

AND FUNCTIONS OF THE DEPARTMENT OF THE CORPORATION COUNSEL

WHEREAS, Article XIV of the Revised Charter, City and County of Honolulu, provides for the procedures whereby the Council of the City and County of Honolulu may initiate by resolution amendments to the Revised Charter of the City and County of Honolulu; and

WHEREAS, Section 5-203 of the Revised Charter provides that the corporation counsel shall serve as the chief legal advisor and legal representative of both the City, the City Council and all other agencies of the City and County of Honolulu; and

WHEREAS, the corporation counsel may be representing conflicting, inconsistent or otherwise differing interests in disputes between the Executive Branch and the City Council; and

WHEREAS, Section 4-102 of the Revised Charter provides that the corporation counsel report directly to the mayor; and

WHEREAS, the City Council is entitled to legal representation free of any potential conflict and to obtain other counsel if it so desires; and

WHEREAS, the only existing avenue available to the City Council for obtaining legal representation other than that of the corporation counsel is to employ "outside" special counsel; and

WHEREAS, there exists an office of council services within the City Council's organization chart which employs staff attorneys and which advises the Council in the exercise of its legislative powers; and

WHEREAS, it is in the public interest to avoid expenditures of moneys for services when such services can be adequately provided by existing staff; and

WHEREAS, the City Council may still employ "outside" special counsel should circumstances require such action; and

WHEREAS, the City Council desires to amend Section 3-108 and Section 5-203 of the Revised City Charter to allow the City Council to authorize the staff attorneys of the office of council services to be its legal representative in court in disputes with the Executive Branch; and

WHEREAS, such an amendment is consistent with the intent of the Charter Commission in adopting section 1-103 of the Revised Charter of the City and County of Honolulu establishing the legislative and executive branches as "coordinate" and co-equal branches of city government; and

WHEREAS, the Final Report of the Charter Commission, City and County of Honolulu 1971-1972 states that the word "coordinate" is to be interpreted to mean "co-equal in rank, importance, independence and dignity"; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu

1. That it is hereby proposed that the following question be placed on the 1978 General Election ballot:

"Shall Section 3-108 and Section 5-203 of the Revised City Charter be amended to allow the City Council to authorize staff counsel of the office of council services to be its legal representative in disputes with the Executive Branch?"

Yes _____
No _____

2. That Section 3-108, Article III of the Revised Charter of the City and County of Honolulu be amended to read as follows:

7. The Council may establish an office of council services and create such positions therein as it deems necessary to assist it in the exercise of its legislative power. The council shall fix the salaries of such positions by ordinance. Funds appropriated for such salaries shall be allotted by, and the persons holding such positions shall be appointed by and serve under the direction of, the presiding officer of the council. Staff shall be appointed in a manner consonant with the merit principles set for in section 6-302 of this charter, but shall not otherwise be subject to the provisions of chapter 3 of article VI of this charter, pursuant to section 6-304 of this charter.

The council may authorize attorneys within the office of council services to represent it in court litigation where the dispute is with the Executive Branch and where the Corporation Council may represent the Mayor or officers of the Executive Branch. In the event that attorneys within the office of council services should be authorized to represent the city council, those staff attorneys shall be deemed to have the status of "special counsel."

3. That Section 5-203, Article V of the Revised Charter of the City and County of Honolulu be amended to read as follows:

The corporation counsel shall serve as the chief legal advisor and legal representative of all agencies, the council and all officers and employees in matters relating to their official powers and duties, and he shall represent the city in all legal proceedings [], except as otherwise provided in this charter. He shall perform all other services incident to his office as may be required by this charter or by law.

4. That this resolution shall be submitted to the electors of the City and County of Honolulu at the next general election.

5. That the City Clerk be hereby requested to prepare the neces-

sary ballot for the presentation to the electors at the 1978 general election, the proposal contained in this resolution.

6. That upon approval by a majority of the voters voting in favor of amending the Charter of the City and County of Honolulu as indicated by the number of votes cast and upon official certification of such result, the amendments proposed herein shall take effect.

