-1, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 2-1. Powers of the County.

The county shall have all powers possible under the constitution and laws of the State of [~~Hawaii~~] Hawai‘i, including all powers now or hereafter given by such constitution or laws, and all other powers not prohibited by such constitution or by this charter. The county shall have such powers as fully and completely as though specifically enumerated in this charter, and no enumeration of powers in this charter shall be deemed exclusive or restrictive.”

Section 4. Article III, section 3-8, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 3-8. Actions of the Council.

Every legislative act of the council shall be by ordinance. Non-legislative acts of the council may be by resolution and, except as otherwise provided by law, no resolution shall have the force and effect of law. Every ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause of every ordinance shall be “BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF [~~HAWAII~~] HAWAI‘I” and the enacting clause of every resolution shall be “BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF [~~HAWAII~~] HAWAI‘I.””

Section 5. Article III, section 3-10, Hawai‘i County Charter, is amended by amending subsection (c) to read as follows with added language underscored and deleted language bracketed and stricken through:

“(c) Bills embracing:

- (1) [~~the~~] The fixing of special assessments for the cost of improvements;
- (2) [~~the~~] The appropriation of public funds or authorization of the issuance of general obligation bonds; or
- (3) [~~the~~] The imposition of a duty or penalty on any person, shall pass first reading by a vote taken by ayes and noes, and digests of such bills shall be advertised once in at least two daily newspapers of general circulation in the county, with ayes and noes, at least three days before final reading by the council. Not less than three copies of such bills shall be filed for use and examination by the public in the office of the county clerk at least three days prior to the final reading thereof.”

Section 6. Article III, section 3-17, Hawai‘i County Charter, is amended by amending subsection (b) to read as follows with added language underscored and deleted language bracketed and stricken through:

“(b) The initial reapportionment commission shall consist of seven members, two of whom shall be residents of the combined judicial districts of North and South Hilo, one from the judicial district of Puna, one from the judicial district of [~~Ka‘u~~] Ka‘ū, one from the combined judicial districts of North and South Kona, one from the combined judicial districts of North and South Kohala, and one from the judicial district of [~~Hamakua~~] Hāmākua. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4.”

Section 7. Article III, section 3-18, Hawai‘i County Charter, is amended by amending subsection (d) to read as follows with added language underscored and deleted language bracketed and stricken through:

“(d) The legislative auditor shall conduct or cause to be conducted:

- (1) The annual financial audit of the county, as required in [~~article~~] Article X, Financial Procedures, [~~section~~] Section 10-13, Post-audit.
- (2) Performance and/or financial audits of the funds, programs, services, and operations of any county agency, executive agency, or program, as set forth by the legislative auditor in an annual audit plan that shall be transmitted to the county council and the mayor and filed with the county clerk as a public record.
- (3) Follow-up audits and monitoring of responses to audit recommendations by audited entities.”

Section 8. Article IV, section 4-5, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 4-5. Powers and Duties of Agency Heads.

Subject to the provisions of this charter, the administrative heads of each agency or executive agency of the county shall have the power to:

- (a) Appoint and remove a deputy or assistant and a private secretary and such positions shall be exempt from civil service laws and classifications. No such appointment shall be made unless the positions have been created and appropriations therefor have been made by the council.
- (b) Appoint necessary staff for which appropriations have been made by the council.

- (c) Take all personnel actions including the assignment ~~[of]~~ or reassignment of duties to employees within the salary ordinance; provided, that if such assignment or reassignment of duties shall affect the compensation of the employees, written approval must first be obtained from the mayor and a report thereon must be submitted to the council within thirty days.
- (d) Supervise the performance of duties by all employees.
- (e) Except as otherwise provided by this charter and subject to the approval of the mayor, prescribe such rules as are necessary for the organization and internal administration of the agency.
- (f) Perform such duties as are prescribed by this charter and such other duties as may be assigned by the mayor and managing director.”

Section 9. Article V, chapter 1, section 5-1.4, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 5-1.4. Vacancy in Office.

A vacancy in the office of mayor shall be filled by the managing director, or if the office of managing director is vacant, or during such periods as the managing director is unable to so act, by the finance director until a successor is duly elected and seated.

If the vacancy occurs after the filing deadline for the next regularly scheduled primary election, the managing director shall serve the entire unexpired term.

If the vacancy occurs before the filing deadline for the next regularly scheduled primary election in the middle of the mayoral term, the council shall, through its clerk, immediately issue an election proclamation, announcing that a successor will be elected as prescribed in ~~[section]~~ Section 13-27. The proclamation shall also announce the date for the close of filing of nomination papers for the office, which shall be ten days after the issuance of the election proclamation, or the filing deadline for the primary election, whichever comes later. The election shall be held in accordance with the election laws of the state insofar as otherwise applicable.

The person elected as the successor shall serve out the unexpired term of the person succeeded commencing at ~~[12]~~ twelve o’clock meridian on the first Monday of December following the election.”

Section 10. Article V, chapter 3, section 5-3.1, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 5-3.1. Declaration of Policy.

It is declared to be the policy of the county to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county by:

- [1-] (a) Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions.
- [2-] (b) Eliminating duplication and overlapping of services, activities, and functions.
- [3-] (c) Consolidating services, activities, and functions of a similar nature.
- [4-] (d) Abolishing services, activities, and functions not necessary to the efficient conduct of government.”

Section 11. Article V, chapter 3, section 5-3.2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 5-3.2. Cost of Government Commission.

For the purpose of carrying out the policy set forth herein the mayor with the approval of the council shall appoint a cost of government commission consisting of nine members. One member shall be a resident of each council district. The managing director shall be an ex-officio member of the commission. The office of the mayor shall provide administrative and clerical services to the commission.

Each commission shall:

- [1-] (a) Prepare and submit to the mayor a request for an appropriation for the operation of the commission.
- [2-] (b) Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices and other instrumentalities of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.
- [3-] (c) Be authorized to secure directly from any department, commission, board, office or any other instrumentalities of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.
- [4-] (d) Submit a report of its findings and recommendations to the mayor, managing director and council not later than eleven months after its appointment.”

Section 12. Article VI, chapter 2, section 6-2.2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-2.2. Director.

The director of public works shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The director shall be a registered professional engineer. The director shall have had a minimum of five [~~years²~~] years of experience in an administrative capacity.”

Section 13. Article VI, chapter 3, section 6-3.2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-3.2. Director.

The parks and recreation director shall be appointed by the mayor, confirmed by the council, and may be removed by the mayor. The director shall have had a minimum of five [~~years²~~] years of experience in an administrative capacity.”

Section 14. Article VI, chapter 4, section 6-4.3, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-4.3. Fire Chief.

