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Hawai'i County Charter Commission Update

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First, some background information: The Hawai'i County Charter Commission, chaired by Douglass Shipman Adams, has been meeting monthly since July 2018, and has recommended twenty-one charter amendments, which voters will consider on the November 3, 2020 ballot.

The Hawai'i County Charter, Article 15 Section 15-3 *Mandatory Charter Review*, and Chapter 50 of the *Hawai'i Revised Statutes* require that a Charter Commission be appointed by the mayor every ten years to review the Hawai'i County Charter, and submit a report with any proposed amendments to the Hawai'i County Council within a year.

Mayor Harry Kim appointed the members of the 2018-2020 Hawai'i County Charter Commission, with the approval of the Hawai'i County Council, in June 2018. The members are Douglass Shipman Adams, chair; Jennifer Zelko-Schlueter, vice-chair; William C. Bergin; Michelle Galimba; Paul K. Hamano; Kevin D. Hopkins; Bobby Jean Leithead Todd; Sarah K. Rice; Christopher John Imiloa Roehrig, Marcie A. K. Saquing; and Donna Mae Springer.

The Commission is required to identify proposed charter amendments; prepare the language of the charter amendments and the ballot language; and hold at least one public hearing on the proposed amendments in each of the geographical areas of Puna, Ka'u, Kona, Kohala, Hāmākua, and Hilo. Public hearings were held in March and April 2019 on the proposed amendments.

Once approved by the Charter Commission, the proposed amendments must be submitted to the Hawai'i County Council for review by June 26, 2019. County Council can accept the proposed charter amendments, or offer alternative amendments, but cannot change the proposed charter amendments.

The Charter Commission can accept or reject the alternative amendment(s) proposed by County Council. The Commission must send its decision back to County Council, which also has the option to accept or reject the Commission's recommendations, or recall the alternative amendment(s).

If County Council opts to keep its alternative amendment(s), the amendment(s) would be included on the November 3, 2020 General Election ballot along with the Charter Commission's proposed amendment(s). Voters must approve the charter amendments before they can go into effect.

The Charter Commission approved a report about its activities, findings, and recommendations on

June 21, 2019, and forwarded its report to Hawai'i County Council on June 26, 2019.

According to the report, the Charter Commission held 12 regular meetings and two recessed meetings, one special meeting, and six public hearings over the past year, and received hundreds of written and oral testimony from the public.

The Commission found that the County Charter “continues to serve its role well as the organizational infrastructure for County government.” (2018-2020 Charter Commission Report page 3.)

The Commission considered 31 proposed charter amendments, but on June 21, 2019 approved 21 charter amendments for voter consideration at the General Election on November 3, 2020.

According to the Commission's report, these amendments “are meant to structure the County to handle near to mid-term conditions, as well as strengthen the consistency of Charter provisions.” (2018-2020 Charter Commission Report page 3.)

The Hawai'i County Council, Aaron Chung chair, met on July 24, 2019 and approved Resolution 216-19, a proposal to submit an alternative amendment in place of proposed Charter Amendment (CA) 18 Draft 2 regarding the Public Access, Open Space, and Natural Resources Preservation Maintenance Fund (PONC Fund). It is the only alternative Charter amendment proposed by Hawai'i County Council.

Councilwomen Maile David and Karen Eoff sponsored the alternative amendment, which adds language that would allow an officer, board member, or employee to receive compensation from a stewardship grant for specific duties, such as labor, educational workshops, or maintenance work, when those activities are included and approved as part of the stewardship agreement. The remainder of CA-18 is unchanged, including a provision that still prohibits an officer, board member, or employee of a nonprofit stewardship organization from receiving a salary.

Resolution 216-19 further explained that officers, board members, and employees of stewardship programs should be recognized and compensated for performing specific and approved duties in order to promote public safety and sustain quality PONC stewardship programs.

Current Update – Aug. 8th, 2019

At their meeting on August 8, 2019 the Charter Commission approved the Council's alternative amendment for CA-18 Draft 2, and on August 23, 2019 released a final report with the full text of the proposed amendments, which will be placed on the November 3, 2020 General Election ballot.

The Charter Commission also formed an ad hoc committee to propose summaries of the amendments and ballot questions; propose the consolidation of charter amendment proposals; and propose renumbering the proposed charter amendments for sequential ordering. The members of the ad hoc committee include Douglass Adams, Sarah Rice, Marcia Saquing, Donna Springer, and Jennifer Zelko-Schlueter.