QUESTION NO.7

"SHALL SECTION 3-115 OF THE REVISED CITY CHARTER BE AMENDED TO ALLOW THE CITY COUNCIL TO CONDUCT PERFORMANCE AUDITS OF ALL AGENCIES AND OPERATIONS OF THE CITY?"

YES _____
NO _____

The adoption of this proposal will amend Section 3-115 of the Revised Charter of the City and County of Honolulu to allow the city council to conduct performance audits of all agencies and operations of the City.

The text of Resolution No. 78-278 is reproduced as follows:

RESOLUTION NO. 78-278

TO AMEND SECTION 3-115 OF ARTICLE III OF THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU PERTAINING TO AUDITS CONDUCTED BY THE CITY COUNCIL.

WHEREAS, Article XIV of the Revised Charter, City and County of Honolulu, provides for the procedures whereby the Council of the City and County of Honolulu may initiate, by resolution, amendments to the Revised Charter of the City and County of Honolulu; and

WHEREAS, the City Council desires to amend Section 3-115 of Revised Charter, City and County of Honolulu to allow the Council to conduct performance audits of executive branch departments and agencies; and

WHEREAS, the 1972 Charter Review Commission (hereinafter "Commission") established the legislative branch and executive branch as coordinate and co-equal branches of City government; and

WHEREAS, the Commission defined "coordinate" as being co-equal in rank, importance, independence and dignity; and

WHEREAS, the Commission intended "that the auditing power of the council be used for the critical and systematic examination of all city funds to assure that the funds have been expended in accordance with legislative intent and sound financial practice, that public resources are being conserved through efficient administration of public programs and that internal controls exist to safeguard public funds from loss, waste, extravagance and fraud"; and

WHEREAS, the Commission further intended that the Council audits (1) "Be supportive of the legislative function and process by providing the Council with timely reports and information relevant to its decisions and responsibilities"; (2) Serve as "an objective and impartial process by which the Council may be informed of executive performance and compliance with legislative policies"; and (3) Include all areas "on which the Council requires information in order to perform its legislative duties more responsibly and knowledgeably"; and

WHEREAS, an independent financial audit does not alone provide the necessary information to the Council for the legislative branch review and check upon the executive branch envisioned by the Commission in its description of the Council audit function; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu

1. That it is hereby proposed that the following question be placed on the 1978 General Election ballot:

"Shall Section 3-115 of the Revised City Charter be amended to allow the City Council to conduct performance audits of all agencies and operations of the City?"

Yes _____
No _____

2. That section 3-115 of Article III of the Revised Charter of the City and County of Honolulu be amended to read as follows: Section 3-115. Financial Audit — Within thirty days after the beginning of each fiscal year, the council shall provide for an independent financial audit of all operations of the city and all operations for which the city is responsible and of their funds and accounts for the current fiscal year to be made by a certified public accountant or a firm of certified public accountants. The scope of the audit shall be in accordance with the terms of a written contract to be signed by the presiding officer of the council, which contract shall encourage recommendations for better financial controls and procedures and shall provide for the completion of the audit within a reasonable time after the close of the current fiscal year. A copy of the audit report shall be filed with the city clerk and shall be a public record.

Performance Audit the council may at any time provide for a performance audit of any or all of the agencies and operations of the city and all operations for which the city is responsible.

The scope of the audit shall be in accordance with the terms of an assignment referred to the Office of Council Services by the City Council or a written contract to be signed by the presiding officer of the council, but may include the following activities:

(1) Examination and testing of city agencies' implementation processes to determine whether the laws, policies and programs of the city are being carried out in the most effective, efficient and economical manner; (2) Examination and testing of the internal control systems of local agencies to ensure that such systems are properly designed to safeguard public assets against loss from waste, fraud, or error, to promote efficient operations, and to encourage adherence to prescribed management policies. Said assignment or contract shall encourage recommendations for changes in the organization, management and processes which will produce greater efficiency and effectiveness in meeting the objectives of the programs or operations carried out by the respective city agencies, and shall provide for the completion of the audit within one calendar year. A copy of the audit report shall be filed with the city clerk and shall be a public record.

3. That this resolution shall be submitted to the electors of the City and County of Honolulu at the next general election.