The fire chief shall be appointed by the fire commission and may be removed by the fire commission at its sole discretion. Any motion for removal of the fire chief must contain a statement of reasons, and the fire chief must be allowed to respond to the statement of reasons before being removed. The fire chief shall have had a minimum of five [~~years²~~] years of training and experience in fire control, including at least three [~~years²~~] years of experience in a responsible administrative capacity.”

Section 15. Article VI, chapter 4, section 6-4.6, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-4.6. Powers, Duties and Functions.

The fire commission shall:

- (a) Adopt rules necessary for the conduct of its business and review rules for the administration of the department.
- (b) Review the annual budget prepared by the fire chief and make recommendations thereon to the mayor, the managing director and the council.
- (c) Review the department’s operations, as deemed necessary, for the purposes of recommending improvements to the fire chief.

- (d) Evaluate at least annually the performance of the fire chief and submit a report to the mayor, the managing director and the council.
- (e) Review personnel actions within the department for conformance with the policies under ~~[section]~~ Section 6-4.2 of this charter.
- (f) Hear complaints of citizens concerning the department or its personnel and, if necessary, make recommendations to the fire chief on appropriate corrective actions.
- (g) Submit an annual report to the mayor, managing director and the council on its activities.

Except for purposes of inquiry or as otherwise provided in this charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department.”

Section 16. Article VI, chapter 5, section 6-5.2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-5.2. Appointment and Removal.

The corporation counsel shall be appointed by the mayor, confirmed by the council and may be removed by the mayor with the approval of the council. The corporation counsel shall be an attorney licensed to practice and in good standing before the Supreme Court of the State of ~~[Hawaii]~~ Hawai‘i.”

Section 17. Article VI, chapter 6, section 6-6.3, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-6.3. Powers, Duties and Functions.

The director of finance shall be the finance officer of the county and shall:

- (a) Assist the mayor in the preparation and execution of the operating budget, operating program and capital budget.
- (b) Collect special assessments as provided by and subject to law.
- (c) Negotiate loans and the issuance and sale of bonds and notes when authorized by the council; maintain records of county indebtedness and have charge of the payment of interest and principal thereon.
- (d) Have custody of all public funds belonging to or under the control of the county, county agency or executive agency, and deposit all such funds in banks or trust companies designated as depositories by resolution of the council, subject to the requirements imposed by law as to surety and payment of interest, which interest shall accrue to the benefit of the public and shall be credited to the proper fund and account.

- (e) Examine all contracts, orders and other documents by which financial obligations are incurred, and every such document shall be subject to [~~director of finances~~²] approval by the director of finance but the director of finance shall not approve unless the director of finance first verifies the appropriation, allotment and availability of funds to meet the obligation concerned and verifies thereto as provided in Section 10-11.
- (f) Prepare and issue warrants, prepare payrolls and pension rolls and disburse all funds in the county treasury. No money shall be paid out of the treasury unless the finance director first [(+)] verifies the appropriation, allotment and availability of funds to cover the claim concerned and certifies thereto as provided in Section 10-11 and [(+)] then determines that such claim is regular in form, correctly computed and constitutes a legal obligation.
- (g) Maintain a general accounting system for the county and require all county agencies and executive agencies to report and remit all receipts to the finance director as often as the finance director deems desirable.
- (h) Each month submit to the mayor and to the council through the mayor a statement of the revenues and expenditures for the preceding month and for the fiscal year up to and including the preceding month. Such statement shall be sufficiently detailed as to appropriations, allotments and funds to show the exact financial condition of the county and of each of its agencies and executive agencies.
- (i) Submit to the council through the mayor at the end of each fiscal year a report of the financial transactions of that year and a complete statement of the financial condition of the county at the end of the year, within ninety days after the end of the year.
- (j) Prepare and maintain a perpetual inventory of all lands, roadways, streets, easements and other land interests owned, leased, rented or controlled by the county.
- (k) Prepare and maintain a perpetual inventory of equipment owned or controlled by the county and materials and supplies in county storerooms, and dispose of property not needed by any agency or executive agency of the county pursuant to policies established by ordinance.
- (l) Where not in conflict with this charter, assume and perform all the duties and functions of the purchasing agent, the treasurer and the auditor of the county as provided by law, and for this purpose the director of finance shall be authorized to appoint a deputy, to assign and reassign such duties to any employee as the director of finance sees fit and to make internal administrative and organizational changes as the finance director sees fit subject to the approval of the mayor.
- (m) Exercise such other powers and perform such other duties as may be prescribed by this charter, by ordinance, by law or by the mayor or managing director.”

Section 18. Article VI, chapter 7, section 6-7.2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-7.2. Planning Director.

- (a) The planning director shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The planning director shall have had a minimum of five [~~years²~~] years of training and experience in a responsible planning position, or a degree in planning, engineering, architecture, geography, or another planning-related field and three [~~years²~~] years of experience in a responsible planning position. No less than three [~~years²~~] years of experience shall have been in an administrative capacity.
- (b) The director shall be the chief planning officer of the county and the administrative head of the department and shall:
 - (1) Advise the mayor, the windward planning commission, the leeward planning commission and the council on all planning and land use matters.
 - (2) Prepare a general plan, implementation plans and any amendments thereto in accordance with [~~section~~] Section 3-15.
 - (3) Prepare proposed zoning and subdivision ordinances, zoning maps and regulations and any amendments thereto.
 - (4) Review the lists of proposed capital improvements contemplated by agencies of the county and recommend the order of their priority.
 - (5) Administer the subdivision and zoning ordinances and regulations adopted thereunder.
 - (6) Render decisions on proposed subdivision plans pursuant to law.
 - (7) Make recommendations on rezoning applications, special exceptions and other similar requests.
 - (8) Render decisions on proposed variances pursuant to law, except that, if any written objections are made to the planning director’s actions under this section, said actions shall be subject to review by the board of appeals in accordance with Section [~~6-10.2*~~] 6-9.2, unless otherwise provided by law or this charter.
 - (9) Perform such other related duties and functions as may be necessary or required pursuant to law and this charter.”

Section 19. Article VI, chapter 7, section 6-7.3, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-7.3. Windward Planning Commission.

- (a) There is established a windward planning commission that shall have jurisdiction over the area consisting of the judicial districts of Puna, South Hilo, North Hilo, [~~Hamakua~~] Hāmākua, and [~~Ka‘u~~] Ka‘ū.

- (b) There shall be seven members on this commission. The commission shall include one member from each of the judicial districts of Puna, South Hilo, North ~~[Hilo/Hamakua]~~ Hilo/Hāmākua combined, and ~~[Ka‘u]~~ Ka‘ū and three “at-large” members selected from these districts. Not more than two members, appointed from any one judicial district, shall serve on the windward planning commission.
- (c) The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in ~~[section]~~ Section 13-4. Each member representing a district shall be a legal resident and registered voter of that district. In addition, the director of public works and the manager of the department of water supply, or their designated representatives, shall serve as ex-officio members of the windward planning commission, without power to vote.”

