

RVL:rs
674:C-7314,20,OLC
OP 57-47

May 31, 1957

Honorable Elmer F. Cravalho
Chairman, House Finance Committee
Twenty-ninth Legislature, Special Session
Territory of Hawaii
Honolulu, Hawaii

Dear Mr. Cravalho:

This is in reply to your letter of May 31, 1957 requesting an opinion on the following points:

"* * * whether the County of Hawaii may be forgiven from the penalty provided by law for submitting its budget after the May 22 deadline to the Territorial Treasurer. If it is not possible to forgive the penalty without Legislative action, will you outline the procedure or procedures necessary to correct the situation and make the forgiveness possible.

"* * * whether the deadline to set real property taxes may be extended without Legislative action. Should this be impossible will you also outline the procedure or necessary procedures to make this possible."

It is our opinion that a legislative enactment that is a bill or joint resolution having the force and effect of law, is necessary either to forgive the penalty provided by law for the late submission of the Hawaii County budget, or to change the deadline for setting real property tax rates.

Enclosed please find copy of a memorandum of this office written to the Acting Treasurer and the Tax Commissioner, dated May 21, 1957. You will note that the penalty for failure to transmit the budget within the required time consists in a reduction of the amount of real property taxes that may be raised for the year in question. Thus, it would take a legislative enactment to permit a different amount to be raised.

As to the deadline for setting real property taxes, as shown by the enclosed memorandum it is our view that the deadline is June 19, 1957 unless the law is changed.

May 31, 1957

As to the situation in which the County of Hawaii finds itself by reason of not having filed the required budget by May 22, there are several ways in which this situation could be corrected. At the direction of the Governor we prepared a bill to take care of the matter. A copy of this bill is enclosed. It provides that the amount of real property taxes that may be raised shall not be reduced by reason of late filing of a budget, if the budget is filed prior to the day on which the treasurer determines the tax rate. This would be a permanent amendment of the law, effective retroactively as of January 1, 1957.

The enclosed bill is not the only method of rectifying the Hawaii County situation. There could be a joint resolution specifically relating to Hawaii County, or specifically relating to the schedule for real property tax rate setting and related matters for 1957. Furthermore any legislation which eliminated the necessity of filing a county budget with the treasurer would rectify the situation if the legislation was made effective as of January 1, 1957.

Concerning the other matter, that is, the extension of the deadline for setting real property tax rates, legislation to accomplish this could consist in a section of another tax bill, relating to real property taxes, and setting forth the schedule for 1957 matters, or could consist in a bill or joint resolution relating specifically to the schedule for real property tax rate setting and related matters for 1957. I understand the Legislative Committee of the City and County of Honolulu has caused to be prepared a joint resolution of this latter type.

Very truly yours,

RHODA V. LEWIS
Deputy Attorney General

APPROVED:


SHIRO KASHIWA
Attorney General

Encls.