4. That the City Clerk be hereby requested to prepare the necessary ballot for the presentation to the electors at the 1978 general election, the proposal contained in this resolution.

5. That upon approval by a majority of the voters voting in favor of amending the Charter of the City and County of Honolulu as indicated by the number of votes cast and upon official certification of such result, the amendments proposed herein shall take effect.

QUESTION NO. 8

"SHALL THE CITY CHARTER BE AMENDED TO PROVIDE THAT THE PROSECUTING ATTORNEY FOR THE CITY AND COUNTY OF HONOLULU BE AN ELECTIVE OFFICE?"

YES _____
NO _____

The adoption of this proposal will provide for the election of a Prosecuting Attorney for the City and County of Honolulu to serve a term of four years.

The text of Resolution No. 78-279 is reproduced as follows:

RESOLUTION NO. 78-279

TO AMEND ARTICLE VI OF THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU TO PROVIDE FOR AN ELECTED PROSECUTING ATTORNEY.

WHEREAS, Article XIV of the Revised Charter, City and County of Honolulu (RCH), provides for the procedure whereby the Council of the City and County of Honolulu may initiate, by resolution, amendments to said Revised Charter; and

WHEREAS, the function of the Prosecuting Attorney to initiate and pursue criminal prosecutions derives from one of the most important and significant powers granted to the City and County of Honolulu by the State of Hawaii; and

WHEREAS, the Council believes that the Prosecuting Attorney should perform his function and exercise his judgment wholly apart from the rest of the Executive Branch of the City and County of Honolulu; and

WHEREAS, the Council believes that the Prosecuting Attorney will exercise his judgment more responsibly if he is elected by and reports directly to the people of the City and County of Honolulu; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu

1. That it proposes and it is hereby proposed that the following question be placed on the 1978 General Election ballot:

"Shall the City Charter be amended to provide that the prosecuting attorney for the City and County of Honolulu be an elective office?"

2. That it proposes and it is hereby proposed that the Revised Charter of the City and County of Honolulu be amended:

- a. By deleting Chapter 7 of Article IV of RCH in its entirety.
b. By renumbering Chapters 8 through 16 of Article VI of RCH as Chapter 7 through 15, respectively, and renumbering the sections of said chapters accordingly.
c. By renumbering Articles VIII through XV of RCH as Articles IX through XVI, respectively and renumbering the sections of said articles accordingly.
d. By adding a new Article VIII to read as follows:

ARTICLE VIII PROSECUTING ATTORNEY

Section 8-101. Organization — There shall be a department of the prosecuting attorney headed by a prosecuting attorney.

Section 8-102. Election and Term of Office — The prosecuting attorney shall be elected for a term of four years which term shall commence at twelve o'clock meridian on the second day of January following his election.

Section 8-103. Prosecuting Attorney, Qualifications — The prosecuting attorney shall be an attorney licensed to practice and in good standing before the supreme court of the State and who shall have engaged in the practice of law for at least five years, and who shall have been actively involved in criminal cases for at least three years within ten years next preceding his election.

Section 8-104. Compensation. The salary of the prosecuting attorney shall be established by ordinance.

Section 8-105. Powers, Duties and Functions — The prosecuting attorney shall

(a) Attend all courts in the city and conduct, on behalf of the people, all prosecutions therein for offenses against the laws of the State and the ordinances and rules and regulations of the city.

(b) Prosecute offenses against the laws of the State under the authority of the attorney general of the State.

(c) Appear in every criminal case where there is a change of venue from the courts in the city 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 city.

(d) Institute proceedings before the district judges for the arrest of persons charged with or reasonably suspected of public offenses, when he 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 or in such other manner as he shall designate with approval of the district court or in accordance with statute, draw all indictments and attend before and give advice to the grand jury whenever cases are presented to it for its consideration, and investigate all matters which may properly come before him. Nothing herein contained shall prevent the conduct of proceedings by private counsel before courts of record under the direction of the prosecuting attorney.

Section 8-106. Staff —

1. The prosecuting attorney may appoint deputies and other necessary staff, including investigators who shall have all the powers and privileges of a police officer of the city.