Section 20. Article VI, chapter 7, section 6-7.4, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-7.4. Leeward Planning Commission.

- (a) There is established a leeward planning commission that shall have jurisdiction over the area consisting of the judicial districts of North Kohala, South Kohala, North Kona, and South Kona.
- (b) There shall be seven members on this commission. The commission shall include one member from each of the judicial districts of North Kohala, South Kohala, North Kona and South Kona and three “at-large” members selected from these districts. Not more than two members, appointed from any one judicial district, shall serve on the leeward planning commission.
- (c) The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in ~~[section]~~ Section 13-4. Each member representing a district shall be a legal resident and registered voter of that district. In addition, the director of public works and the manager of the department of water supply, or their designated representatives, shall serve as ex-officio members of the leeward planning commission, without power to vote.”

Section 21. Article VI, chapter 7, section 6-7.5, Hawai‘i County Charter, is amended by amending subsection (b) to read as follows with added language underscored and deleted language bracketed and stricken through:

- “(b) A uniform body of rules of practice and procedure, except for meeting places and times, shall apply to both commissions. Uniform rules of practice and procedure shall be adopted by a majority vote of the combined membership of the windward planning commission and the leeward planning commission, meeting jointly. The existing rules of practice and procedure of the Hawai‘i ~~[County Planning Commission]~~ county planning

commission, except for meeting places, shall apply to both commissions until the new uniform rules of practice and procedure are adopted.

Section 22. Article VI, chapter 7, section 6-7.6, Hawai‘i County Charter, is amended by amending subsection (c) to read as follows with added language underscored and deleted language bracketed and stricken through:

“(c) If there shall exist vacancies on either the windward planning commission or the leeward planning commission not filled by term hold over, the mayor shall appoint the remaining members of the windward planning commission and the leeward planning commission in accordance with [~~section~~] Section 13-4, Hawai‘i County Charter (2000).”

Section 23. Article VI, chapter 8, section 6-8.2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-8.2. Director.

The director of research and development shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The director shall have had a minimum of five [~~years~~] years of related experience.”

Section 24. Article VI, chapter 8, section 6-8.3, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-8.3. Powers, Duties and Functions.

The director of research and development shall:

- (a) Collect and develop data necessary for managerial and legislative decision-making, and program and policy-making.
- (b) Provide staff leadership for public and private development programs, enterprises and plans, including economic, social and cultural proposals, which enhance [~~improvement of~~] and improve the county community.
- (c) Coordinate informational and regulatory knowledge of all federal and state grant-in-aid participation programs which affect the county.”

Section 25. Article VI, chapter 9, section 6-9.2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-9.2. Board of Appeals.

The board of appeals shall consist of seven members who shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4. Each member shall be a legal resident and a registered voter of the [~~County~~] county. Board membership shall be representative of the community, and, whenever possible, persons with background or expertise in broad areas of planning and construction shall be given preference, although such knowledge is not a prerequisite for membership. The board of appeals shall establish its rules of procedure and shall:

- (a) Hear and determine appeals from final decisions of the planning director or the director of public works regarding matters within their respective jurisdictions.
- (b) Conduct hearings in accordance with Chapter 91, [~~Hawaii~~] Hawai‘i Revised Statutes, and this charter.
- (c) Be part of the planning department for administrative purposes, and said department shall provide necessary clerical and other assistance.”

Section 26. Article VI, chapter 10, section 6-10.1, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-10.1. Organization.

There shall be a department of environmental management consisting of a director, the necessary staff, and an environmental management commission.”

Section 27. Article VI, chapter 10, section 6-10.2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-10.2. Statement of Policy.

The [~~Department of Environmental Management~~] department of environmental management is established to protect, preserve, and enhance our environment by promoting the wise management of our waste.”

Section 28. Article VI, chapter 10, section 6-10.3, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-10.3. Director.

The director of environmental management shall be appointed by the mayor, confirmed by the council, and may be removed by the mayor. The director shall have had a minimum of five [~~years~~] years of administrative experience in a related field.”

Section 29. Article VI, chapter 10, section 6-10.5, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 6-10.5. Environmental Management Commission.

There shall be an environmental management commission consisting of nine members who shall be appointed by the mayor and confirmed by the council. One member shall be a resident of each council district. The terms of the members shall be as prescribed in [~~§~~] Section 13-4. The environmental management commission shall advise the department on waste reduction strategies, recycling, litter control, community involvement, and other issues related to the functions of the department, and shall exercise any other powers related to the functions of the department that may be delegated to it by ordinance.”

Section 30. Article VII, chapter 1, section 7-1.2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 7-1.2. Merit Appeals Board.

The merit appeals board shall consist of five members who shall be appointed by the mayor and confirmed by the council in the manner prescribed in [~~section~~] Section 13-4. Board membership shall be representative of the community, and the members shall all be in sympathy with and believe in the principles of the merit system in public employment.”

Section 31. Article VII, chapter 3, section 7-3.2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 7-3.2. Liquor Commission.

There shall be a liquor commission consisting of nine members who shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4. One member shall be a resident of each council district. The liquor commission shall:

- (a) Adopt rules and regulations having the force and effect of law for the administration of liquor control in the county and to carry out provisions of the liquor control laws of the ~~[state]~~ State.
- (b) Grant, renew or refuse applications for licenses ~~[of]~~ for the manufacture, importation and sale of liquor in the county under applicable laws and regulations.
- (c) Have such other powers and duties as may be provided by law, not in conflict with the provisions of this section.”

Section 32. Article VII, chapter 3, section 7-3.4, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 7-3.4. Director of the Department of Liquor Control.

The director of the department of liquor control shall be appointed by the liquor commission and may be removed by the liquor commission. The director of the department of liquor control shall:

- (a) Be the administrative head of the department.
- (b) Provide clerical and administrative services for the liquor commission and the liquor control adjudication board, including the submission of a budget for the operation of the department.
- (c) Investigate complaints regarding violations of rules and regulations established by the liquor commission and report such violations to the prosecuting ~~[officer]~~ attorney of the county.”

Section 33. Article VIII, section 8-2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 8-2. Water Board.

The water board shall consist of nine members who shall be appointed by the mayor with the approval of the council in the manner prescribed in Section 13-4. One member shall be a resident of each council district. The manager of the department of water supply, the planning director and the ~~[chief engineer of the county]~~ director of public works or their designated representatives shall serve as ex-officio members of the water board without power to vote. The water board shall:

- (a) Manage, control and operate the waterworks of the county and all property thereof.
- (b) Adopt rules and regulations which shall have the force and effect of law relating to the management, control, operation, preservation and protection of the waterworks of the county.

