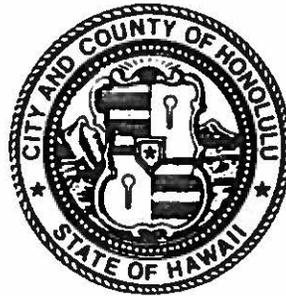


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City and County of Honolulu  
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**ARTICLE III  
LEGISLATIVE BRANCH**

**CHAPTER 1  
COUNCIL**

**Section 3-103. Reapportionment and Reapportionment Years —**

1. The year 1991 and every tenth year thereafter shall be reapportionment years.

2. A council reapportionment commission shall be constituted on or before the first day of July of each reapportionment year and whenever reapportionment is required by court order. The commission shall consist of nine members. The presiding officer of the council shall, with the approval of the council, select the members of the commission, no more than a majority of whom shall be from the same political party.

The commission shall elect a chair from among its members. Any vacancy in the commission shall be filled in the same manner as for an original appointment. The commission shall act by majority vote of its membership and shall establish its own procedures. The members of this commission shall not, in any manner, be deemed officers of the city. The commission and its members shall be subject only to the provisions of this section of the charter. Commission members shall be compensated and reimbursed for their necessary expenses as provided by ordinance. No member of the commission shall be eligible to become a candidate for election to the council in the initial election held under any reapportionment plan adopted by the commission.

The city clerk, under the direction of the commission, shall furnish all necessary technical and secretarial services. The council shall appropriate funds to enable the commission to carry out its duties.

3. In effecting reapportionment, the commission shall be guided by the following criteria:

- (a) No district shall be so drawn as to unduly favor a person or political faction.
- (b) Districts, insofar as practicable, shall be contiguous and compact.
- (c) District lines shall, where possible, follow permanent and easily recognized features, and, when practicable, shall coincide with census tract boundaries.

4. On or before January 2 of the year following appointment, the commission shall file with the city clerk a reapportionment plan, which shall become effective upon filing.

5. Any registered voter may petition the proper court to compel, by mandamus or otherwise, the appropriate person or persons to perform their duty of to correct any error made in a reapportionment plan, or the court may take such other action to effectuate the purposes of this section as it may deem appropriate. Any such petition must be filed within forty-five days of the date specified for any duty or within forty-five days of the date specified for any duty or within forty-five days after the filing of a reapportionment plan. (Reso. 83-357, 88-242)

**Section 3-115. Adoption of Pay Plan —**

1. All persons employed in the executive branch of the city or by any of its boards or commissions, whether as officers or otherwise, except those whose pay plan or pay is otherwise provided for, shall be paid in accordance with a pay plan recommended by the mayor and enacted with or without modification by ordinance. The pay plan for those persons holding positions in the position classification plan shall be in accordance with section 6-309 of this charter.

2. Any pay plan for employees of the public transit authority, other than the executive director and persons holding positions subject to the position classification plan, shall be recommended by the authority, without necessity of approval by the mayor, and enacted with or without modification by ordinance. (Reso. 90-295)

**Section 3-121. Creation of Semi-Autonomous Agencies —**

1. The city may by ordinance create special proprietary semi-autonomous agencies as may be necessary. Any such agency shall function as a public body, corporate and politic, with the authority to sue and be sued and may be granted such other powers as may be necessary or convenient for its purposes.

2. Any such agency shall be subject to the civil service provisions and centralized purchasing and disposal of personal property provisions of this charter and shall come within the purview of the performance audit conducted by the managing director and such audits as may be required by the council.

3. Pensions for officers and employees of and such agency shall be governed by law.

4. This section shall not apply to the public transit authority, which is a special proprietary semi-autonomous agency created by charter. (Reso. 90-295)

**ARTICLE IV  
EXECUTIVE BRANCH-GENERAL PROVISIONS**

**CHAPTER 1  
GENERAL ORGANIZATIONS**

**Section 4-102. Organization of the Executive Branch —** The departments of general planning, the corporation counsel and the budget shall report directly to the mayor.

All other executive departments and agencies of the city, excepting the mayor's office staff, the office of information and complaint, the board of water supply, the public transit authority, and any other semi-autonomous agency, shall be organized as provided in this charter or by ordinance and shall be supervised by and report directly to the managing director as principal administrative aide to the mayor.

Each executive department shall be headed by a single executive, except if otherwise provided by this charter. (Reso. 90-295)

**Section 4-103. Creation of Advisory Committees —**

1. The mayor or department heads, with the approval of the mayor, may each appoint advisory committees for departments, other than the public transit authority. Such advisory committees shall not exist beyond the term of office of the appointing authority.

2. The board of directors of the public transit authority may appoint advisory committees for the authority. Advisory committees for the public transit authority shall exist for terms specified by the authority.