2. At the request of the prosecuting attorney, one or more officers of the police department may be detailed by the chief of police for the purpose of doing necessary investigative work and such police officers shall continue to serve on such a detail during the pleasure of the prosecuting attorney and as long as the necessity of such detail exists.

3. The deputy who is designated as first deputy shall, during the temporary absence or disability of the prosecuting attorney, assume the power and perform the duties of the prosecuting attorney.

Section 8-107. 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 approval 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 he succeeds commencing at twelve o'clock meridian on the second day of January following his election.

Section 8-108 — Removal of Prosecuting Attorney. (1) The prosecuting attorney may be removed by recall which shall be initiated upon competition signed by registered voters equal in number to at least ten percent of the votes cast at the last preceding city general election. Signatures from any one council district as provided by this charter for the election of councilmen in excess of forty percent of the total number required on the petition shall not be counted. (2) The prosecuting attorney may be impeached for malfeasance, misfeasance or non-feasance in office. The supreme court of the State shall constitute a board of impeachment in any proceeding for the removal of the prosecuting attorney who may be charged on any of the foregoing grounds. The charges shall be set forth in writing in a petition for impeachment signed by not less than five hundred qualified electors of the city, and said signatures shall be necessary only for the purpose of filing the petition. The petition having once been filed, hearings shall be held on all such charges. The board of impeachment may appoint a master and invest him with power to investigate the charge and report thereon to the board. If the board sustains the charge, the prosecuting attorney shall be deemed removed from office.

3. That it proposes and it is hereby proposed that if the amendment to the Revised charter of the City and County of Honolulu as proposed in paragraph 2 above are adopted by the electors of the city, that the first election for the prosecuting attorney shall take place in the regular election of 1980 subject to all the statutory elections provisions applicable thereto.

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8 CHARTER QUESTIONS

PROPOSED BY THE CITY COUNCIL CITY AND COUNTY HONOLULU

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The following Charter Questions are being submitted to the People of the City and County of Honolulu to be voted upon at the General Election on Tuesday, November 7, 1978.

In accordance with Federal Law, copies of the questions in Ilokano and Chinese are available at the Office of the City Clerk, City Hall, and from the Voter Assistance Official at the polls on election day.

QUESTION NO. 1

"SHALL THE REVISED CITY CHARTER BE AMENDED TO ALLOW ANY CITY, STATE OR FEDERAL OFFICER OR EMPLOYEE TO SERVE AS A MEMBER OF A NEIGHBORHOOD BOARD?"

YES _____ +
NO _____ +

The adoption of this proposal will allow any city, state or federal officer or employee to serve as a member of a neighborhood board, by amending Section 12-119 of the Revised Charter of the City and County of Honolulu to permit the selection of any city, state or federal officer or employee to membership on a neighborhood board under charter provisions regarding the neighborhood plan.

The text of Resolution No. 77-412 is reproduced as follows:

RESOLUTION NO. 77-412

TO AMEND SECTION 12-119, ARTICLE XII OF THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU (1973).

WHEREAS, Section 12-119, Article XII of the Revised Charter, City and County of Honolulu, prohibits city, state, and federal officers and employees from serving in city boards and commissions; and

WHEREAS, under said Charter provision, said prohibition also extends to include membership on neighborhood boards; and

WHEREAS, the Council is of the opinion that the exclusion of public officers and employees from neighborhood boards is not consistent with the intent and purpose of said boards, that is, to increase and assure effective citizen participation and input from all segments of the community in the decisions of the city; and

WHEREAS, the Council desires to have Section 12-119, Article XII of the Revised Charter of the City and County of Honolulu amended to allow any city, state or federal officer or employee who meets the criteria established in the neighborhood plan as provided for in Section 13-104 of the Revised City Charter to serve as a member of a neighborhood board; now therefore.

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That it proposes and it is hereby proposed that the following question be placed on the 1978 general election ballot: "Shall the Revised City Charter be amended to allow any city, state or federal officer or employee to serve as a member of a neighborhood board?"

