

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

July 17, 1998

Committee  
Report No. 98-119

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

Chair and Members:

Your Committee of the Whole, having met on June 15, 1998, June 24, 1998, June 29, 1998, and June 30, 1998, makes reference to the following proposed resolutions:

1. Resolution No. 98-91, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE NONPARTISAN ELECTION OF MEMBERS OF THE COUNCIL AND THE MAYOR"; and
2. Resolution No. 98-92, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE PROCEDURE FOR FILLING A VACANCY IN THE OFFICE OF A COUNCIL MEMBER".

The purpose of proposed Resolution No. 98-91 is to initiate a Charter amendment that would institute nonpartisan elections for all elected County offices. The purpose of proposed Resolution No. 98-92 is to initiate a Charter amendment that would amend the procedures for filling a vacancy in a Council office of six months or more. Your Committee notes that the Council may initiate a Charter amendment, pursuant to Section 14-1 of the Charter of the County of Maui, by passing a resolution on two readings by a vote of six or more members. Your Committee further notes that both of the proposed resolutions were passed on first reading by an 8-1 vote of the Council at its meeting of June 5, 1998. Your Committee further notes that Committee Report No. 98-83 was amended to recommit Resolution Nos. 98-91 and 98-92 to your Committee of the Whole.

At its meeting of June 15, 1998, your Committee met with the Corporation Counsel and the County Clerk.

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Your Committee also received written and verbal testimony from Lahaina resident Jo Anne Johnson expressing concern about potential logistical difficulties associated with nonpartisan elections. She noted that Kaua'i County voters approved nonpartisan elections in 1996 and that there are already efforts by members of the Kaua'i County Council to repeal or modify the nonpartisan system due to unintended administrative problems. Lahaina resident Jim Johnson and Ha'iku resident Jim Smith also testified in opposition to nonpartisan elections. Mr. Smith asserted that there are important ideological differences between the political parties at the local level of government. Mr. Johnson stated that members of the Council need to think through all possible ramifications of nonpartisan elections before sending the proposed Charter amendment to the voters. Preventing voter confusion should be a primary concern, he said.

Your Committee notes that proposed Resolution No. 98-91 was recommitted because of concern that its language might be confusing or too lengthy and that the election process might be too burdensome. Under the election format described in proposed Resolution No. 98-91, County elections would be decided on the basis of two "special elections" every two years. The first special election would occur in September to coincide with State and Federal party primaries. The second special election would occur in November to coincide with State and Federal general elections. For each seat, the second special election would serve as a runoff for September's top two vote recipients.

Your Committee noted that under proposed Resolution No. 98-91 each County race would be decided in November at the second special election, even if a candidate were to receive a majority vote in September at the first special election. Thus, a successful candidate would likely have to run in two contested elections (September and November). Your Committee noted that, under the current partisan format, many candidates have a contested race at only one election (either the primary or the general). Thus, the proposed nonpartisan system could provide for a more burdensome election process for some candidates. Your Committee expressed concern about the impact of this potential burden and also about the necessarily lengthy language used to describe the election system in the proposed resolution. Your Committee noted that the preference for having all elections decided in November was the

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historical fact that the general election has a higher voter turnout than the primary election.

Your Committee discussed the possibility of having a single election for County races. Your Committee noted that a single, winner-take-all election would not be desirable; the candidate with the highest plurality of votes in a given race could be opposed by the vast majority of voters, whose votes might be split among several other candidates. Your Committee, therefore, decided to review a single-election system called instant-runoff voting ("IRV"), which purports to ensure that any elected candidate will be one supported by a majority of voters. Your Committee noted that IRV was discussed at the Hawai'i State Association of Counties Year-End Conference on Lana'i on June 10, 1998. IRV allows voters to indicate their order of preference for all candidates for a given seat. IRV tabulation is based on the principle that any vote cast for a last-place candidate shall be transferred to the next-choice candidate on the ballot until one candidate has a majority of votes. The tabulation of votes commences with a count of the first-choice votes. Any candidate with a majority of first-choice votes is declared the winner. If there is no candidate with a majority, the candidate with the fewest first-choice votes is eliminated from contention; ballots that listed this defeated candidate as the first preference are redistributed (i.e., transferred to other candidates) to their next-choice candidates who are still in the race. If after redistribution there still is no candidate with a majority of votes, the new "last-place candidate" is eliminated and ballots that had been allotted to that candidate are redistributed to their next-choice candidates who are still in the race. The process continues in a graduated series of "runoffs" until one candidate receives a majority of votes or only a single candidate remains.