3. The function of all advisory committees shall be limited to counsel and advice. The members of advisory committees shall not be paid, but their authorized expenses shall be paid from appropriations to the appointing authority. Advisory committees shall have no employees, but each appointing authority shall cause employees of the department to furnish such services as may be needed by the committees. (Reso. 90-295)

**Section 4-104. Appointment, Confirmation and Removal of Officers and Employees —**

1. All department heads and the managing director, as provided in sections 5-201, 5-301, 5-402, 6-101, 6-103, 6-104, 6-106, 6-201, 6-305, 6-401, 6-501, 6-701, 6-801, 6-902, 6-1002, 6-1101, 6-1201, 6-1301, 6-1401, 6-1501, shall be nominated and, by and with the advice and consent of the council, appointed and may be removed by the mayor, except as otherwise provided by this charter. Qualifications of department heads shall be as required by this charter. (Reso. 89-389)

**Section 4-105. Powers and Duties of Heads of Executive Branch**

3. Each head of an executive agency of city government may, subject to the approval of the mayor or the managing director, prescribe such rules and regulations as are necessary for the organization and internal administration of the executive agency. This subsection shall not apply to the public transit authority. The board of directors of the authority shall have the exclusive power to prescribe the organization and internal administration of the authority.

5. Each head of an executive agency shall perform such duties not inconsistent with the duties of that office as may be assigned by the mayor. This subsection shall not apply to the board of directors of the public transit authority. The duties of the board shall be assigned by this charter or ordinance. (Reso. 90-295)

**CHAPTER 2  
REORGANIZATION**

**Section 4-202. Executive Reorganization Power** — In the interest of administrative efficiency, effectiveness and economy, the mayor, and only the mayor, may propose to the council that the duties and functions of existing departments or agencies of the executive branch, excepting semi-autonomous agencies and departments or agencies reporting directly to the mayor, be changed or departments or agencies be combined, rearranged or renamed. Such proposal or proposals shall take effect upon approval of the council or sixty calendar days after transmittal to the council unless rejected by a two-thirds vote of the council's entire membership.

Not more than twenty departments, plus the public transit authority, shall exist at any one time. (Reso. 90-295)

**Section 4-203. Reorganization Commission** — No later than one hundred eighty calendar days after the effective date of this charter, and thereafter at least two years prior to the appointment of a charter commission, the mayor shall appoint, with the approval of the council, a reorganization commission consisting of nine members to study the structure, duties and functions of the several departments and agencies constituting the executive branch, excepting the board of water supply, the public transit authority, and any other semi-autonomous agency created pursuant to this charter. No officer or employee of the city shall be eligible for appointment to this commission.

The commission shall elect a chair from among its members. Any vacancy in the commission shall be filled in the same manner as for an

original appointment. The commission shall act by majority vote of its membership and shall establish its own procedures. The members of this commission shall not, in any manner, be deemed officers of the city. Commission members shall be compensated and reimbursed for their necessary expenses as provided by ordinance.

A reorganization commission shall, whenever possible, make use of existing staff made available by the mayor; provided however, that the council may, upon request, appropriate sufficient funds to enable the commission to retain special staff or appropriate consultant services.

This commission shall, no later than eighteen months after its creation, transmit the results of its study and its recommendations to the mayor and the council. (Reso. 90-295)

**ARTICLE V  
EXECUTIVE BRANCH - MAYOR AND  
AGENCIES DIRECTLY UNDER THE MAYOR**

**CHAPTER 1  
MAYOR**

**Section 5-103. Powers, Duties and Functions** — The mayor shall be the chief executive officer of the city. The mayor shall have the the power to:

- (a) Except as otherwise provided, exercise direct supervision over all agencies enumerated in this article of the charter and other agencies as the mayor may deem desirable and through the managing director exercise supervision over all other executive agencies of the city. The mayor shall provide for the coordination of all administrative activities and see that they are honestly, efficiently and lawfully conducted. An exception to the mayor's supervisory power over a specified power, duty, or function of the public transit authority may be enacted by ordinance. If so enacted, the exception shall be deemed a valid exception for the purpose of this paragraph.
- (b) Appoint the necessary staff for which appropriations have been made by the council. This paragraph shall not empower the mayor to appoint the staff of the public transit authority.
- (c) Except for positions in the public transit authority, create or abolish positions within the executive branch as provided by law. A monthly report of such creation or abolishment of positions shall be made to the council.

- (d) Make temporary transfers of positions between departments or between subdivisions of departments; except that the mayor shall not be authorized to make temporary transfers of positions from, to, or within the public transit authority.
- (e) Except as otherwise provided, recommend to the council a pay plan for all persons employed in the executive branch or any of its boards and commissions, whether as officers or otherwise.
- (f) Appoint a personal representative who shall, subject to the mayor's direction, perform such ceremonial functions of the mayor's office and such other duties as the mayor may designate.
- (g) Submit an operating and capital program and budget and necessary proposed budget ordinances annually to the council for its consideration and necessary action.
- (h) Sign instruments requiring execution by the city, except those which the director of finance or other officer is authorized to sign by this charter, ordinance or resolution.
- (i) Present information or messages to the council which, in the mayor's opinion, are necessary or expedient.
- (j) In addition to the annual report, make periodic reports informing the public as to city policies, programs and operations.
- (k) Call special sessions of the council.
- (l) Veto ordinances, resolutions authorizing proceedings in eminent domain and resolutions adopting or amending the general plan.
- (m) Have a voice, but not vote, in the proceedings of all boards provided for by this charter or by ordinance.
- (n) Enforce the provisions of this charter, the ordinances of the city and all applicable laws.
- (o) Exercise such other powers and perform such other duties as may be prescribed by this charter or by ordinance.  
(Reso. 86-237, 90-295)