Yes _____ +
No _____ +

2. That it proposes and it is hereby proposed that the Revised Charter of the City and County of Honolulu, Section 12-119, Article XII, be amended to read as follows:

"Section 12-119. Dual Offices or Positions - No person shall hold more than one public office or position under the city or hold such office or position while holding any other office or position in or under the government of the United States or of the State, but nothing herein shall preclude the holding of an ex officio office or part-time employment with a State or federal agency or the appointment of a city officer or employee to membership on a State commission or board or the selection of any city, State, or federal officer or employee to membership on a neighborhood board under provisions of section 13-104 of this charter, unless such service shall be as a member of the civil service commission or would be inconsistent or incompatible with or would tend to interfere with the duties and responsibilities of the other office, employment or position held by the officer or employee. The term "public office", as used in this section of the charter, shall not include notaries public, reserve police officers or officers of emergency organizations for civilian defense or disaster relief."

3. That this resolution shall be submitted to the electors of the City and County of Honolulu at the next general election.

4. That the City Clerk be hereby requested to prepare the necessary ballot for the presentation to the electors at the 1978 General Election, the proposal contained in this resolution.

5. That upon approval by a majority of the voters voting in favor of amending the Charter of the City and County of Honolulu as indicated by the number of votes cast and upon official certification of such result, the amendment proposed herein shall take effect.

QUESTION NO. 2

In accordance with Resolution 78-237 adopted by the Council of the City and County of Honolulu on September 13, 1978, the following question will be submitted to the people of the City and County of Honolulu to be voted upon at the next General Election on Tuesday, November 7, 1978:

"SHALL THE REVISED CITY CHARTER BE AMENDED TO ALLOW SPECIAL DEPUTIES APPOINTED BY THE CORPORATION COUNSEL WITH THE APPROVAL OF THE CITY COUNCIL TO BE REASONABLY

COMPENSATED FOR SERVICES RENDERED AS SUCH SPECIAL DEPUTIES?"

YES _____ +
NO _____ +

The adoption of this proposal will amend Section 5-204 of the Revised Charter of the City and County of Honolulu to allow special deputies appointed by the corporation counsel with the approval of the city council to be reasonably compensated for services rendered as such special deputies.

The text of Resolution 78-237 is reproduced as follows:

RESOLUTION NO. 78-237

TO AMEND SECTION 5-204.1, ARTICLE V OF THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU (1973).

WHEREAS, Article XIV of the Revised Charter, City and County of Honolulu, provides for the procedures whereby the Council of the City and County of Honolulu may initiate, by resolution, amendments to the Revised Charter of the City and County of Honolulu; and

WHEREAS, Section 5-204.1, Article V of the Revised Charter, City and County of Honolulu, authorizes the Corporation Council to appoint special deputies with the approval of the Mayor, provided such appointment is without cost to the City; and

WHEREAS, the restriction in the cited provision imposed upon the Corporation Counsel limits his opportunity to make such special appointments, especially when he finds it necessary to appoint attorneys with special expertise, such as an antitrust specialist, employment of a Washington, D.C. law firm to represent the City before the U. S. Supreme Court, a lawyer-engineer specialist for construction cost overrun litigation and bond counsel involving bond litigation; and

WHEREAS, the Council is of the opinion that such condition of appointment of special deputies is unrealistic; now, therefore.

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That it proposes and it is hereby proposed that the following question be placed on the 1978 General Election ballot:

"Shall the Revised City Charter be amended to allow special deputies appointed by the Corporation Counsel with the approval of the City Council to be reasonably compensated for services rendered as such special deputies?"

Yes _____ +
No _____ +

2. That it proposes and it is hereby proposed that the Revised Charter of the City and County of Honolulu, Section 5-204.1, Article V, be amended to read as follows:

"Section 5-204. Special Deputies and Counsel -
1. Special deputies may be appointed by the corporation counsel [without cost to the city and] with the approval of the City Council [mayor] such appointment shall be based on a contract specifying the compensation, if any, to be paid a special deputy. The compensation shall be based on the prevailing rate for the specified services to be rendered."

3. That this resolution shall be submitted to the electors of the City and County of Honolulu at the next general election.

4. That the City Clerk be hereby requested to prepare the necessary ballot for presentation of the proposal contained in this resolution to the electors at the 1978 General Election.

5. That upon approval by a majority of the voters for amending the Charter of the City and County of Honolulu as indicated by the number of votes cast and upon official certification of such result, the amendment proposed herein shall take effect.