The Charter Commission also discussed some of the other requirements that must be met to place the proposed charter amendments on the November 3, 2020 ballot. These include posting a public notice in newspapers, and publishing financial impact statements developed by the Department of Finance and published at least sixty calendar days before the election. In this case the fiscal impact statements would be published around September 4, 2020.

The following is a list of the proposed charter amendments and the County Council's alternative amendment. The full text of the proposed charter amendments is available at <http://records.hawaiicounty.gov/weblink/1/doc/101233/Page1.aspx>

Proposed Charter Amendments for Hawai'i County

CA-1 Draft 3 Comm. 13 Amends Sections 3-2; 3-17; 5-2.2; 6-9.3; 6-10.5; 7-2.2; 7-3.2; 7-4.5; 8-2; 13-28: Replaces confusing language in several sections of the charter to clarify that members of the county council or other commissions shall be a resident elected (or selected) from that district.

CA-2 Draft 2 Comm. 14.1 Amends Section 3-7 Council Meeting Locations: Provides that Council holds an equal number of meetings in East and West Hawai'i.

CA-4 Draft 2 Comm. 18 Amends Section 6-8.3 Department of Research and Development duties and functions: Requires the Department of Research and Development to research and coordinate county policies and actions regarding long-term, complex problems that involve a coordinated response from multiple county departments and agencies; federal agencies; state agencies; and non-governmental agencies and entities. The proposal would also delete a section from the 1960s related to federal grants programs.

CA-5 Comm. 19 Amends Section 3-18 Legislative Auditor: The Legislative Auditor proposed this amendment to change the name of the Office of Legislative Auditor to the Office of the County Auditor.

CA-6 Comm. 20 Amends Sections 7-2.3 and 7-4.3 Discipline/removal processes for police/fire chiefs: Adds a provision that would allow the Police Commission to discipline the Police Chief and Deputy Police Chief, and the Fire Commission to discipline the Fire Chief. Currently the commissions can remove their chiefs, but the charter says nothing about disciplining them. Corporate Counsel supports this proposal.

CA-8 Draft 2 Comm. 23 Amends Section 3-2 Composition and Terms County Council: Changes the terms of Council members from two years to four years and term limits to two consecutive four-year terms, and includes a proposal to enable the transition from the current term system to the proposed system.

CA-9 Draft 3 Comm. 24 Amends Section 10-15 Public Access, Open Space, and Natural Resources Preservation Fund (PONC): Provides that funds from the PONC Fund can be used to

pay salary, wages, and benefits for staff dedicated to administering Sections 10-15 and 10-16 - PONC Fund. The Commission found that the current charter language "...does not adequately support an adaptable and responsive administration of the fund."

CA-12 Comm. 28 Amends Section 3-7 Council Members: Adds disciplinary measures for County Council members who behave in a disorderly or contemptuous manner at council meetings, or, when a council member fails to attend three or more regular meetings of the council without being excused by the council chair.

CA-14 Comm. 31.1 Amends Sections 6-4.3 and 6-4.4 Director of Technology: Updates language for the Qualifications and the Powers, Duties and Functions of the Director of Information Technology. The director of Information Technology recommended this amendment to facilitate carrying out the duties of the position.

CA-15 Comm. 32.1 Amends Section 6-4.4 Powers, Duties and Functions of the Director of Information Technology: Exempts the information technology systems of the Office of the Prosecuting Attorney and the Police Department from oversight by the Department of Information Technology. Those departments, due to the law enforcement functions of those systems, currently operate a different technology system, although the Department of Information Technology has had oversight in the past. This proposal was recommended by the Prosecuting Attorney and supported by the Department of Information Technology.

CA-17 Comm. No. 34.2 Creates a New Section under Article X (Financial Procedures) "Disaster and Emergency Fund": While the County Charter currently has a fund for emergencies Section 10-8, the Commission found that it was inadequate. This charter amendment establishes a *Disaster and Emergency Fund* in the Charter funded by a minimum of one per cent of the annual certified real estate tax revenues; state and federal grants; funds from the federal emergency management agency; private sources; and other sources of revenue.

The fund, which will include at least \$20 million, will be used only for the following purposes in the event of a natural or human-caused disaster or emergency: repair of County facilities and infrastructure; cleaning of County property; providing for immediate response to deal with public health and safety risks; matching federal, state or private grants in-aid to restore public property; paying for County operational expenses in certain circumstances; acquiring property to mitigate potential disasters or emergencies; and administrative expenses. The Director of Finance would administer the fund.

Alternative CA-18 Draft 2 Comm. No. 35 Amends Article X Section 10-16, Public Access, Open Space, Natural Resources Preservation Maintenance Fund and Incorporates an Amendment Proposed by Hawai'i Council.