## **CHAPTER 2**

### **DEPARTMENT OF THE CORPORATION COUNSEL**

#### **Section 5-205. Service of Legal Process —**

Except as otherwise provided for the public transit authority, legal process against the city shall be served upon the corporation counsel or any of the corporation counsel's deputies, and in default of finding the corpora-

tion counsel or any deputy, upon the mayor, and in default of finding the mayor, then upon any councilmember. When such service is made upon any officer other than the corporation counsel, such officer shall promptly notify the corporation counsel. (Reso. 90-295)

### **CHAPTER 3 DEPARTMENT OF THE BUDGET**

**Section 5-303. Powers, Duties and Functions —** The chief budget officer shall:

- (a) Prepare the operating and capital program and budget and necessary budget ordinances and amendments or supplements thereto, under the direction of the mayor. This paragraph shall not supersede section 9-105.2 of this charter, which allows the public transit authority to submit budget amendments to the council, with or without the approval of the mayor.
- (b) Review the operating and capital budget program schedules of each executive agency and make budgetary allotments for their accomplishments, with the approval of the mayor. This paragraph shall not supersede section 9-106.2 of this charter, which provides that the budgetary allotments for the public transit authority shall not require the approval of the mayor.
- (c) Review all executive agency, except public transit authority, requests for the creation of new positions. (Reso. 90-295)

### **CHAPTER 4 DEPARTMENT OF GENERAL PLANNING**

**Section 5-405. Planning Commission —** There shall be a planning commission which shall consist of nine members. The commission shall be provided with its own full-time executive secretary who shall have had a minimum of three years of training and experience in a responsible planning position. The commission shall be governed by the provisions of section 13-103 of this charter. (Reso. 86-150)

**ARTICLE VI  
EXECUTIVE BRANCH - MANAGING DIRECTOR  
AND AGENCIES DIRECTLY UNDER THE  
MANAGING DIRECTOR**

**CHAPTER 1  
MANAGING DIRECTOR**

**Section 6-105. Citizens Advisory Commission on Civil Defense —** There shall be a citizens advisory commission on civil defense which shall consist of five members. The commission shall advise the mayor, the council, and the civil defense administrator on matters pertaining to civil defense, and to the promotion of community understanding and interest in such matters. The commission shall be governed by the provisions of section 13-103 of this charter. (Am. Reso. 88-196)

**Section 6-106. Royal Hawaiian Band —** There shall be a Royal Hawaiian Band headed by a band director who shall be appointed and may be removed by the mayor. The band director shall perform such duties as may be required by law. (Reso. 83-357, 88-196)

**CHAPTER 2  
DEPARTMENT OF FINANCE**

**Section 6-203. Powers, Duties and Functions —** The director of finance shall be the chief accounting officer of the city and shall:

- (a) Prepare bills for the collection of moneys due the city or authorize the preparation thereof by other executive agencies of the city government under the director's general supervision. An exception to this paragraph may be established by ordinance to empower the public transit authority to prepare bills for the collection of moneys due the authority.
- (b) Collect and receive moneys due to or receivable by the city and issue receipts therefor or authorize other executive agencies to do so under conditions prescribed by the director of finance. An exception to this paragraph may be established by ordinance to empower the public transit authority to collect and receive moneys due to the authority.
- (c) Keep accurate and complete account of receipts and disbursements.
- (d) Maintain the treasury and, with the approval of the mayor, deposit moneys belonging to the city in depositories autho-

rized by law which fulfill all conditions prescribed for them by law. An exception to this paragraph may be established by ordinance for the deposit of moneys appropriated to the public transit authority.

- (e) Contract for services of independent contractors, purchase materials, supplies and equipment and permit disbursements to be made only pursuant to rules and regulations adopted under the terms of this charter. An exception to this paragraph may be established by ordinance to empower the public transit authority to be responsible for its contracts, purchases, and disbursements.
- (f) Have the responsibility of issuing, selling, paying interest on and redeeming bonds of the city.
- (g) Prepare and issue warrants. An exception to this paragraph may be established by ordinance to empower the public transit authority to prepare and issue its warrants.
- (h) Prepare payrolls and pension rolls. An exception to this paragraph may be established by ordinance to empower the public transit authority to prepare its payroll and pension rolls.
- (i) Be responsible for the management of city funds.
- (j) Sell real property upon which improvement assessments are not paid within the period prescribed and dispose of personal property not needed by any agency of the city, pursuant to policies established by the council.
- (k) Rent or lease city property, except property controlled by the board of water supply, and award concessions, pursuant to law and to policies established by the council. An exception to this paragraph may be established by ordinance to empower the public transit authority to rent or lease or award concessions on property under its management and control.
- (l) Prepare and maintain a perpetual inventory of all lands owned, leased, rented or controlled by the city.
- (m) Prepare and maintain a perpetual inventory of equipment owned or controlled by the city and materials and supplies in central city storerooms.
- (n) Review assessment rolls for assessable public improvements prior to approval by the council and issue bills therefor after such approval has been given.
- (o) Have custody of all official bonds, except the bond of the director of finance, which shall be in the custody of the mayor.