QUESTION NO. 3

"SHALL THE REVISED CHARTER OF THE CITY AND COUNTY BE AMENDED TO REQUIRE THAT THE ANNUAL BUDGET ORDINANCES BE ADOPTED NOT LESS THAN THIRTY DAYS BEFORE THE BEGINNING OF THE NEW FISCAL YEAR?"

YES _____ +
NO _____ +

The adoption of this proposal will provide the council an additional fifteen-day period to consider the annual budget ordinances for the new fiscal year, by amending Section 8-104 of the Revised Charter of the City and County of Honolulu by moving the deadline in which the council shall adopt the annual budget ordinances from forty-five days to thirty days before the beginning of the new fiscal year.

The text of Resolution No. 78-271 is reproduced as follows:

RESOLUTION NO. 78-271

INITIATING AN AMENDMENT TO THE CITY CHARTER FOR THE CITY AND COUNTY OF HONOLULU.

WHEREAS, Article XIV of the Revised Charter, City and County of Honolulu, establishes procedures whereby the Council of the City and County of Honolulu may initiate, by resolution, amendments to the Revised Charter of the City and County of Honolulu; and

WHEREAS, Article VIII of the Revised City Charter requires that the

annual budget ordinances be adopted by the Council not less than forty-five days before the beginning of the new fiscal year; and

WHEREAS, Article III of the Revised City Charter requires that, at the meeting at which the budgets are adopted, revenue measures necessary to fund the budgets shall also be enacted; and

WHEREAS, real property taxes, being the largest single source of general revenues for the City and County of Honolulu, are a critical element of the annual budgets; and

WHEREAS, the effect of the charter requirements is that the real property tax rates for Honolulu must be adopted in mid-May rather than June 20 as is provided by Hawaii Revised Statutes, Section 248-2 (b); and

WHEREAS, the statutes further require that a minimum of two public hearings be held before the tax rates are adopted; and

WHEREAS, the public hearing notice for the second rate hearing must state the rate which the Council intends to adopt; and

WHEREAS, the deadline for certification of net taxable real property values is the first day of May; and

WHEREAS, the resulting fifteen-day period between certification of net taxable values and adoption of the annual budgets is not sufficient for adequate consideration of the budgets either in terms of the tax base available to finance the proposed expenditures or in light of the comments presented at the public hearing on the tax rates; and

WHEREAS, changing the deadline for budget adoption to thirty days before the beginning of the new fiscal year would provide one month between the deadline for certification of net taxable values and adoption of the budgets; now, therefore.

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That it proposes and it is hereby proposed that the following question be placed on the 1978 general election ballot:

"Shall the Revised Charter of the City and County be amended to require that the annual budget ordinances be adopted not less than thirty days before the beginning of the new fiscal year."

Yes _____ +
No _____ +

2. That it proposes and it is hereby proposed that Article VIII, Section 8-104, Paragraph 2, of the Revised Charter of the City and County of Honolulu be amended by deleting the bracketed material and replacing it with that which is underlined as follows:

"2. Upon the conclusion of the hearings, the council may add new items to, or delete or amend any item or items in the proposed executive program and annual budget and proposed annual legislative budget. The council shall adopt the executive program and pass on third reading the annual executive and legislative budget ordinances not less than [forty-five] thirty days before the ensuing fiscal year begins. If final action is not taken on or prior to that day, the budget ordinances as submitted shall be deemed to have been enacted."

Notwithstanding the above, the City Council shall be authorized additional time beyond the above mentioned thirty days to reconsider and take final action on any vetoed item or items or portion or portions of the annual budgets vetoed by the Mayor. The number of additional days, procedures and requirements as to votes shall be identical with that of bills which have been disapproved by the Mayor.

3. That this resolution shall be submitted to the electors of the City and County of Honolulu at the next general election.

4. That the City Clerk be hereby requested to prepare the necessary ballot for the presentation to the electors at the 1978 General Election, the proposal contained in this resolution.

5. That upon approval by a majority of the voters voting in favor of amending the Charter of the City and County of Honolulu as indicated by the number of votes cast and upon official certification of such result, the amendments proposed herein shall take effect.