At the meeting, Councilmember Sol P. Kaho`ohalahala distributed the following articles that advocate for IRV (found on the Internet at the indicated addresses):

- "Instant Runoff Voting -- A Cheaper, Better Way than Run-Offs", by Rob Richie and Steven Hill  
<<http://www.iserv.net/~dknight/pr/runoff.html>;
- "Instant Runoff Voting (IRV) -- A Fairer Way to Conduct Single-Winner Elections", by The Center for Voting and Democracy  
<<http://worldpolicy.org/americas/democracy/av.html>>; and

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- "How to choose a mayor most Seattle voters want", *The Seattle Times*, by Lester Goldstein  
<[http://www.seattletimes.com/extra/browse/html97/gold\\_082997.html](http://www.seattletimes.com/extra/browse/html97/gold_082997.html)>.

Your Committee noted that, according to the documents, IRV or similar systems are in use in Australia (parliamentary elections), Ireland (presidential elections), and the City of Cambridge, Massachusetts (council and school-board elections).

Your Committee noted that IRV might increase voter turnout. Voters would know that all County races would be decided in a single day and that because voters would be allowed to indicate their preference beyond their first choice for each office, every ballot could play a role in the outcome of races. In addition, your Committee noted that IRV voting could ease candidates' fundraising obligations because money would only need to be raised for a single race. Furthermore, your Committee noted that negative campaigning would likely be minimized under IRV; a candidate would not be as eager to anger an opposing candidate's supporters because those supporters' ballots could be important to other candidates. In other words, all candidates would presumably want to rank as high as possible on all voters' list of preferences. Also, voters could feel free to vote for their favorite candidate, even if that candidate is not considered viable or particularly popular, without fear of throwing away their votes or being a spoiler.

The County Clerk expressed concern about the mechanical means by which voters' preferences would be indicated in IRV and suggested that sample ballots be compiled from other jurisdictions that currently use similar systems.

Your Committee recessed its meeting until 9:00 a.m. on June 24, 1998, in order to provide Councilmember Kaho`ohalahala and the County Clerk the opportunity to gather further information on IRV and other possible means of making Maui County's election system fairer, simpler, and more efficient.

By memorandum dated June 17, 1998, Councilmember Kaho`ohalahala transmitted a document entitled "GUIDE TO THE PR-STV ELECTION SYSTEM," provided by the Republican of Ireland's Minister for the Environment and Local

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Government regarding its instant runoff voting system. The guide included a sample presidential ballot.

By memorandum dated June 19, 1998, Councilmember Kaho`ohalahala transmitted sample ballots and voter instructions provided by the City of Cambridge, Massachusetts.

By memorandum dated June 22, 1998, your Committee Chair transmitted voter turnout statistics for September elections (primary) and November elections (general) for the State of Hawaii.

By memorandum dated June 23, 1998, Councilmember Kaho`ohalahala transmitted a letter from Councilmember Kaipō Asing, County of Kaua`i, transmitting Kaua`i County's Charter provision regarding nonpartisan elections and two proposed resolutions that would amend the current provision to: (1) eliminate nonpartisan elections; and (2) amend the nonpartisan election process for at-large Council members.

At its reconvened meeting of June 24, 1998, your Committee met with the Corporation Counsel, a Deputy Corporation Counsel, and the County Clerk.

Kihei resident Gene Thompson testified in support of nonpartisan elections as "a strike for good government" and urged the Council to strive for a simple voting system. Wailuku resident Ry Barbin, Chair of the Maui County Democratic Party, stated that the local Democratic, Green, and Republican parties oppose nonpartisan elections. He said that issues relating to election formats should be proposed by the Charter Commission, not the Council. As incumbents, the Council members have a conflict of interest on this issue, he asserted. Mr. Barbin stated that proposed Resolution No. 98-91 would require two races for most County seats, which he said would make campaigns more costly. Finally, he opined that "money is a corrupting influence" in politics and, if the Council takes any action, it should seek means of minimizing that influence. Wailuku resident Glenn Shepherd testified in support of putting the issue of nonpartisan elections on the ballot and urged your Committee to discount the opinions of "party bosses" who he alleged are fearful of losing power. Lahaina resident Jo Anne Johnson stated that IRV might be too confusing for most voters

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and requested that any proposed election format be as free from confusion as possible.