- (p) Review the manner in which public funds are received and expended and report to the mayor on the integrity with which said funds are accounted for and on the financial responsibility of officers and employees administering said funds.
- (q) Provide information pertaining to the financial affairs of the city and make financial reports at least quarterly to the mayor and the council. (Reso. 90-295)

### **CHAPTER 3**

#### **DEPARTMENT OF THE CIVIL SERVICE**

**Section 6-303. Civil Service and Executive Branch Exemptions —** The provisions of this chapter of the charter shall apply to all positions in the service of the executive branch. This section shall apply to semi-autonomous agencies as though they are departments of the executive branch. The following positions shall be exempt from the provisions of this chapter of the charter:

- (a) Positions of officers elected by public vote; position of heads of departments; the position of the director of the municipal reference and records center; the position of head of the office of information and complaint; the position of the band director of the Royal Hawaiian Band; the position of the manager and chief engineer of the board of water supply and the manager of any semi-autonomous agency created by ordinance.
- (b) Positions in the office of the mayor, but such position shall be included in the position classification plan. Employees of the office of information and complaint, municipal reference and records center and Royal Hawaiian Band, other than the heads of such agencies, and employees of the civil defense agency shall not be exempted from civil service.
- (c) Positions of deputies of the corporation counsel, deputies of the prosecuting attorney and law clerks.
- (d) Positions of members of any board, commission or equivalent body.
- (e) Positions filled by inmates in city institutions.
- (f) Positions of a temporary nature filled by students.
- (g) Personal services obtained by contract where the director has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such

service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year.

- (h) Personal services of a temporary nature needed in the public interest where the need for the same does not exceed ninety days, but before any person may be employed to render such temporary service, the director of civil service shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable. The employment of any person for service of a temporary nature may be extended for good cause for an additional period not to exceed ninety days upon similar certification by the director, subject to approval of the civil service commission.
- (i) Personal services performed on a fee, contract or piecework basis by persons who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the city and when such fact is certified to by the director of civil service.
- (j) Positions of one first deputy; private secretaries to heads of departments and their deputies; and the position of managing director, one first deputy and private secretaries to each; but, private secretarial positions shall be included in the position classification plan. The first deputy in the department of civil service, however, shall not be exempt from civil service.
- (k) Positions or personal services in demonstration programs and joint participation and special projects which serve the community; provided that such exemptions are required by federal law or rules and regulations and then in accordance with procedures established by ordinance.
- (l) The position of executive director of the public transit authority and, if exempt by ordinance, other positions in the authority. If positions in the authority are exempted by ordinance, the ordinance shall also include prohibitions which are similar to those contained in section 6-312 and applicable to the exempt positions.

The director of civil service shall determine the applicability of this section of the charter to specific employment or services in the executive branch. (Reso. 90-295)

## CHAPTER 9 DEPARTMENT OF LAND UTILIZATION

**Section 6-909. Powers, Duties and Functions —** The zoning board of appeals shall:

- (a) Hear and determine appeals from the actions of the director of land utilization in the administration of the zoning and subdivision ordinances and any rules and regulations adopted pursuant thereto. An appeal shall be sustained only if the board finds that the director's action was based on an erroneous finding of a material fact, or that the director had acted in an arbitrary or capricious manner or had manifestly abused discretion.
- \* (b) Hear and determine petitions for varying the application of the zoning ordinance with respect to a specific parcel of land and may grant such a variance upon the ground of unnecessary hardship if the record shows that (1) the applicant would be deprived of the reasonable use of such land or building if it were used only for the purpose allowed in that zone; (2) the request of the applicant is due to unique circumstances and not the general conditions in the neighborhood, so that the reasonableness of the neighborhood zoning is not drawn into question; and (3) the use sought to be authorized by the variance will not alter the essential character of the locality nor be contrary to the intent and purpose of the zoning ordinance.

The board shall specify the particular evidence which supports the granting of a variance. (Reso. 83-357)

## CHAPTER 11 DEPARTMENT OF TRANSPORTATION SERVICES

**Section 6-1102. Powers, Duties and Functions —**

1. Except as provided in subsection 2, the director of transportation services shall:

*\*Variance power transferred to director of land utilization pursuant to RCH 4-202 and mayor's directive no. 87-1 dated May 13, 1987.*

- (a) Plan, design, operate and maintain transportation systems to meet public transportation needs, in accordance with the general plan and development plans.
- (b) Locate, select, install and maintain traffic control facilities and devices and street lighting systems.
- (c) Approve plans and designs for the construction, reconstruction and widening of public streets and roads, all of which shall be submitted to the department.
- (d) Provide educational programs to promote traffic safety.
- (e) Promulgate rules and regulations pursuant to standards established by law.

