

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

June 5, 1998

Committee  
Report No. 98-83

As Amended

NOTE: The recommendation contained in this committee report was amended by the Council at its meeting on June 5, 1998, by deleting the bracketed material and underscoring the new material. This committee report was then adopted as amended.

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on July 17, 1997, October 2, 1997, November 17, 1997 (on Lana`i), February 5, 1998, March 9, 1998 (on Moloka`i), April 1, 1998 (in Hana), and May 12, 1998, makes reference to County Communication No. 97-181, from Councilmember Sol P. Kaho`ohalahala, transmitting a proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE ELECTION OF MEMBERS OF THE COUNCIL AND THE MAYOR". The purpose of the proposed resolution is to initiate a Charter amendment that would institute nonpartisan elections for all elected County offices and to amend the procedures for filling a vacancy in a Council office of six months or more.

Your Committee notes that a proposed Charter amendment must pass two Council readings, by a two-thirds vote each time, before it can be placed on the general-election ballot for approval by a simple majority of the ballots cast. Your Committee further notes that any proposed Charter amendment for the 1998 general-election ballot must be submitted to the State Office of Elections by the close of business on Friday, September 4, 1998.

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At its meeting of July 17, 1997, your Committee met with the County Clerk and the Corporation Counsel. Your Committee received public testimony in support of and in opposition to nonpartisan elections.

Your Committee discussed some of the theoretical foundations for nonpartisan elections. In essence, your Committee noted that advocates for nonpartisan elections believe that the elimination of party-based elections would foster greater harmony and efficiency among elected officials. Your Committee noted that the electorate in the City and County of Honolulu and Kaua'i County, respectively, had recently approved nonpartisan elections. Your Committee further noted that ideological philosophies are generally considered less meaningful at the local level of government than in State and Federal government. At the local levels, party labels may create unnecessary friction. Your Committee also discussed the need to increase voter turnout and whether nonpartisan elections could have an impact in that regard. Your Committee requested that the County Clerk provide various statistics relating to voter turnout and the recent passage rates for proposed Charter amendments in counties throughout Hawai'i. Your Committee also noted that representatives of the Democratic, Green, and Republican parties should be invited to attend future Committee meetings regarding nonpartisan elections.

Your Committee also discussed the desirability of allowing for a special election to fill a lengthy Council vacancy (e.g., six months or more). Your Committee noted that, pursuant to the Charter, the Council was called upon to fill the entire two-year term of late Councilmember Thomas P. Morrow at the outset of the 1997-1999 Council term. Your Committee noted that several Council members at that time expressed an unease with the Council's role and urged that the Charter be amended to allow the public to fill such vacancies. Your Committee further noted that the issue of nonpartisan elections and the issue of a special election to fill a Council vacancy were distinct. Therefore, your Committee voted to separate the two issues into two separate proposed resolutions to initiate Charter amendments. Your Committee also expressed an interest in achieving consistency between the election procedures for filling a vacancy in a Council office with the procedures for filling a vacancy in the office of Mayor. Specifically, your Committee noted that, in the case of a vacancy in the office of Mayor, special elections are only held for vacancies of one year or more. Your Committee deferred the matter pending further discussion.

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By memorandum dated September 23, 1997, your Committee Chair transmitted the following proposed resolutions entitled:

1. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE NONPARTISAN ELECTION OF MEMBERS OF THE COUNCIL AND THE MAYOR".

The purpose of this proposed resolution is to initiate a Charter amendment that would institute nonpartisan elections for all elected County offices.

2. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE PROCEDURE FOR FILLING A VACANCY IN THE OFFICE OF A COUNCIL MEMBER".

The purpose of this proposed resolution is to initiate a Charter amendment to allow for a special election to fill a long-term vacancy (i.e., one year or more) in a Council office.

The memorandum noted that the second proposed resolution provided for (1) special elections only for Council vacancies of one year or more; and (2) a run-off election in the event that no candidate receives a majority of the votes in an initial special election. Both of these provisions reflect consistency with Charter Subsection 7-6(b) regarding election procedures to fill a vacancy in the office of Mayor.

By memoranda dated September 29, 1997, the County Clerk provided voter-turnout information for the past five primary and general elections; a matrix revealing potential logistical difficulties with the proposed special elections to fill Council vacancies; and various other concerns relating to the proposed Charter amendments.

By memorandum dated September 29, 1997, your Committee Chair requested that the Corporation Counsel be prepared to answer questions

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relating to the effect of blank ballots in nonpartisan or special elections. Your Committee Chair opined that blank ballots should not be counted as "votes cast" when determining whether a candidate in a nonpartisan or special election had received "a majority of votes cast."