- (c) Adopt an annual operating and capital budget for the department, subject to the hearing and advertising provisions of Section 10-4.
- (d) Have the power to acquire by eminent domain, purchase, lease or otherwise, and to sell, lease, or otherwise convey real property in the name of the water board.
- (e) Have the authority to issue revenue bonds under the name of the water board.
- (f) Have such other powers and duties as may be provided by law.”

Section 34. Article VIII, section 8-3, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 8-3. Manager and Deputy.

The manager of the department of water supply shall be appointed by the water board and may be removed by the water board. The deputy shall be appointed by the manager with the confirmation of the water board and may be removed by the manager with the approval of the water board. The manager shall be a registered engineer and shall have had a minimum of five [~~years~~²] years of experience in an administrative capacity.”

Section 35. Article IX, section 9-2, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 9-2. Qualifications.

The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State of [~~Hawaii~~] Hawai‘i. The prosecuting attorney shall be a citizen of the United States of America and shall have been a duly qualified elector of the county for at least one year immediately preceding the election.”

Section 36. Article IX, section 9-5, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 9-5. Vacancy in Office.

A vacancy in the office of prosecuting attorney shall be filled by the first deputy who shall act as prosecuting attorney, or if the position of first deputy is vacant or if the first deputy is unable to so act, the mayor with the confirmation of the council shall fill

the vacancy by appointment of a person with the requisite qualifications within thirty days after the occurrence of the vacancy.

The first deputy or the person appointed to fill the vacancy shall serve until a successor is duly elected at the next State or State and County election and seated. The election shall be held in accordance with the election laws of the State insofar as applicable.

The person elected as the successor shall serve out the unexpired term of the person succeeded commencing at ~~[12]~~ twelve o'clock meridian on the first Monday of December following the election."

Section 37. Article X, section 10-2, Hawai'i County Charter, is amended by amending subsection (a) to read as follows with added language underscored and deleted language bracketed and stricken through:

- “(a) No later than March 1 of each year, the mayor shall submit to the county council:
- (1) An operating budget for the ensuing year.
 - (2) An operating program for the ensuing three fiscal years.
 - (3) A capital budget for the ensuing fiscal year.
 - (4) A capital program for the ensuing six fiscal years.
 - (5) An accompanying message.

The mayor shall submit amendments to the operating budget, operating program, capital budget, and capital program, together with an accompanying message, to the county council within ten ~~[(10)]~~ working days after the close of the state legislature but not later than May 5 of each year.”

Section 38. Article X, section 10-3, Hawai'i County Charter, is amended by amending subsection (a) to read as follows with added language underscored and deleted language bracketed and stricken through:

- “(a) The operating budget shall present a complete financial plan for the current operations of the county and its agencies and executive agencies in the ensuing fiscal year, showing all funds and reserves. Capital expenditures to be financed from current revenues in the ensuing fiscal year shall be included in the operating budget as well as in the capital budget. Appropriations for such expenditures shall be included in the operating budget. Except as otherwise provided by law, the operating budget shall contain at least the following:
- (1) A simple, clear, general summary of the detailed contents of the operating budget. Such summary shall itemize all new positions being requested.
 - (2) The proposed expenditures, including ~~[provision]~~ provisions for any estimated cash deficit for the fiscal year currently ending, debt service requirements for the ensuing fiscal year, and all other expenditures for the ensuing fiscal year, capital and otherwise, to be met from current

- revenues; and the proposed expenditures shall be shown by agencies and programs.
- (3) A comparative statement of the actual expenditures for the preceding fiscal year, and the estimated expenditures for the fiscal year currently ending and the ensuing fiscal year.
 - (4) The sums recommended for appropriation on the basis of the proposed expenditures, which sums need not be itemized further than by agencies and programs.
 - (5) The estimated revenues shown by estimated cash surplus, if any, for the fiscal year currently ending, proposed tax levies and other sources.
 - (6) A comparative statement of the actual revenues for the preceding fiscal year, and the estimated revenues for the fiscal year currently ending and the ensuing year. The estimated revenues for the ensuing fiscal year shall be at least equal in amount to the proposed expenditures.”

Section 39. Article X, section 10-3, Hawai‘i County Charter, is amended by amending subsection (c) to read as follows with added language underscored and deleted language bracketed and stricken through:

- “(c) The mayor’s message shall explain the operating budget and capital budget both in fiscal terms and in terms of work to be done. It shall outline the proposed financial policies of the county for the ensuing fiscal year, describe the important features of the operating budget and capital budget and means of financing the budgets. It shall indicate any major changes in financial policies and in expenditures, appropriations and revenues as compared with the fiscal year currently ending, and shall set forth the reasons for the changes. As to the capital budget, the message shall include a list of pending and proposed capital improvements together with the mayor’s comments on such list. It shall itemize and explain each pending capital improvement and each capital improvement proposed to be undertaken within the ensuing fiscal year, showing the estimated cost of each improvement and the pending or proposed method of financing it. The message shall also include such other supporting or explanatory material as the mayor deems desirable.

The mayor’s budget message which accompanies the amendments to the operating budget and to the capital budget shall describe the changes in proposed expenditures and in revenue projections from the budgets which had been submitted on or before March 1, and shall describe the intervening changes in circumstances which justify the changes in the proposed expenditures and projected revenues.”

Section 40. Article X, section 10-5, Hawai'i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 10-5. Operating Budget: Council Action.

After the public hearing, and after the submission of the amendments to the operating budget and to the capital budget, the county council may adopt the operating budget as amended with or without further amendments. First reading shall be after May 5. In amending, it may add new items or increase items in the operating budget. It may decrease or delete items, excepting appropriations required by law and appropriations for debt service. But in all cases the estimated revenues for the ensuing year shall be [a] at least equal in amount to the proposed expenditures.

The council shall adopt the operating budget on or before [~~the thirtieth day of June~~] June 30. If it fails to do so, the operating budget as submitted and as amended by the mayor shall be deemed adopted by the council as the operating budget for the ensuing fiscal year.

If the mayor disapproves of the bill adopting the operating budget or of any part thereof, the mayor shall return the bill or the portions vetoed with a written statement of objections to the clerk for further council action within ten calendar days of receipt of the bill.

The adopted operating budget shall be in effect on and after the first day of the fiscal year to which it applies.”

Section 41. Article X, section 10-6, Hawai'i County Charter, is amended by amending subsection (d) to read as follows with added language underscored and deleted language bracketed and stricken through:

“(d) The council shall adopt the capital budget on or before [~~the thirtieth day of June~~] June 30. If it fails to do so, the amended capital budget submitted by the mayor shall be deemed adopted by the council as the capital budget for the ensuing fiscal year. The adopted capital budget shall be in effect on and after the first day of the fiscal year.