This amendment transfers administrative duties of the PONC Fund from the Department of Parks and Recreation to the Department of Finance; adds permissible uses of the fund; and refines the procedures by which stewardship grants are applied for and processed, to include requiring a

detailed business plan, and returning unexpended funds to the maintenance fund within 30 days of the final report.

The amendment proposed by Hawai'i County Council, and now included in the amendment, affects Article X Section 10-16(h)(6), and only changes the original Charter Commission amendment by adding language that would allow an officer, board member, or employee to receive compensation from a stewardship grant for specific duties, such as labor, educational workshops, or maintenance work, when those activities are included and approved as part of the stewardship agreement. The remainder of CA-18 is unchanged, including a provision that still prohibits an officer, board member, or employee of a nonprofit stewardship organization from receiving a salary.

CA-20 Draft 2 Comm. No. 37 Amends Section 15-3, Mandatory Charter Reviews: This proposal clarifies the Charter review procedures by aligning the Commission's Charter review timeline and process with Chapter 50 HRS. The Mayor would appoint the Commission in January of the Charter review year, rather than July, and the Commission would issue its report to County Council within a year of its appointment. This timeline would allow for the completion of the Commission's review and development of ballot language in time for the next November general election following the Charter review year.

CA-21 Comm. No. 38 Amends Section 11-5 subsection (c) relating to Initiative and Referendum Petition Forms: This is a housekeeping provision that replaces the word "appeal" with "repeal" as a correction of terms.

CA-22 Draft 2 Comm. No. 39 Amends Section 12-1.3 Signatures-Recall of an Elected Official: Removes the requirement that a signer of a petition proposing an initiative, a referendum, or a recall of an elected County official include the last four digits of his or her social security number. The County Elections Program Administrator recommended this amendment. Voters are no longer required to provide a social security number when registering to vote, making this requirement obsolete.

CA-23 Comm. No. 40 Amends Section 6-5.2, Appointment and Removal - Corporation Counsel: Requires that an attorney must be licensed to practice law for at least five years and have at least three years of experience in an administrative capacity before being eligible for appointment as the Corporation Counsel. The Corporate Counsel recommended this amendment.

CA-24 Comm. No. 41 Amends Sections 7-4.2 through 7-4.4 and Section 7-4.6, The Powers, Duties, and Functions of the Fire Chief and the Fire Commission: This proposal would add water safety as a core function of the Fire Department; provide for additional minimum qualification requirements for Fire Chief selection, and clarify Fire Commission powers, duties, and functions. The Fire Chief and Fire Commission recommended these changes.

CA-25 Comm. No. 42 Amends Section 6-7.5 and repeals Section 6-7.6, The Duties and Functions of the Windward and Leeward Planning Commissions: The Windward and Leeward Planning Commissions recommended these changes, which include deleting language used to

transition from a single planning commission to two planning commissions: the Leeward Planning Commission and the Windward Planning Commission. The commissions recommended these changes.

CA-28 Comm. No. 45 Amends Section 13-4 Boards and Commissions, and Section 15-3 Mandatory Charter Reviews: Removes language in two sections that requires that no more than a bare majority of members of these boards and commission shall belong to the same political party. The commission found that this provision is obsolete with the advent of non-partisan elections for elected County offices, and made it difficult to recruit members for boards and commissions.

CA-29 Draft 2 Comm. No. 47 Amends Section Article X Section 10-6 Capital Budget and Capital Program: This proposal would add language to the capital budget section of financial procedures that require that capital improvement priorities be based on criteria aligned with the County general plan, County community development plan, emergency expenditures, and other pertinent functional plans.

CA-30 Comm. No. 48 Amends Article XIV Section 1405 Board of Ethics: The proposal would remove transitional language to stagger terms; clarify that members serve five-year terms; clarify that the board adopt rules and procedures having the force and effect of law; and authorize the board to impose civil fines for violations of the code of ethics, as prescribed by ordinance.

Sources

2018-2020 Hawai'i County Charter Commission Report to Hawai'i County Council
June 14, 2019

<http://records.hawaiicounty.gov/weblink/1/doc/100575/Page1.aspx>

2018-2020 Hawai'i County Charter Commission Final Report
August 23, 2019

<http://records.hawaiicounty.gov/weblink/1/doc/101232/Page1.aspx>

2018-2020 Hawai'i County Charter Commission Timeline
June 13, 2019

<http://records.hawaiicounty.gov/weblink/1/doc/100571/Page1.aspx>

Hawai'i County Council Resolution 216-19

<http://records.co.hawaii.hi.us/weblink/DocView.aspx?dbid=0&id=982458&cr=1>

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