At its meeting of October 2, 1997, your Committee met with the County Clerk and the Corporation Counsel. Your Committee received testimony in opposition to nonpartisan elections from the respective county chairs of the Democratic and Republican parties. They each noted that the two-party system has served the nation well at all levels of government. They further suggested that parties help to make elected officials more accountable, as party nominees are expected to adhere to the party platforms. The party chairs also said the party labels help to educate voters, who may not always know much about individual candidates but are usually familiar with each party's general principles. Finally, the testifiers suggested that there are more worthy avenues of governmental reform, such as campaign-finance reform. Your Committee noted that it was unsure of the importance of party platforms, particularly at the local level of government, and requested that the party representatives provide copies of their respective platforms. Your Committee further noted that nonpartisan elections would not necessarily decrease the influence of political parties at the county level; candidates could self-identify with any party, and the parties could endorse the candidates of their choosing. Your Committee Chair pledged to hold Committee meetings in Hana, on Lana`i, and on Moloka`i to allow voters throughout the County to express their interest in nonpartisan elections. Your Committee deferred the matter pending further discussion.

At its meeting of November 17, 1997 on Lana`i, your Committee met with a Deputy Corporation Counsel. Your Committee received public testimony from one individual in support of the proposed Charter amendment to initiate nonpartisan elections. Your Committee deferred the matter pending further discussion.

By letters dated December 29, 1997, your Committee Chair requested that the respective county chairs of the Democratic, Green, and Republican parties provide copies of their party platforms.

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By memorandum dated January 2, 1998, Councilmember English transmitted the *Journal of Election Administration*, Volume 18, 1997. He called your Committee's attention to an article in the journal entitled "Systems of Representation," which Councilmember English indicated is relevant to the discussion on election formats.

By letter dated January 16, 1998, the Chair of the Maui County Democratic Party expressed his opposition to nonpartisan elections based on the following reasons:

1. Political parties play a vital role in consensus government;
2. Nonpartisan elections will result in the increase of the influence of money; and
3. A nonpartisan election would discourage third-party and minority candidates.

By letter received on January 21, 1998, the Secretary of the Maui County Republican Party transmitted a copy of the 1996 Hawai'i Republican Party Platform.

By memorandum dated January 30, 1998, your Committee Chair transmitted an article entitled "Local Nonpartisan Elections, Political Parties and the First Amendment" from the *Columbia Law Review*.

By memorandum dated February 2, 1998, your Committee Chair transmitted information regarding the location of Democratic, Green, and Republican party platforms on the World Wide Web.

By memorandum dated February 3, 1998, your Committee staff transmitted results of research on nonpartisan elections, specifically (1) Policy Arguments For and Against Nonpartisan Elections; and (2) Possible Alternative Formats of Nonpartisan Elections and Their Possible Effect on Voter Turnout.

At its meeting of February 5, 1998, your Committee met with the Corporation Counsel. Your Committee requested that Committee staff prepare technical amendments to the proposed Charter amendments to ensure that they accurately reflected your Committee's intent. In addition, your Committee noted

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that Charter Subsection 13-2(2) states: "Not more than a bare majority of the members of any board or commission shall belong to the same political party." Your Committee further noted that this provision may seem superfluous if nonpartisan elections are initiated. Therefore, your Committee requested that your Committee Chair consider pursuing the possible deletion of Charter Subsection 13-2(2) as a separate matter, particularly if the issue of nonpartisan elections is moved forward. Your Committee deferred the matter pending further discussion.

At its meeting of March 9, 1998 on Moloka'i, your Committee met with a Deputy Corporation Counsel. Your Committee received public testimony in support of and in opposition to placing the issue of nonpartisan elections on the ballot. Your Committee deferred the matter pending further discussion.

By memorandum dated March 30, 1998, your Committee Chair transmitted a revised proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE PROCEDURE FOR FILLING A VACANCY IN THE OFFICE OF A COUNCIL MEMBER". The revised proposed resolution deleted the "run-off" requirement for instances in which no candidate to fill a vacancy receives a majority of votes, and incorporated technical amendments.

At its meeting of April 1, 1998 in Hana, your Committee met with a Deputy Corporation Counsel. Your Committee received testimony in support of the proposed Charter amendment to initiate nonpartisan elections. Your Committee deferred the matter pending further discussion.

By memorandum dated May 5, 1998, your Committee Chair requested that the Corporation Counsel approve as to form and legality the revised proposed resolutions entitled:

1. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE NONPARTISAN ELECTION OF MEMBERS OF THE COUNCIL AND THE MAYOR"; and

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2. "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE PROCEDURE FOR FILLING A VACANCY IN THE OFFICE OF A COUNCIL MEMBER".

The revised proposed resolutions incorporated technical amendments.

By memorandum dated May 12, 1998, Councilmember Kaho`ohalahala transmitted an electronic message from Susan Halas expressing support for nonpartisan elections.

At its meeting of May 12, 1998, your Committee met with the County Clerk and the Corporation Counsel. Your Committee received public testimony in support of placing the issue of nonpartisan elections on the ballot.