[~~At any time during the fiscal year, the council, by ordinance adopted by the affirmative vote of at least two thirds of the entire membership, may amend the capital budget for that year. In amending, the council shall request and consider, but need not follow, the recommendations of the mayor as to the proposed amendment.~~]

Section 42. Article X, section 10-6, Hawai'i County Charter, is amended by adding a new subsection (e) to read as follows with added language underscored and deleted language bracketed and stricken through:

- (e) At any time during the fiscal year, the council, by ordinance adopted by the affirmative vote of at least two-thirds of the entire membership, may amend the capital budget for that year. In amending, the council shall request and consider, but need not follow, the recommendations of the mayor as to the proposed amendment.”

Section 43. Article X, section 10-8, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 10-8. Appropriations: Supplemental and Emergency.

When during any fiscal year there are available any funds for appropriation, the mayor shall certify to the county council and the county council may amend or make supplemental appropriations for the year up to the amount of available revenues. Such appropriations may be made by ordinance effective immediately upon adoption.

To meet a public emergency affecting life, health or property, the council, may make emergency appropriations. Such appropriations may be made by ordinance and must be approved by all council members present or by two-thirds of the entire membership. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by ordinance authorize the issuance of emergency notes. These notes may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the first day of the fiscal year next succeeding that in which the emergency appropriation was made. The total of emergency appropriations in any fiscal year shall not exceed one-half of one percent of the total operating appropriations, excluding those for debt service made in the operating budget for that year.”

Section 44. Article X, section 10-14, Hawai‘i County Charter, is amended by amending subsection (c) to read as follows with added language underscored and deleted language bracketed and stricken through:

- “(c) All purchases and contracts for materials, supplies, equipment and services shall be made in accordance with [~~Hawaii~~] Hawai‘i Revised Statutes and rules and regulations established by the state procurement policy office thereto. Any such rule or regulation may be modified by the [~~Director of Finance~~] director of finance, in accordance with Chapter 91, [~~HRS~~] Hawai‘i Revised Statutes, provided that such modifications shall be consistent with the requirements of state law.”

Section 45. Article XI, section 11-4, Hawai‘i County Charter, is amended by amending subsection (d) to read as follows with added language underscored and deleted language bracketed and stricken through:

“(d) Within ten working days of receipt of the notice in Section 11-4(b), the clerk shall give notice to the committee that the proposed petition form, ballot title, ballot question, and ballot summary are acceptable or shall propose alternative language.”

Section 46. Article XI, section 11-4, Hawai‘i County Charter, is amended by amending subsection (g) to read as follows with added language underscored and deleted language bracketed and stricken through:

“(g) If the language of the proposed ordinance is found to be within the power of initiative or referendum of the County of Hawai‘i, within five working days of finalization of the petition form, ballot title, ballot question and ballot summary, the clerk shall:

- (1) Submit them to the council for informational purposes utilizing the council’s rules and procedures; and
- (2) Give notice to the committee of:
 - (A) The final petition form, ballot title, ballot question, and ballot summary;
 - (B) The deadline date set by the State of Hawai‘i [~~Elections Office~~] office of elections for the submission of the ballot title, ballot question, and ballot summary;
 - (C) The number of signatures required for a certificate of sufficiency; and
 - (D) A timeline that gives dates at which submissions and specific actions shall occur.”

Section 47. Article XI, section 11-4, Hawai‘i County Charter, is amended by amending subsection (i) to read as follows with added language underscored and deleted language bracketed and stricken through:

“(i) As soon as a certificate is completed, the clerk shall notify the committee of the contents of the certificate. If a petition is certified sufficient, the clerk shall present the certificate to the county council at the first council meeting where it can be legally [~~agendized~~] placed on the agenda.”

Section 48. Article XI, section 11-4, Hawai‘i County Charter, is amended by amending subsections (l) and (m) to read as follows with added language underscored and deleted language bracketed and stricken through:

- “(l) If a majority of the committee does not choose to amend a petition or collect additional signatures, the clerk shall present the certificate to the county council at the first council meeting where it can be legally [~~agendized~~] placed on the agenda. A petition is approved for consideration through council action upon the clerk’s certificate of sufficiency.
- (m) The clerk shall present the certificate to the council at the earliest meeting at which the certificate can be legally [~~agendized~~] placed on the agenda. The council shall review the latest clerk’s certificate, upon the committee’s request, and shall approve or reject the certificate or may substitute its own determination of sufficiency of the petition by resolution. The review actions of the council shall be final but shall not preclude the filing of a new petition for the same purposes.”

Section 49. Article XI, section 11-4, Hawai‘i County Charter, is amended by amending subsection (p) to read as follows with added language underscored and deleted language bracketed and stricken through:

- “(p) The clerk shall publish the ballot title, ballot question, ballot summary and arguments for and against the measure in the Sunday paper of two Hawai‘i [~~Island~~] island daily papers with the largest circulation, for the three Sundays preceding the election. The committee shall be given the opportunity to write the argument in favor of the measure. If a group of five qualified voters of [~~Hawai‘i County~~] the county give notice to the clerk that they wish to write the arguments against the measure, the clerk shall publish their arguments. Both sets of arguments shall be published in the same papers, on the same page, on the same days, utilizing the same size print. The names and addresses of the committee and the opposing group as they appear on the general county register for the County of Hawai‘i shall appear in the publication.”

Section 50. Article XI, section 11-5, Hawai‘i County Charter, is amended by amending subsection (d) to read as follows with added language underscored and deleted language bracketed and stricken through:

- “(d) Signatures are invalid and petitions insufficient:
 - (1) If signers are not given an opportunity to read the full text of the proposed ordinance under an initiative petition, or the designation and description of the ordinance in question under a referendum petition, and if the full text of a proposed ordinance or ordinance under question is not contained in or

- attached to each signature paper or set of signature papers of an initiative or referendum petition, respectively, throughout circulation.
- (2) If written statements, [~~(~~executed by the circulators for each set of signature papers~~)~~], are not attached to the papers at the time of filing of a petition with the clerk. Each written statement shall attest that: a particular individual personally circulated an identifiable set of signed petitions; each signed petition bears a stated number of signatures; each signature on a petition was affixed in the petition circulator's presence; each signature is the genuine signature of the person whose name it purports to be; and the full text of the proposed measure was made available to petition signers."

Section 51. Section 49. Article XI, section 11-7, Hawai'i County Charter, is amended by amending subsection (d) to read as follows with added language underscored and deleted language bracketed and stricken through:

"(d) Ordinances passed using Article XI, Initiative and Referendum, shall not be repealed or amended for at least three years from the date of election approval, except by a two-thirds vote of the Hawai'i [~~County Council~~] county council."