QUESTION NO. 4

"SHALL SECTION 8-305 OF THE REVISED CITY CHARTER BE AMENDED TO PROHIBIT THE MAYOR, THE CORPORATION COUNSEL OR ANY DEPARTMENT FROM EXERCISING CONTROL OVER THE ORGANIZATION, PROGRAMS, FUNCTIONS, OPERATIONS OR EXPENDITURES OF THE COUNCIL THROUGH THE CONTRACT APPROVAL PROCESS?"

YES _____ +
NO _____ +

The adoption of this proposal will amend Section 8-305 of the Revised Charter of the City and County of Honolulu to prohibit the executive branch of the City and County of Honolulu to control operations and expenditures of the council through the contract approval process.

The text of Resolution No. 78-272 is reproduced as follows:

RESOLUTION NO. 78-272

TO AMEND SECTION 8-305, ARTICLE VIII OF THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU PERTAINING TO THE EXECUTION OF CONTRACTS.

WHEREAS, Article XIV of the Revised Charter, City and County of Honolulu, provides for the procedures whereby the Council of the City and County of Honolulu may initiate, by resolution, amendments to the Revised Charter of the City and County of Honolulu; and

WHEREAS, the City Council desires to amend Section 8-305 to prohibit attempts by the Executive branch to control operations and expenditures of the Council through the contract approval process; and

WHEREAS, such a prohibition is consistent with the intent of the Charter Commission in adopting Section 1-103 of the Revised Charter of the City and County of Honolulu establishing the legislative and executive branches as "coordinate" and independent branches of city government; and

WHEREAS, the final Report of the Charter Commission City and County of Honolulu 1971-72 states that the word "coordinate" is to be interpreted to mean "co-equal in rank, importance, independence and dignity"; now, therefore.

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That it is hereby proposed that the following question be placed on the 1978 General Election ballot:

"Shall Section 8-305 of the Revised City Charter be amended to prohibit the mayor, the corporation counsel or any department from exercising control over the organization, programs, functions, operations or expenditures of the Council through the contract approval process?"

Yes _____ +
No _____ +

2. That Section 8-305, Article VII of the Revised Charter of the City and County of Honolulu be amended to read as follows:

1. Before execution, all written contracts to which the city is a party shall be approved by the corporation counsel as to form and legality. Except as otherwise provided, all such contracts shall be signed by the mayor. **Except as provided in paragraph (2) below, nothing in this section and this article shall be construed as granting any authority to the mayor, the corporation counsel or any department to exercise control over the organization, programs, functions, operations or expenditures of the legislative branch.**

2. Before execution, contracts involving financial obligations of the city shall also be approved by the director of finance as to the availability of funds in the amounts and for the purposes set forth therein. Such contracts shall not extend beyond the term for which an appropriation to finance such obligations has been made, except as otherwise provided by this charter. This paragraph shall not apply to obligations for the procurement of utility services.

3. That this resolution shall be submitted to the electors of the City and County of Honolulu at the next general election.

4. That the City Clerk be hereby requested to prepare the necessary ballot for the presentation to the electors at the 1978 general election, the proposal contained in this resolution.

5. That upon approval by a majority of the voters voting in favor of amending the Charter of the City and County of Honolulu as indicated by the number of votes cast and upon official certification of such result, the amendments proposed herein shall take effect.

QUESTION NO. 5

"SHALL SECTION 8-106.1 OF THE REVISED CITY CHARTER BE AMENDED TO REQUIRE THE DIRECTOR OF FINANCE TO PROCESS REQUISITIONS, PURCHASE ORDERS, VOUCHERS, WARRANTS OR CONTRACTS FOR LEGISLATIVE EXPENDITURES WITHIN THREE WORKING DAYS FROM DATE OF RECEIPT THEREOF UNLESS PROHIBITED BY COURT ORDER?"

YES _____ +
NO _____ +

The adoption of this proposal will amend Section 8-106.1 of the Revised Charter of the City and County of Honolulu to require the Director of Finance to process requisitions, purchase orders, vouchers, warrants or contracts for legislative expenditures within three working days from the date of receipt unless prohibited by court order.

