

ACT 73

A Bill for an Act Relating to the Framing and Adopting of Charters by the Counties.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** The purpose of this Act is to provide the counties of this State with an increased measure of self-government and responsibility by permitting them to form charter commissions and select their own form of local government as provided by the procedures herein.

SECTION 2. The Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new chapter and sections which shall be appropriately numbered and shall read as follows:

**“CHAPTER.....
COUNTY CHARTERS**

Section 1. **Applicability.** All counties of the State which do not have a charter shall and all counties of the State which have a charter may,

create a charter commission as provided herein. No provision of this chapter, however, shall be held to alter or restrict any provision of any existing charter, except as hereinafter specifically provided.

Section 2. Definitions. Whenever used in this chapter, unless a different meaning clearly appears from the context:

The term "chairman of the county" shall mean the chairman of the board of supervisors of the counties of Hawaii, Kauai and Maui and the mayor of the city and county of Honolulu.

The term "county or counties" shall mean the city and county of Honolulu and the counties of Hawaii, Kauai and Maui.

The term "legislative body of the county" shall mean the board of supervisors of the counties of Hawaii, Kauai and Maui and the city council of the city and county of Honolulu.

Section 3. Charter commissions. The chairman of each county may appoint a charter commission with the approval of the legislative body of the county, which shall consist of 11 members, one of whom shall be appointed by him as the chairman of the commission and at least one of whom shall be appointed from each state representative district within the county. Any vacancy in the membership of the commission shall be filled by the chairman of the county with the approval of the legislative body of the county. If, however, within thirty days of the effective date of this Act, the chairman of the county has not appointed the members of the commission, the legislative body of the county may appoint the members and select the chairman of the commission.

Section 4. Qualifications of commission members. Each commission member shall be a registered voter and resident of the county for at least three years prior to his appointment. Except for members of the school advisory councils of the counties, elected officials of the state or county governments shall not be eligible for appointment.

Section 5. Commission organization and procedures. No later than fifteen days after its members have been appointed, the commission shall organize and hold its first meeting and shall adopt such rules and regulations for the conduct of its business as it may deem necessary and desirable. The provisions of chapter 6C of the Revised Laws of Hawaii 1955, as amended, shall not be applicable hereto. The majority of the members of the commission shall constitute a quorum for the transaction of business.

Section 6. Duties and functions of commissions. The commission shall study and analyze the existing governmental structure of the county for the purpose of securing information that will enable it to draft a proposed charter adapted to the requirements of such county and designed to provide for the people of such county, a more efficient and responsible form of government. The study of any subject relevant to the government, property or other affairs of the county, or of the laws relating thereto, or of any matter or thing deemed by the commission to be pertinent thereto, and consistent with the purpose for which the commission was created, shall be deemed within the scope of the commission's work. If, after its study, the commission decides that a charter is not desirable, it shall so report to the legislative body of the county and by resolution of the legislative body of the county the commission shall be dissolved. If, however, the commission decides to draft a

charter, the charter shall set forth the structure of the county government, the manner in which it is to operate and the powers of the county in local affairs and shall provide for orderly transition from the present government to government under the charter.

Section 7. Powers of the commission. The commission shall hold public hearings and sponsor public forums and in general provide for the widest possible public information and discussion respecting the purpose and progress of its work. It shall receive the assistance of any officer or employee of the county without extra compensation as it may request to carry out its functions. It may, with the approval of the legislative body of the county, appoint staff members and consultants as it deems necessary.

Section 8. Submission of proposed charter to legislative body of the county. Within one year of its appointment, the commission shall submit a report in writing on its activities, findings and recommendations to the legislative body of the county together with a draft of the proposed charter. The legislative body of the county may in turn propose one or more sections as alternative or alternatives to any part of the proposed charter and shall return the charter with the alternatives to the commission for its study within 30 days after it has received the proposed charter from the commission.