2. The director of transportation services shall have no power, duty, or function with respect to transportation systems, facilities, or programs which are under the jurisdiction of the public transit authority. (Reso. 90-295)

## CHAPTER 13 DEPARTMENT OF DATA SYSTEMS

**Section 6-1302. Powers, Duties and Functions** — The director of data systems shall:

- (a) Operate a data processing systems, excluding those systems maintained by the board of water supply, the public transit authority, and any other semi-autonomous agencies created by ordinance. The director shall operate the data processing system for the public transit authority until otherwise provided by ordinance. Upon the date specified in the ordinance, the director's power and duty to operate the data processing system of the authority shall cease.
- (b) Provide technical expertise in data processing to the city government.
- (c) Assist the managing director in management information analysis and evaluation.
- (d) Advise the mayor on data processing matters.
- (e) Perform such other duties as may be required by law. (Reso. 90-295)

## ARTICLE VIII PROSECUTING ATTORNEY

**Section 8-102. Election and Term of Office** — The prosecuting attorney shall be elected by a nonpartisan special election for a term of four years. The first such special election shall be held in conjunction with the

primary election of 1988, and subsequent special elections for the prosecuting attorney shall be held at four-year intervals thereafter in conjunction with the primary elections for those years. The candidate receiving a majority of votes cast for the office of the prosecuting attorney shall be deemed elected. In the event that no candidate receives a majority of the votes cast in the special election held in conjunction with the primary election, a second special election shall be scheduled to be held in conjunction with the general election scheduled for the same year. The names of the two candidates receiving the highest number of votes for the office of prosecuting attorney in the preceding special election shall be placed on the ballot for the second special election. The candidate receiving the highest number of votes at the special election held in conjunction with the general election shall be deemed elected. The term of office of the prosecuting attorney shall commence at twelve o'clock meridian on the second day of January following the prosecuting attorney's election. (Reso. 86-238)

## **ARTICLE IX FINANCIAL ADMINISTRATION**

### **CHAPTER 1 BUDGETING**

#### **Section 9-102. Preparation and Submission of the Program and Annual Budget for the Executive Branch.**

1. Not less than one hundred twenty days prior to the end of each fiscal year, the mayor shall prepare and submit to the council;
  - (a) An operating and capital program and a statement of relationships between the operating and capital components for the ensuing six fiscal years for the executive branch.
  - (b) An operating and capital budget and a statement of relationships between operating and capital items for the ensuing fiscal year for the executive branch.
  - (c) An accompanying message and necessary proposed ordinances for the ensuing fiscal year. The proposed budget ordinances shall be in a form prescribed by law.
  - (d) Such other information as may be requested by the council.
2. Sufficient copies of the program and annual budget shall be supplied by the mayor to the city clerk for distribution to the members of the council and the general public.
3. Appropriations to fund the activities of the executive branch shall only be made through the annual budget ordinances for the executive branch and amendments of supplements thereto.

4. Any recommended change to a fee or charge for a service or product provided by the public transit authority shall be submitted as part of the operating and capital program only if approved by the authority. (Reso. 86-237, 90-295)

**Section 9-105. Amendments to the Annual Legislative and Executive Budget Ordinances and Executive Program; Other Appropriations —**

2. Amendments to the annual executive budget ordinances and program may be submitted by the mayor and considered by the council under the same procedures prescribed for the enactment of the annual executive budget ordinances and adoption of the executive program, provided that:

- (a) No amendment shall increase the aggregate of authorized expenditures to an amount greater than the estimate of available resources for the fiscal year.
- (b) Amendments to the capital budget ordinance shall conform to the operating and capital program, as amended.
- (c) Amendments to appropriations for the public transit authority may be submitted to the council by the authority, with or without the approval of the mayor. An ordinance enacting an amendment submitted by the authority shall not include an amendment which increases the total appropriation for any fiscal year for another executive branch agency. (Reso. 90-295)

**Section 9-106. Administration and Enforcement of the Budget Ordinances —**

2. Administration and enforcement of the executive operating budget ordinance:

- (a) The enactment of the executive operating budget ordinance or any supplementary appropriation shall constitute an appropriation of the sums specified therein for the purposes and from the funds indicated. Such appropriation shall be considered valid only for the fiscal year for which made, and any part of any such appropriation which is not encumbered or expended shall lapse at the end of the fiscal year. Executive agencies authorized to make expenditures under the executive operating budget ordinance may proceed without other authority from the council to incur obligations or make expenditures for proper purposes to the extent that the moneys are available.