The text of Resolution No. 78-273 is reproduced as follows:

RESOLUTION NO. 78-273

TO AMEND SECTION 8-106.1, ARTICLE VIII OF THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE LEGISLATIVE BUDGET ORDINANCE

WHEREAS, Article XIV of the Revised Charter, City and County of

Honolulu, provides for the procedures whereby the Council of the City and County of Honolulu may initiate, by resolution, amendments to the Revised Charter of the City and County of Honolulu; and

WHEREAS, the City Council desires to amend Section 8-106.1 of the Revised Charter, City and County of Honolulu to clarify the duties and functions of the Director of Finance by requiring that requisitions, purchase orders, warrants or contracts for legislative branch expenditures be processed within three working days from date of receipt thereof unless prohibited by court order; and

WHEREAS, the 1972 Charter Review Commission (hereinafter "Commission") established the legislative branch and executive branch as co-equal and coordinate branches of the City government; and

WHEREAS, the Commission defined "coordinate" as being co-equal in rank, importance, independence and dignity; and

WHEREAS, the Director of Finance has heretofore on occasion refused to process a voucher, warrant or contract and thereby preventing the legislative branch from functioning as an coordinate and independent body as envisioned by the Commission; now, therefore.

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That it prepare and it is hereby proposed that the following question be placed on the 1978 General Election ballot:

"Shall Section 8-106.1 of the Revised City Charter be amended to require the Director of Finance to process requisitions, purchase orders, vouchers, warrants or contracts for legislative expenditures within three working days from date of receipt thereof unless prohibited by court order?"

Yes _____ +
No _____ +

2. That Section 8-106.1 of Article VIII of the Revised Charter of the City and County of Honolulu be amended to read as follows:

1. Administration and enforcement of the legislative budget ordinance. Immediately following the enactment of the legislative budget ordinance, the presiding officer of the council shall submit to the chief budget officer a schedule showing the expenditures of the legislative branch anticipated for each quarter of the fiscal year. The schedule shall not require the approval of nor can it be altered by the mayor, and the council may proceed without any other authority to incur obligations and make expenditures after the schedule has been submitted. The director of finance shall approve or issue any requisition, purchase order, voucher, warrant or contract, in accordance with the schedule and upon request of the presiding officer of the council. **Barring judicial order prohibiting the honoring of any specific requisition, purchase order, voucher, warrant or contract, the director of finance shall process the same for payment within three working days from date of receipt thereof.** Appropriations for the legislative branch shall be considered valid only for the fiscal year for which made, and any part of such appropriation which is not encumbered or expended shall lapse at the end of the fiscal year.

3. That this resolution shall be submitted to the electors of the City and County of Honolulu at the next general election.

4. That the City Clerk be hereby requested to prepare the necessary ballot for the presentation to the electors at the 1978 general election, the proposal contained in this resolution.

5. That upon approval by a majority of the voters voting in favor of amending the Charter of the City and County of Honolulu as indicated by the number of votes cast and upon official certification of such result, the amendments proposed herein shall take effect.

QUESTION NO. 6

"SHALL SECTION 3-108 AND SECTION 5-203 OF THE REVISED CITY CHARTER BE AMENDED TO ALLOW THE CITY COUNCIL TO AUTHORIZE STAFF COUNSEL OF THE OFFICE OF COUNCIL SERVICES TO BE ITS LEGAL REPRESENTATIVE IN DISPUTES WITH THE EXECUTIVE BRANCH?"

YES _____ +
NO _____ +

The adoption of this proposal will amend Sections 3-108 and 5-203 of the Revised Charter of the City and County of Honolulu to allow the city council to authorize staff counsel of the office of council services to be its legal representative in disputes with the executive branch.

The text of Resolution No. 78-277 is reproduced as follows:

RESOLUTION NO. 78-277

TO AMEND SECTION 3-108, ARTICLE III OF THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU PERTAINING TO THE POWERS, DUTIES AND FUNCTIONS OF THE OFFICE OF COUNCIL SERVICES, AND SECTION 5-203, ARTICLE V OF THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU PERTAINING TO THE POWERS, DUTIES