Section 52. Article XII, chapter 1, section 12-1.3, Hawai'i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

"Section 12-1.3. Signatures.

Signers of a recall petition shall print their [~~names~~] name and add their signature, their residence address, and the date of signing on said petition. To each such petition paper there shall be attached an affidavit of the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper was made in the circulator's presence and is believed to be the genuine signature of the person whose name it purports to be, and that each signer understood the nature of the recall petition."

Section 53. Article XII, chapter 1, section 12-1.4, Hawai'i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

"Section 12-1.4. Filing and Certification.

All papers comprising a recall petition shall be assembled and filed with the county clerk as one instrument within thirty [~~(30)~~] days after the filing with the clerk of the affidavit stating the name and office of the officer sought to be removed. Within thirty

working days from the filing of such petition, the clerk shall determine if the petition contains sufficient signatures and prepare a certificate showing the result of the examination. If the clerk shall certify that the petition is insufficient, the clerk shall set forth in the certificate the particulars in which the petition is defective and shall return a copy of the certificate to the person designated in such petition to receive it.”

Section 54. Article XII, chapter 1, section 12-1.5, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 12-1.5. Supplemental Petitions.

In the event the initial petition contained insufficient signatures, such recall petition may be supported by supplemental signatures of voters signed in the manner required in Section 12-1.3 of this article appended to petitions issued, signed, and filed as required for the original petition at any time within ten days after the date of the certificate of insufficiency by the clerk. The clerk shall, within five working days after such supplemental petitions are filed, make a like examination of them, and if the certificate shall show the same to be still insufficient, the clerk shall return it in the manner described in Section 12-1.4 of this article to the person [~~designed~~] designated in such petition to receive the same, and no new petition for the recall of the officer sought to be removed shall be filed within one year thereafter.”

Section 55. Article XII, chapter 1, section 12-1.6, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 12-1.6. Recall Election.

If a recall petition or supplemental petition shall be certified by the clerk to be sufficient, the clerk shall at once submit the same with the certificate to the council and shall notify the officer sought to be recalled of such action. If the official whose removal is sought does not resign within ten [~~(10)~~] days after such notice, the council shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than sixty [~~(60)~~] nor more than ninety [~~(90)~~] days after the petition has been presented to the council, or at the same time as any other special election held within such period, the council shall call a special recall election to be held within the time aforesaid. If less than fifty percent of the total number of persons who registered in the last general election shall vote at such election to recall an official elected at-large, or by voters of the entire county, as the case may be, or in the case of a recall of a district council member, if less than fifty percent of the total number of persons who registered in the district in the last general election shall vote at such recall election, the officer sought to be recalled shall not be deemed recalled.”

Section 56. Article XII, chapter 1, section 12-1.9, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 12-1.9. Immunity to Recall.

The question of the removal of any officer shall not be submitted to the voters until such person has served six ~~[(6)]~~ months of the term during which the officer is sought to be recalled, nor, in the case of an officer retained in a recall election, until one year after that election.”

Section 57. Article XIII, section 13-1, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 13-1. Definitions. [~~As used in this charter:~~]

As used in this charter:

- (a) “Agency” means any office, department, board, commission or other governmental unit of the county.
- (b) “Executive Agency” means any agency or department of the executive branch of the county government.
- (c) “Employee” means any person, except an officer, employed by the county or any agency thereof but the term shall not include an independent contractor.
- (d) “Officer” includes the following:
 - (1) Mayor and members of the council.
 - (2) Any person elected or appointed as administrative head of any agency of the county or appointed as a member of any board or commission provided for in this charter.
 - (3) Any person appointed by a board or commission as the administrative head of any agency of the county.
 - (4) Deputy, assistant or division chief appointed by the administrative head of any agency of the county.
 - (5) Assistant or deputies of the corporation counsel and ~~[prosecution]~~ prosecuting attorney.
- (e) “State” means the State of ~~[Hawaii]~~ Hawai‘i.
- (f) “Vacancy” shall have the following meaning: Any elective office shall become vacant on the happening of any one of the following events before expiration of the term:
 - (1) Death.
 - (2) Resignation.
 - (3) Upon the determination by the county clerk that the officer was not a duly qualified elector of the county, and, if required, not a duly

- qualified elector of the district of which the officer was elected immediately preceding the election or appointment.
- (4) Ceasing to be a resident voter of the county as determined by the county clerk and in the case of an officer elected to a seat requiring residency in a district, ceasing to be a resident voter of that district as determined by the county clerk.
 - (5) Absence from the county, unless on county authorized business, for a period of three consecutive months, without good cause.
 - (6) Removal by recall as provided by this charter.
 - (7) Removal by impeachment proceedings for malfeasance, misfeasance, nonfeasance, or maladministration in office as provided by this charter.
 - (8) Upon the determination by three impartial, licensed physicians selected by the council that the officer is mentally or physically infirm or disabled and will be unable to discharge the officer's duties for the remainder of the term. Such action shall be initiated by a majority vote of the entire council.
 - (9) Upon filing nomination papers for another elective office if the term of the office sought begins before the end of the term of the office held.
 - (10) Upon the conviction of any felony in any jurisdiction.
- (g) If any of the above events occurs after the election, but prior to the commencement of the term, the office is vacant at the time the term commences.”

Section 58. Article XIII, section 13-5, Hawai'i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 13-5. Oaths of Office.

Before entering upon the duties of their office, each officer elected or appointed shall subscribe to the oath or affirmation before some person duly qualified to administer oaths: “I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States of America, and the Constitution of the State of [~~Hawaii~~] Hawai'i, and that I will faithfully discharge my duties as ... to the best of my ability.””

Section 59. Article XIII, section 13-7, Hawai'i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 13-7. Rules and Regulations.

Except as otherwise provided in this charter, all rules and regulations having the force and effect of law adopted by any board, commission or administrative head of a department shall be approved by ~~the~~ the mayor before going into effect. The provisions of this section shall be applicable to service rates or fees, license fees and other charges.”

Section 60. Article XIII, section 13-11, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 13-11. Penalties.

The council may, by ordinance, provide for the punishment of violations of any provisions of this charter, of ordinances, or of rules and regulations, by civil fines, either administratively or judicially imposed, or criminal prosecution, or both. No criminal penalty shall exceed the amount of two thousand dollars fine or one ~~year’s~~ year of imprisonment, or both. Criminal prosecution shall be as provided by law for the prosecution of misdemeanors.”