Your Committee viewed an excerpt of a videotape prepared by The Center for Voting and Democracy relating to a 1996 proposal in the City and County of San Francisco, California to institute IRV for mayoral elections and a similar system—"proportional representation"—for multi-member legislative districts. The videotape graphically exhibited hypothetical vote-tabulation scenarios under IRV and asserted that the system is as easy as "1, 2, 3."

After viewing the videotape, Ohio resident and IRV advocate Philip Macklin (who is also a part-time Kihei resident) provided historical background about IRV and answered your Committee's questions about the system. Mr. Macklin explained that IRV and proportional-representation systems had been used in many American jurisdictions in the early part of this century, but fell into disfavor for several often illegitimate reasons unrelated to IRV's worthiness as an election system. As an aside, Mr. Macklin noted that the advent of nonpartisan elections does not eliminate the influence of political parties. In other jurisdictions, parties often endorse and support like-minded candidates in nonpartisan races, he said. Finally, he expressed admiration for your Committee's consideration of election reform.

Lahaina resident Jim Johnson testified that the videotape helped convince him that IRV is an idea worth considering. He expressed gratitude to Mr. Macklin for his responses to your Committee's questions.

Kaupo resident Jonathan Starr testified that he was "intrigued by preference voting," but expressed concern as to whether the current election system had the capabilities to implement it.

In response to your Committee's questions, the County Clerk stated that the current election system probably could not accommodate IRV because of problems with ballot design and vote tabulation. The County would likely have to incur the cost of contracting a different elections vendor, he said.

Your Committee recessed its meeting until 9:00 a.m. on June 29, 1998, in order to provide the County Clerk the opportunity to gather further information on

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costs associated with computer hardware and software systems that would be necessary to implement IRV.

By memorandum dated June 25, 1998, your Council Chair transmitted a letter from the Corporation Counsel dated June 19, 1998, providing a written legal opinion regarding the proper treatment of blank votes when determining whether a proposed Charter amendment is approved or disapproved. The Corporation Counsel's opinion stated that, for County elections, blank ballots have no effect and "are not considered in determining whether a proposed Charter amendment is approved or disapproved."

At its reconvened meeting of June 29, 1998, your Committee met with the Corporation Counsel, a Deputy Corporation Counsel, and the County Clerk.

Your Committee received the following materials:

- A memorandum from the County Clerk, comparing the existing election structure in the City of Cambridge, Massachusetts, with the proposal for IRV in Maui County;
- Written testimony from Wailuku resident Sally Raisbeck, expressing support for the IRV concept, but nonetheless urging the Committee to pursue only "incremental change" for the time being; and
- A memorandum dated June 29, 1998, from Councilmember Kaho`ohalahala, transmitting: (1) a draft proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE NONPARTISAN ELECTION OF MEMBERS OF THE COUNCIL AND THE MAYOR"; and (2) a draft proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO NONPARTISAN PREFERENCE VOTING". The purpose of the draft proposed resolution is to initiate a Charter amendment that would provide the general guidelines for "preference" or IRV voting for County elections. The purpose of the draft proposed bill is to implement preference voting, pursuant to the draft proposed resolution initiating a Charter amendment, and to provide details of the vote-tabulation system in preference voting.

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Mr. Barbin testified to reiterate his request that the Council refrain from considering election matters such as nonpartisan elections and IRV. The Charter Commission would be a better forum, he said.

Ms. Raisbeck testified that party labels are not predictive of how members will vote on Council issues and are actually misleading to the public.

Your Committee reviewed the draft proposed resolution to initiate a Charter amendment instituting nonpartisan elections and IRV, denominated "nonpartisan preference voting." The draft proposed resolution would provide the enabling authority for nonpartisan preference voting in a concise format. The draft proposed bill would provide the details with respect to vote tabulation and other technical aspects of the voting.