A lengthy discussion with the County Clerk and the Corporation Counsel ensued. Your Committee voted to incorporate technical amendments into both proposed resolutions to provide for the possibilities of: (1) both proposed Charter amendments being approved or (2) only one being adopted. Noting that voter turnout in recent years has been much lower at the November elections compared to the September elections, your Committee further voted to revise the proposed resolution relating to nonpartisan elections to ensure that: (1) no contested races will be won at the time of the "first special election" (held in conjunction with State and Federal primary elections in September); and (2) tiebreakers will not be used to eliminate any candidates at the first special election. Your Committee also recommended that the matter of mail-in and electronic voting as possible means of both increasing voter turnout and decreasing election costs be referred to the appropriate committee. Your Committee further voted to revise the proposed resolution relating to a vacancy in a Council office to accept your Committee Chair's recommendations that an election only be triggered for a vacancy of one year or more and that no "run-off" election be required. Your Committee voted to recommend that the proposed resolutions, incorporating the noted revisions, be passed on first reading.

Your Committee is in receipt of revised proposed resolutions, approved as to form and legality, incorporating your Committee's revisions.

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Your Committee of the Whole RECOMMENDS the following:

1. That Resolution No. 98-91, as revised herein and attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE NONPARTISAN ELECTION OF MEMBERS OF THE COUNCIL AND THE MAYOR" be PASSED ON FIRST READING, [and] ORDERED TO PRINT, and RECOMMIT;
2. That Resolution No. 98-92, as revised herein and attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE PROCEDURE FOR FILLING A VACANCY IN THE OFFICE OF A COUNCIL MEMBER" be PASSED ON FIRST READING, [and] ORDERED TO PRINT, and RECOMMIT;
3. That the matter of mail-in and electronic voting for County elections be REFERRED to the appropriate committee; and
4. That County Communication No. 97-181 be FILED.

Adoption of this report is respectfully requested.

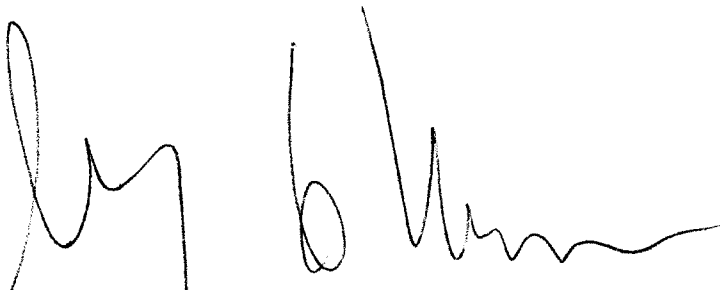


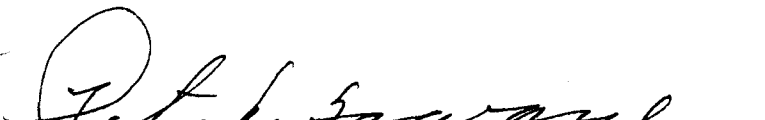
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WAYNE K. NISHIKI Chair

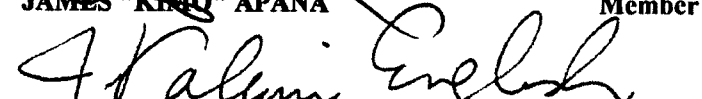
  
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PATRICK S. KAWANO Member

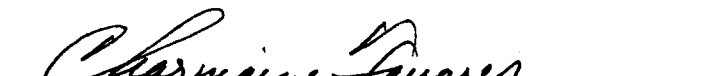
  
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ALAN M. ARAKAWA Vice-Chair

  
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ALICE L. LEE Member

  
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JAMES "KIMO" APANA Member

  
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DENNIS Y. NAKAMURA Member

  
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J. KALANI ENGLISH Member

  
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CHARMAINE TAVARES Member

  
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SOL P. KAHO'OHALAHALA Member

**COUNCIL OF THE COUNTY OF MAUI**

**WAILUKU, HAWAII 96793**

**CERTIFICATION OF ADOPTION**

**It is HEREBY CERTIFIED that COMMITTEE REPORT NO. 98-83, As Amended, was adopted by the Council of the County of Maui, State of Hawaii, on the 5th day of June, 1998, by the following vote:**

<b>MEMBERS</b>	<b>Patrick S. KAWANO Chair</b>	<b>James "Kimo" APANA Vice-Chair</b>	<b>Alan ARAKAWA</b>	<b>J. Kalani ENGLISH</b>	<b>Sol P. KAHO'OHALAHALA</b>	<b>Alice L. LEE</b>	<b>Dennis Y. NAKAMURA</b>	<b>Wayne K. NISHIKI</b>	<b>Charmaine TAVARES</b>
<b>ROLL CALL</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>No</b>	<b>Aye</b>	<b>Aye</b>

  
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COUNTY CLERK