Section 61. Article XIII, section 13-20, Hawai‘i County Charter, is amended by amending subsection (c) to read as follows with added language underscored and deleted language bracketed and stricken through:

“(c) The time and place of all regular meetings of the council, board or commission shall be provided in the rules adopted for the conduct of its business. Except as otherwise provided in this charter, a special meeting may be called by the presiding officer of the council, board or commission when the date, time and place of such special meeting are announced prior to adjournment of a regular meeting; otherwise a special meeting can be called only upon the publication of a notice of such meeting in at least two daily newspapers of general circulation in this county at least twenty-four hours in advance of such meeting. If the requirement with respect to publication of notice cannot be met because of insufficient time, the meeting notice shall be made by broadcasting a minimum of three announcements in the English language over ~~[FCC]~~ Federal Communications Commission licensed public radio stations in this county or television stations with local audience. Such announcements shall be broadcast at least twenty-four hours in advance of such meeting. To assure the widest possible coverage, the meeting notice shall be released to radio stations in this county and the announcements shall be programmed to be heard between the hours of 7:00 ~~[A.M.] a.m.~~ to 5:00 ~~[P.M.] p.m.~~ In addition to the above requirements, notice of such special meeting shall be conspicuously posted on the bulletin board of the ~~[Hawaii County Building]~~ Hawai‘i county building. A brief resume of the principal business to be taken up at such meeting shall be stated in the posted notice as well as in the notice released to the news media.”

Section 62. Article XIII, section 13-20, Hawai'i County Charter, is amended by amending subsection (e) to read as follows with added language underscored and deleted language bracketed and stricken through:

“(e) News gatherer’s sources, privileged. No legislative or administrative body, or any other [~~County~~] county body having the power to issue subpoenas shall adjudge in contempt any publisher, editor, or reporter, who is or was connected with or employed by a newspaper, press association, wire service, or a radio or television station, for refusing to disclose, in any [~~County~~] county action, hearing, investigation, inquest, or inquiry, the source of any information procured while connected or employed by the newspaper, press association, wire service, or station for publication in a newspaper or for news or news commentary purposes on radio or television.”

Section 63. Article XIII, section 13-24, Hawai'i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 13-24. Waiver of Charter Provisions.

If any provision of this charter jeopardizes the receipt by the county of any federal grant-in-aid or other federal allotment of money, such provision may, insofar as such fund is jeopardized, be waived by the council upon recommendation of the mayor. Waiver shall be accomplished by ordinance adopted as prescribed in Section 3-11 except that a duly advertised public hearing shall be held between first and second readings. Such waiver shall continue in effect only for the period of time required by the specific grant-in-aid or allotment.”

Section 64. Article XIV, section 14-4, Hawai'i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 14-4. Conduct of Employees.

Officers and employees of the county while discharging their duties and dealing with the public shall adhere to the following precepts:

- (a) All public property and equipment are to be treated as a public trust and are not to be used in a proprietary manner or for [~~the~~] personal purposes without proper consent.

- (b) No person in a supervisory capacity shall engage in personal or business relationships with subordinates which might intimidate said subordinates in the discharge of their official duties.
- (c) All persons shall be treated in a courteous, fair and impartial manner.”

Section 65. Article XIV, section 14-5, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 14-5. Board of Ethics.

There shall be a board of ethics appointed by the mayor with the approval of the council. It shall consist of five members who shall be residents of the county. Each shall serve for a term of five years. Upon the initial appointment of members pursuant to this charter, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. The ~~[committee]~~ board shall establish its rules of procedure. Without limitation of its functions, the ~~[committee]~~ board shall:

- (a) Interpret the code of ethics for both county officials and the public and on its own may initiate and render opinions with respect thereto.
- (b) Render advisory opinions to county officers and employees with respect to the code of ethics pursuant to written requests by officers and employees.
- (c) Receive and initiate complaints of violations of the code of ethics and transmit such complaints to the council or the appropriate appointing authority, along with any pertinent advisory opinions thereto.
- (d) Hold hearings or conduct investigations concerning application of the code of ethics and make public such violations of the code that come to its attention.
- (e) Publish advisory opinions with such deletions as may be necessary to prevent disclosure of identity of persons involved where such opinions are rendered pursuant to subsection (b) above.
- (f) Propose revisions to the code of ethics where not inconsistent with this charter.”

Section 66. Article XIV, section 14-6, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 14-6. Penalties.

The failure to comply with the provisions of ~~[section]~~ Sections 14-2 to 14-4, inclusive, shall constitute a cause for suspension, removal from office or employment, or such other penalty as the council may prescribe by ordinance. Nothing herein shall

preclude any other remedy available against the officer or employee of the county as provided by law.”

Section 67. Article XV, section 15-3, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 15-3. Mandatory Charter Reviews.

The charter shall be reviewed in 1989 and every tenth year thereafter. Not later than [~~the fifteenth day of~~] January 15 of the charter review year, the mayor with the confirmation of the council, shall appoint a charter commission composed of eleven members to study and review the operation of the government of the county under this charter. Commission members, no more than a majority of whom shall belong to the same political party, shall be representative of the various geographical areas of Puna, [~~Ka‘u~~] Ka‘ū, Kona, Kohala, [~~Hamakua~~] Hāmākua, and Hilo. The council shall appropriate funds to enable the commission to carry out its duties, including the hiring of necessary staff.

The commission shall hold at least one public hearing in each of the geographical areas. The commission may propose amendments to the existing charter or a draft of a new charter which shall be submitted to the county clerk. Upon receipt of the amendments or charter in the form as proposed by the commission, the county clerk shall provide for the submission of such amendments or charter to the electors of the county at either a special election as determined by the commission or at the first general election following the charter review year. The commission shall prepare the language of the question to be submitted to the voters for each of the amendments it proposes.

The commission shall publish not less than forty-five days before any election, at least once in at least two daily newspapers of general circulation within the county, a brief digest of the amendments or charter and the purpose thereof and a notice to the electorate that copies of the amendments or charter are available at the office of the county clerk.

Members of the commission shall hold office until the amendments or charter is ratified or rejected.

If the majority of the voters voting upon a charter amendment votes in favor of it or a new charter, if a new charter is proposed, the amendment or new charter shall become effective at the time fixed in the amendment or charter.”

Section 68. Article XVI, section 16-4, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 16-4. Status of Agencies and Transfer of Functions.