Section 9. Submission of proposed charter to county clerk. If the legislative body of the county proposes no alternative sections to the charter, it shall submit a draft of the proposed charter to the county clerk within thirty days after it has received the charter from the commission. If, however, alternatives are submitted by the legislative body of the county to the commission, then the commission shall accept or reject the alternatives and shall submit a draft of the proposed charter together with any alternatives proposed by the legislative body of the county which have not been accepted by the commission and incorporated in its draft, to the county clerk within thirty days after the charter has been returned to it.

Section 10. Publication and submission to electors. The county clerk shall provide for the submission of the proposed charter with any alternatives as provided by section 9 of the chapter to the qualified electors of the county for approval at the next succeeding general election. The commission shall provide for the publication of the proposed charter with any alternatives, at least once a week for two successive weeks in a newspaper of general circulation within the county, the first publication to be not less than 45 days before such election.

The proposed charter shall be deemed to be approved by the electors if a majority of the electors voting on the charter in the election shall cast their ballots in favor of adoption of the charter.

The general laws and rules governing elections so far as applicable and not inconsistent with the provisions of this chapter, shall apply to elections held pursuant to the provisions of this chapter.

Section 11. Ratification of legislature. Within fifteen days after the election, the clerk shall certify a copy of the charter as approved in the manner provided in section 10 of this chapter and shall forward the charter to the lieutenant governor who shall submit it to the next regular or special session of the legislature; provided that if the charter is

not ratified at a budget or special session, he shall submit the same charter to the next general session of the legislature. The charter shall be considered ratified when a bill is enacted into law ratifying and approving the charter as submitted to the lieutenant governor by the county clerk. The charter shall be considered rejected if submitted to but not ratified by the legislature in general session. Upon ratification, the charter shall become the organic law of the county and shall supersede any existing charter and all laws affecting the organization and government of the county which are in conflict therewith.

Section 12. Charter amendment and revision subject to approval by legislature. Every charter established under the provisions of this chapter shall provide means by which the charter may be amended or revised. The provisions for amendment and revision must provide for approval of all amendments and revisions by referendum to the electors of the county. Each proposed amendment or revision, whether to a charter established under this chapter or already in existence, shall be submitted to the lieutenant governor who shall submit the same to the next regular or special session of the legislature; provided that if the amendment or revision is not ratified at a budget or special session, he shall submit the same to the next general session of the legislature. The amendment or revision shall be considered ratified when a bill is enacted into law ratifying and approving the amendment or revision as submitted to the lieutenant governor by the county clerk. The proposed amendment or revision shall be considered rejected if submitted to but not ratified by the legislature in general session.

Section 13. Tenure of commission. The terms of office of the members of the commission shall expire on the day after the election at which the proposed charter is submitted to the qualified electors of the county for approval, unless earlier terminated as provided in section 6 of this chapter.

Section 14. Compensation of commission members. Members of the charter commission shall receive as compensation for their services the sum of one thousand dollars each, and shall be reimbursed by the county for their necessary expenses incurred in the performance of their duties.

Section 15. Appropriations and disbursements. The county legislative body shall appropriate sufficient funds for the compensation of the commission members, their necessary expenses and for the effective operation of the commission including amounts necessary for hiring staff members and consultants and for defraying other reasonable expenses of the commission. Such moneys shall be disbursed by the county as prescribed by law.

Section 16. Reserved powers. Notwithstanding the provisions of this chapter, there is expressly reserved to the state legislature the power to enact all laws of general application throughout the State on matters of concern and interest and laws relating to the fiscal powers of the counties, and neither a charter nor ordinances adopted under a charter shall be in conflict therewith.

Section 17. Severability provisions. If any provision of this chapter or any sentence, clause or other part thereof shall be held to be uncon-

stitutional, the validity of the remaining provisions, sentences, clauses, or parts shall not be affected thereby.”

SECTION 3. This Act shall take effect upon its approval.

(Approved May 22, 1963.) **H.B. 18.**