- (b) Immediately following the enactment of the executive operating budget ordinance, the heads of all executive agencies shall submit to the chief budget officer schedules, supported by work programs, showing the expenditures anticipated for the each quarter of the fiscal year.
- (c) Except with respect to the public transit authority, the approval of an expenditure schedule by the mayor shall constitute a budgetary allotment which shall, unless a revision thereof is approved by the mayor, be binding upon such agencies. The expenditure schedule submitted by the public transit authority to the chief budget officer shall be the budgetary allotment to the authority, without necessity of approval by the mayor. The director of finance shall approve or issue no requisition, purchase order, voucher or warrant that is not in accordance with an allotment.
- (d) The allotments herein provided may be altered at any time by the mayor. The mayor shall direct appropriate revisions in allotments to keep expenditures within the revenues received or anticipated. The mayor may alter or revise the allotments to the public transit authority, but only with the approval of the authority.
- (e) Any part of an allotment which is not expended or encumbered shall lapse at the end of the allotment period.
- (f) The mayor may transfer an unencumbered appropriation balance or portion thereof within the same department only as prescribed by law. Transfers between departments shall be made only by the council by ordinance upon the recommendations of the mayor.
- (g) The director of finance and the director's surety shall be liable for moneys withdrawn from any operating fund other than in accordance with the executive operating budget ordinance and allotments. (Reso. 86-237, 90-295)

### **CHAPTER 3**

## **PROCUREMENT AND DISPOSITION OF PROPERTY**

#### **Section 9-301. Centralized Purchasing —**

1. The department of finance shall be responsible for the procurement of all materials, supplies, equipment and services required by any agency of the city. An exception to this subsection may be established by ordinance to make the public transit authority responsible for the pro-

curement of materials, supplies, equipment, and services required by the authority.

2. There shall be a standardization committee composed of five members. The mayor shall appoint four members, each of whom shall be from a separate department. The fifth member shall be a representative for the department of finance who shall serve as chair of the committee. The committee shall serve as chair of the committee. The committee shall classify all materials, supplies, and equipment commonly used by the various agencies of the city and shall prepare and adopt standards and specifications for such materials, supplies and equipment. The public transit authority may be excepted, by ordinance, from complying with the adopted standards and specifications.

3. All purchases and contracts for materials, supplies, equipment and services shall be made by advertising, except that such purchases and contracts may be negotiated without advertising if:

- (a) The public exigency will not admit of the delay incident to advertising.
- (b) The aggregate amount involved does not exceed \$4,000.00; however, any purchases or contracts involving sums between \$500.00 and \$4,000.00 shall be based on competitive bids which shall be in writing.
- (c) It is impracticable to secure competitive bidding for materials, supplies and equipment, including animals, plants, food and fodder for animals in the zoo, non-processed agricultural products, patented or proprietary articles and books and publications.
- (d) It is determined that the procurement of equipment determined to be technical equipment is necessary to assure standardization of the equipment and interchangeability of parts and that such standardization and interchangeability are necessary in the interest of economy.
- (e) The purchases and contracts are by the public transit authority and appropriate ordinance authorizes the negotiations without advertising.

The advertisement for bids shall be made a sufficient time before the purchase or contract, and specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of the types of materials, supplies, equipment and services necessary to meet the requirements of the agency concerned.

All bids shall be publicly opened at the time and place stated in the advertisement. Award shall be made with reasonable promptness by

written notice to that responsible bidder, whose bid, conforming to the invitation for bids, will be most advantageous to the city, price and other factors considered.

4. Purchase orders shall be issued upon the endorsement of the purchasing administrator, and such endorsement shall be made in accordance with rules and regulations promulgated by the director of finance. An exception to this subsection may be established by ordinance to make the public transit authority responsible for the rules and regulations concerning its purchase orders.

6. The director of finance shall by rules and regulations provide for:
- (a) Emergency purchases which might be required.
  - (b) Petty cash funds or blanket purchase orders or both.
  - (c) Non-competitive purchases and contracts provided for under subsection 9-301.3(c) of this chapter.
  - (d) Approval and signing procedures related to the issuance of purchase orders.
  - (e) Negotiated sales of city property found unusable for public purposes and valued below \$100.00 without public auction.

An exception to this subsection may be established by ordinance to make the public transit authority responsible for the rules and regulations concerning its emergency purchases, petty cash funds, blanket purchase orders, non-competitive purchases and contracts, purchase orders, and negotiated sales of city property subject to paragraph (e).

8. The director of finance shall require such guarantees of performance by vendors as in the director's opinion may be necessary or may be prescribed by ordinance. An exception to this subsection may be established by ordinance to make the public transit authority responsible for the guarantees of performance by vendors providing materials, supplies, equipment, or services to the authority. (Reso. 90-295)

**Section 9-303. Insurance** — Except as may otherwise be provided for the public transit authority, the director of finance shall procure insurance in such amounts and under such conditions as the council shall prescribe by ordinance for the protection of all properties of the city. Such insurance shall be procured from companies licensed to do business in the State. With reference to property under the control and management of the board of water supply, however, its board may specify the kind and amount of insurance to be procured.

If so provided by ordinance, the public transit authority may be made responsible for the procurement of insurance for the protection of its property. (Reso. 90-295)

## ARTICLE XIII GENERAL PROVISIONS

**Sec. 13-115. Fines and Penalties** — The council by ordinance may 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. No criminal penalty shall exceed the amount of \$1,000.00 or one year's imprisonment, or both. Criminal prosecutions shall be as provided by law for the prosecution of misdemeanors. (Reso. 88-241)

### **Section 13-122. Receipt and Use of Federal Allotments of Money** —

1. If any provision of this charter jeopardizes the receipt by the city 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, after public hearing, upon recommendation of the mayor or public transit authority, as applicable.