Your Committee further noted that nonpartisan preference voting is a much different system than the election system currently used for Federal and State races. Therefore, your Committee noted that, if nonpartisan preference voting were instituted, it might be less confusing for the electorate if County elections were held in odd-numbered years (Federal and State elections are conducted in even-numbered years). However, your Committee expressed opposition to a proposed amendment to the draft proposed resolution that would have provided for County elections in odd-numbered years. Your Committee noted that voters might be confused by the proposal; that voters might not want to have elections of some sort (County, Federal, or State) in every calendar year; and that election costs might be substantially increased if the County were to conduct elections on its own, without the assistance it now receives from the State.

Your Committee further noted that the issues of nonpartisan elections and IRV are distinct, and therefore, perhaps should be separated into two different proposed Charter amendments. Therefore, your Committee requested that the Corporation Counsel separate the issues into two draft proposed resolutions.

Your Committee recessed its meeting until 9:00 a.m. on June 30, 1998, in order to provide the Corporation Counsel the opportunity to prepare the draft proposed resolutions.



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At its reconvened meeting of June 30, 1998, your Committee met with the Corporation Counsel and the County Clerk.

Your Committee received the following materials:

- E-mail message from Rob Richie, Executive Director of The Center for Voting and Democracy, Washington, D.C., to Legal Analyst David Raatz, dated June 30, 1998, providing information regarding instant-runoff voting; and
- A memorandum dated June 30, 1998, from the Corporation Counsel, transmitting two proposed redrafts of resolutions respectively entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE NONPARTISAN ELECTION OF MEMBERS OF THE COUNCIL AND THE MAYOR" (modifying proposed Resolution No. 98-91) and "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO A PROCESS FOR ELECTION OF MEMBERS OF COUNCIL AND THE MAYOR BY MEANS OF PREFERENCE VOTING". The respective purposes of the proposed resolutions are to propose Charter amendments for (1) nonpartisan elections; and (2) preference voting (in order to separate the issues into distinct proposals).

Your Committee Chair expressed the view that the Council, as a policy decision, should decide whether the proposal for nonpartisan elections should include preference voting. To have two separate election-related questions on the ballot in November would unnecessarily confuse the voters, according to your Committee Chair. There would also be confusion as to the ultimate outcome if both of the proposed Charter amendments were to be approved by a majority of the votes cast, according to your Committee Chair.

The Corporation Counsel provided a review of the draft proposed resolutions that he prepared to separate the issues of nonpartisan elections and preference voting. He responded to your Committee's legal questions about the draft proposed resolutions and explained that if both proposed Charter

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amendments were adopted, the County would have nonpartisan preference voting. Nonpartisan elections in a two-election format (as outlined in proposed Resolution No. 98-91) and "partisan preference voting" (candidates would be identified by party label, but primaries would not be held) are the possible outcomes if one, but not both, of the proposed Charter amendments were adopted, according to the Corporation Counsel.

The County Clerk noted that historically there has been a high rate of blank ballots on proposed Charter amendments. Research has revealed that the blank ballots often rise from: (1) voters' unwillingness to spend a lot of time in the voting booth reviewing complicated Charter amendments; or (2) their lack of understanding about the purpose of proposed Charter amendments. The County Clerk expressed his personal opinion that the Council should present a single question regarding the format of County elections. Finally, the County Clerk noted that: (1) the State's newly proposed election system, using "marksense" ballots, might prove to be compatible with preference voting; and (2) the proprietary tabulation software used in Cambridge could be modified, for a fee, to function in Maui County if preference voting is instituted.

Your Committee failed to support a motion to recommend approval of the draft proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE NONPARTISAN ELECTION OF MEMBERS OF THE COUNCIL AND THE MAYOR", submitted by Councilmember Kaho`ohalahala on June 29, 1998.

Your Committee expressed a desire to focus on the issue of nonpartisan elections, which the Committee and the Council have been considering throughout the Council term, and to defer consideration of preference or instant-runoff voting. Nonpartisan elections have been proposed because the issues before the community are not of a partisan nature and County government does not, or should not, operate on the basis of partisanship, your Committee noted. According to your Committee, the implementation of nonpartisan elections can be an important step forward in the promotion of good government, and this objective should not be diluted by unrelated election reforms, however worthy.