When this charter takes full effect:

- (a) All offices, departments, boards and commissions, the status of which are not specifically changed or abolished by this charter, are hereby recognized, continued and established and shall have such powers, duties and functions as provided by law or ordinance. Members of the various boards and commissions, excluding the [~~Hawaii Redevelopment Agency~~] Hawai'i redevelopment agency, holding office at the effective date of this charter shall continue in office unless they resign or until their terms of office shall expire, at which time new members shall be appointed in accordance with this charter.
- (b) The [~~Public Works Board of Appeals~~] public works board of appeals and the [~~Board of Appeals under the Planning Department~~] board of appeals under the planning department shall stand abolished and their functions transferred to the extent provided in Section [~~5-6.3*~~] 6-9.2.
- (c) Each county civil service employee affected by the status of agencies and transfer of functions under this charter shall be assigned to other agencies or executive agencies in the county without any loss in pay, provided the employee had held the position for at least one year prior to the full effective date of this charter. When an employee's position which has been so affected becomes vacant, that position shall stand abolished unless the position is permanently created in the table of organization of the agency or executive agency concerned.
- (d) Nothing in this charter shall be deemed to affect the civil service status of incumbent department heads or deputies in government service prior to the adoption of this charter, and they shall continue to exercise and discharge the powers and duties of their respective offices until such time as the offices become vacant and successors shall have qualified in accordance with this charter or laws and ordinances enacted pursuant thereto.
- (e) Every non-civil service officer, deputy, assistant or bureau head affected by the status of agencies and transfer of functions under this charter may be absorbed into a permanent civil service position in the same division or other agencies or executive agencies as a consequence of the reorganization provisions of this charter without loss of vacation or sick leave allowance, service credit or other rights and privileges and without the necessity of examination; provided, that such officer, deputy, assistant or bureau head possess the minimum qualifications for the position to which transferred or appointed. The method and procedure for such appointment or transfer shall be established by resolution or ordinance. The provision of this subsection relating to civil service status shall not apply to any officer, deputy, assistant or bureau head who is appointed as a deputy or assistant to the administrative head of any agency under this charter.
- (f) Non-civil service employees or officers who are not transferred or appointed and whose employment are terminated as a consequence of the reorganization provisions of the charter shall have the right to have their names placed on appropriate re-employment lists and shall be deemed eligible for certification to positions in the class in which last occupied or

in a related class in the same or lower grade for which the qualification requirements are met; provided, that written applications for re-employment with the department of human resources are filed within thirty [~~30~~] days after the termination of employment. Such certifications shall expire three [~~3~~] years after the effective date of this charter.”

Section 69. Article XVI, section 16-7, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 16-7. Department Heads Continued in Office.

Notwithstanding any provision to the contrary, each department head, [~~(including elected department heads and department heads appointed by boards or commissions)]~~, holding office when this charter takes full effect shall continue in office until a successor takes office or until removed pursuant to the provisions of this charter.”

Section 70. Article XVI, section 16-10, Hawai‘i County Charter, is amended to read as follows with added language underscored and deleted language bracketed and stricken through:

“Section 16-10. Hawaii Redevelopment Agency.

The [~~Hawaii~~] Hawai‘i redevelopment agency shall be abolished, and its powers, functions, rules and regulations transferred to the planning director, on January 1, 2001.”

Section 71. Charter material to be repealed is bracketed and stricken. New charter material is underscored. When revising, compiling, or printing these charter provisions for inclusion in the Charter of the County of Hawai‘i (2010), the revisor need not include the brackets, bracketed material, or underscoring.

Section 72. The revisor of the charter shall renumber charter article numbers, chapter numbers, section numbers, and cross references thereto pursuant to amendments approved by the electorate that displace existing or newly-enacted charter provisions.

Section 73. This amendment shall take effect upon approval by the electorate.

CA-38: Relating to Membership on Boards and Commissions

This proposal was brought forth by the managing director and corporation counsel. The commission found that most members of the county's boards and commissions serve on a voluntary basis, even though the charter provides that some form of compensation can be made. The commission also found that the county should have some discretion on how and when compensation can be given. Therefore, this proposal would provide a discretionary review on whether compensation should be paid, and reduces the maximum amount from five times the state minimum wage to two times the state minimum wage.

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI'I:

Section 1. Article XIII, Section 13-4, Hawai'i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed and stricken through:

“Section 13-4. Boards and Commissions.

Except as otherwise provided in this charter, all boards and commissions specifically established by this charter shall be governed by the following provisions:

- (a) The members shall serve staggered terms of five years. Upon the initial appointment of the members of a commission consisting of five members, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Upon the initial appointment of the members of a commission consisting of seven members, one shall be appointed for a term of one year, one for a term of two years, two for a term of three years, two for a term of four years, and one for a term of five years. Upon the initial appointment of a commission consisting of nine members, one shall be appointed to a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years.
- (b) The members shall be appointed by the mayor, and confirmed by the council, and may be removed upon recommendation by the mayor and the approval of the council.
- (c) No member shall be eligible for a second appointment to the same board or commission prior to the expiration of two years, however, members of any board or commission appointed for a term of two years or less shall be eligible to succeed themselves for an additional full term.
- (d) No member whose term has expired shall continue to serve on such board or commission, except that if no successor has been appointed and

- confirmed, the member shall continue to serve for ninety days or until a successor is appointed and confirmed, whichever comes first.
- (e) Any vacancy occurring in any board or commission shall be filled for the unexpired term.
 - (f) Not more than a bare majority of the members shall belong to the same political party.
 - (g) Members shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. Necessary expenses may be paid in advance as per diem allowance which shall be established by ordinance. Members of boards and commissions who do not receive compensation from their employers during the time they are serving on boards and commissions [~~shall~~] may be reimbursed by the county for actual work hours lost at the straight time rate of pay of such members in their regular employment but in no case shall such reimbursement exceed [~~five~~] two times the state minimum wage hour rate.
 - (h) A chairperson shall be elected from its membership annually.
 - (i) The affirmative vote of a majority of the entire membership to which a board or commission is entitled shall be necessary to make any action valid; except that in the case of a board or commission which has only advisory functions, the affirmative vote of a majority of those present shall be sufficient to make any action valid.
 - (j) Each board and commission shall have the power to establish its rules of procedure necessary for the conduct of its business, which rules shall contain the time and place of all regular meetings, and which shall specify that a quorum shall be a majority of the members to which the board or commission is entitled.
 - (k) Notwithstanding any other provision in this charter, no person shall, by reason of occupation alone, be barred from serving as a member of any board or commission.
 - (l) The council shall act to confirm or reject any appointment made to a board or commission by the mayor within forty-five days after receiving notice of the appointment from the mayor. If the council does not confirm or reject any such appointment within forty-five days, the appointee shall be deemed to have been confirmed.
 - (m) The redrawing of council district boundaries during a commission member's term shall not affect a member's eligibility to represent the district to which the member was appointed."

Section 2. Charter material to be repealed is bracketed and stricken. New charter material is underscored. When revising, compiling, or printing these charter provisions for inclusion in the Charter of the County of Hawai'i (2010), the revisor need not include the brackets, bracketed material, or underscoring.

Section 3. The revisor of the charter shall renumber charter article numbers, chapter numbers, section numbers, and cross references thereto pursuant to amendments approved by the electorate that displace existing or newly-enacted charter provisions.

Section 4. This amendment shall take effect upon approval by the electorate.

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