2. Real property may be purchased in the name of the city through the use of any federal grant-in-aid or other federal allotment of money received for such purpose, upon recommendation of the mayor and approval of the council. Except as provided for in subsection 5-412.3 of this charter, any provision of the charter which jeopardizes such purchase may, insofar as such purchase is jeopardized, be waived by the council, after public hearing, upon recommendation of the mayor.

3. If the public transit authority is empowered to purchase real property, this subsection, and not subsection 2, shall apply to real property purchased or proposed to be purchased by the authority. Real property may be purchased by the public transit authority in the name of the authority or city through the use of any federal grant-in-aid or other federal allotment of money received for such purpose, upon recommendation of the authority and approval of the council. Except as provided for in subsection 5-412.3 of this charter, any provision of the charter which jeopardizes such purchase may, insofar as such purchase is jeopardized, be waived by the council, after public hearing, upon recommendation of the authority. (Reso. 90-295)

## ARTICLE XVII DEPARTMENT OF HUMAN RESOURCES

**Section 17-101. Department of Human Resources** — There shall be a department of human resources which shall consist of a director of human resources and the necessary staff. (Reso. 89-537)

**Section 17-102. Powers, Duties, and Functions —** The director of human resources shall:

- (a) Develop and administer projects, programs and plans of action for human resources and human services programs.
- (b) Act as the local public officer for the purpose of implementing federally-aided and state-aided human resources and human services programs.
- (c) Perform such other duties as may be required by law. (Reso. 89-537)

## **ARTICLE XVIII PUBLIC TRANSIT AUTHORITY**

**Section 18-101. Organization —** There shall be a public transit authority, consisting of a board of directors, executive director, and necessary staff. The public transit authority shall be:

- (a) A special proprietary semi-autonomous agency within the executive branch, reporting directly to the mayor.
- (b) A public body, corporate and politic.
- (c) Considered a department of the executive branch. (Reso. 90-295)

**Section 18-102. Definitions —** For the purposes of this article:

“Authority” means the public transit authority.

“Board” means the board of directors of the public transit authority.

“City bus system” means the public mass transit service provided by the city through the use of buses.

“Executive director” means the executive director of the public transit authority. (Reso. 90-295)

**Section 18-103. Powers, Duties, and Functions —**

1. The public transit authority shall:

- (a) Be responsible for the administration and operation of the city bus system in the most efficient and effective manner and in accordance with sound management practices.
- (b) Perform other duties and functions, as may be assigned to the authority by ordinance.

The public transit authority shall perform its duties and functions in accordance with this charter and applicable ordinance.

2. To perform its duties and functions, the public transit authority shall have the following general powers:

- (a) To sue and be sued.

- (b) To have a seal and alter the same at pleasure.
- (c) To make and alter policies for its organization and internal administration.
- (d) To create or abolish positions within the authority. A monthly report of the creation or abolishment of positions shall be made to the council.
- (e) To make temporary transfers of positions between subdivisions of the authority.
- (f) To submit to the council amendments to appropriations for the authority, as provided under section 9-105.2 of this charter.
- (g) To adopt rules in accordance with state law, when necessary or desirable to effectuate its functions and duties.

3. In addition to the general powers under subsection 2, other specific powers may be conferred by ordinance upon the authority, so long as the powers are consistent with and not prohibited by this charter. Pursuant to this subsection, the specific powers conferred upon the authority may include the following:

- (a) To collect revenues earned by the authority.
- (b) To disburse moneys expended by the authority in accordance with the procedures prescribed by the director of finance pursuant to section 13-109 of this charter; provided that, if the procedures are contrary to the ordinance conferring this specific power upon the authority, the ordinance shall prevail.
- (c) To prepare and issue warrants; provided that the authority shall not be allowed to issue warrant notes similar to those issuable by the director of finance pursuant to section 3-119 of this charter.
- (d) To hold title to or the leasehold interest in real property necessary for the administration and operation of the city bus system or performance of other functions and duties assigned to the authority.
- (e) To manage and control real property, the title to or interest in which is held by the authority.
- (f) To acquire by eminent domain after appropriate proceedings, purchase, lease, or other conveyance real property or any interest in real property.
- (g) To procure materials, supplies, equipment, services, and insurance required by the authority.
- (h) To plan and perform the engineering, design, construction, and maintenance of buildings and facilities of the authority.

If this specific power is conferred upon the authority, the specific power shall be deemed an authorized exception from section 6-1403(a) of this charter.

- (i) To make and execute contracts and other instruments requiring execution by the authority.
- (j) To prepare payrolls and pension rolls. (Reso. 90-295)

**Section 18-104. Board of Directors —**

1. The board of directors of the public transit authority shall be the policy making body of the authority. As such, the board shall be responsible for establishing policies for the administration and operation of the city bus system and the performance of other duties and functions assigned to the authority.