Your Committee voted to amend Resolution No. 98-91 by deleting the phrase "for the primary and general election" from the last sentence of Section

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3-1 of the Charter. Your Committee noted that, under the nonpartisan-election scheme of proposed Resolution No. 98-91, "primary" and "general" elections would no longer exist at the County level. The corresponding terms would be "first special election" and "second special election," respectively.

Your Committee voted to amend Resolution No. 98-92 to provide that an election to fill a Council vacancy will occur for vacancies of 15 months or more instead of one year. Your Committee noted that the County Clerk is provided up to 90 days to conduct a special election to fill a long-term Council vacancy. Therefore, if a special election were held for a Council vacancy of one year, the winner of the special election could serve only nine months in office. Your Committee expressed the view that a costly special election may not be warranted when the elected candidate would serve such a short time. The amended language guarantees that a special election will only be held to fill a Council vacancy when the winner will be able to serve at least one year in office.

Your Committee noted that keeping election costs down and increasing voter turnout are important policy objectives. Your Committee further noted that preference voting, or instant-runoff voting, appears to be a worthy means of pursuing those goals. Therefore, your Committee voted to have the matter of preference voting, or instant-runoff voting, be referred to your Committee as a separate item for consideration.

Your Committee of the Whole RECOMMENDS the following:

1. That Resolution No. 98-91, Draft 1, attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE NONPARTISAN ELECTION OF MEMBERS OF THE COUNCIL AND THE MAYOR" PASS SECOND AND FINAL READING;
2. That Resolution No. 98-92, Draft 1, attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE PROCEDURE FOR FILLING A VACANCY IN THE OFFICE OF A COUNCIL MEMBER" PASS SECOND AND FINAL READING; and

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3. That the matter of preference voting, also known as instant-runoff voting, be REFERRED to your Committee of the Whole.

Adoption of this report is respectfully requested.


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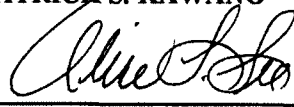
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WAYNE K. NISHIKI Chair

  
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PATRICK S. KAWANO Member

  
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ALAN M. ARAKAWA Vice-Chair

  
\_\_\_\_\_  
ALICE L. LEE Member

  
\_\_\_\_\_  
JAMES "MIMO" APANA Member

  
\_\_\_\_\_  
DENNIS Y. NAKAMURA Member *do not concur*

  
\_\_\_\_\_  
J. KALANI ENGLISH Member *with Reservations*

  
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CHARMAINE TAVARES Member

  
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SOL P. KAHO'OHALAHALA Member

**COUNCIL OF THE COUNTY OF MAUI**

**WAILUKU, HAWAII 96793**

**CERTIFICATION OF ADOPTION**

It is **HEREBY CERTIFIED** that the following were voted on separately by the Council of the County of Maui, State of Hawaii, on the 17th day of July, 1998:

**RESOLUTION NO. 98-91, DRAFT 1, ENTITLED "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE NONPARTISAN ELECTION OF MEMBERS OF THE COUNCIL AND THE MAYOR" PASS SECOND AND FINAL READING:**

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

**RESOLUTION NO. 98-92, DRAFT 1, ENTITLED "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1993) RELATING TO THE PROCEDURE FOR FILLING A VACANCY IN THE OFFICE OF A COUNCIL MEMBER" PASS SECOND AND FINAL READING:**

<b>MEMBERS</b>	<b>Patrick S. KAWANO Chair</b>	<b>James "Kimo" APANA Vice-Chair</b>	<b>Alan ARAKAWA</b>	<b>J. Kalani ENGLISH</b>	<b>Sol P. KAHO`OHALAHALA</b>	<b>Alice L. LEE</b>	<b>Dennis Y. NAKAMURA</b>	<b>Wayne K. NISHIKI</b>	<b>Charmaine TAVARES</b>
<b>ROLL CALL</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Excused</b>	<b>Aye</b>	<b>Aye</b>

  
COUNTY CLERK