For the purpose of section 4-105 of this charter, the board shall be deemed the head of the public transit authority, but may delegate to the executive director any of the powers and duties provided to the executive agency head under that section.

2. The board of directors shall consist of seven directors. The director of transportation services and director of finance shall be ex officio, voting directors of the board. The other five directors shall be appointed in accordance with section 13-103 of this charter and shall serve part-time. The qualifications of the appointed directors shall be set by ordinance. (Reso. 90-295)

**Section 18-105. Executive Director —**

1. The public transit authority shall appoint and may remove and executive director. The executive director shall be the chief executive officer of the public transit authority.

2. The qualifications, powers, duties, functions, and compensation of the executive director shall be established in the manner provided by ordinance. (Reso. 90-295)

**Section 18-106. Personnel —**

1. Subject to the availability of appropriations and creation of positions by and authorization from the board, the executive director may hire personnel necessary to perform the duties and functions of the public transit authority. The compensation of the personnel shall be governed by applicable state law or ordinance.

2. Employees of any contractor with the public transit authority shall not be deemed personnel of the authority or the city.

3. The mayor may transfer a civil service position existing on January 1, 1991 within any department to the public transit authority, if the

position is necessary for the administration or operation of the city bus system or the performance of another duty or function assigned to the authority. A transferred position shall remain subject to the civil service, and the incumbent shall suffer no loss of seniority, service credit, salary, or other benefit.

No position shall be transferred to the authority pursuant to this subsection after June 30, 1991. (Reso. 90-295)

**Section 18-107. Applicability of Charter Provisions —**

1. The public transit authority shall be subject to the following provisions of this charter:

- (a) Article IX, chapter 1, relating to the formulation and execution of the annual budget.
- (b) Article IX, chapter 2, relating to the administration of funds.
- (c) Article IX, chapter 3, relating to centralized purchasing and disposal of personal property; except as otherwise may be provided.
- (d) Section 3-114, relating to financial audit and performance audit by the council.
- (e) Section 6-102(b), relating to the evaluation by the managing director of the management and performance of an executive agency.

2. This section shall not be deemed exclusive. The public transit authority shall be subject to all other provisions of this charter, unless:

- (a) An express exception is provided by this charter for the authority;
- (b) An express exception is provided by this charter for a semi-autonomous agency created pursuant to this charter; or
- (c) An exception from a charter provision is allowed by law, ordinance, or unspecified measure, and an ordinance implements the exception for the public transit authority. (Reso. 90-295)

**Section 18-108. Legal Counsel —** The corporation counsel shall be the legal adviser of the public transit authority and shall institute and defend, as the board may require, any and all actions involving matters under the jurisdiction of the authority. The corporation counsel may, with the prior approval of the board, compromise, settle, or dismiss any claim or litigation, for or against the authority. (Reso. 90-295)

**Section 18-109. Service of Process** — The authority may sue and be sued under the name of the "Public Transit Authority, City and County of Honolulu." Service of process in all matters affecting the authority or any property under its jurisdiction may be made by service upon any director of the board or the executive director. Any action commenced or prosecuted for the recovery of damages for any injury to persons or property by reason of negligence of the board or any agent or employee of the authority shall be commenced and prosecuted against the authority. (Reso. 90-295)

**Section 18-110. Operational Date** — The public transit authority shall become operational on the date established by ordinance. (Reso. 90-295)

**TABLE I**  
**DISPOSITION OF RESOLUTIONS FOR 1986**

Resolution No.	Dated	Revised Charter of the C&C of Honolulu 1973 (1984 Edition)
86-150	4-30-86	Article V, §5-405
86-237	7-9-86	Article V, §5-103; Article IX, §9-102.1, §9-106.2(f)
86-238		Article VIII, §8-102

**DISPOSITION OF RESOLUTIONS FOR 1988**

88-196	7-13-88	Article VI, §6-105
88-241	8-3-88	Article XIII, §13-115
88-242	8-3-88	Article III, §3-103

**DISPOSITIONS OF RESOLUTIONS FOR 1990**

89-389	12-13-89	Article IV, §4-104
89-537	6-25-90	Article XVII, §17-101 - 102
90-295	8-8-90	Article III, §3-115
		Article III, §3-121
		Article IV, § 4-102
		Article IV, § 4-103
		Article IV, §4-105
		Article IV, §4-202
		Article IV, §4-203
		Article V, §5-103
		Article V, §5-205
		Article V, §5-303
		Article VI, §6-203
		Article VI, §6-303
		Article VI, §6-1102
		Article VI, §6-1302
		Article IX, §9-102
		Article IX, §9-105
		Article IX, §9-106
		Article IX, §9-301
		Article IX, §9-303
		Article XIII, §13-122
		Article XVIII, §18-101-110

**TABLE II  
DISPOSITION OF CHAPTERS, SECTIONS  
AND ARTICLES FOR 1990**

<b>1973</b>	<b>1973 (1990 Supplement)</b>
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<b>6-105</b>	<b>6-106</b>

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