

COUNCIL OF THE COUNTY OF MAUI

**POLICY, ECONOMIC DEVELOPMENT,
AND AGRICULTURE COMMITTEE**

February 16, 2018

**Committee
Report No. _____**

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

Chair and Members:

Your Policy, Economic Development, and Agriculture Committee, having met on January 29, 2018, makes reference to the following:

1. County Communication 18-19, from Councilmember Yuki Lei Sugimura, relating to a performance audit of the Department of Liquor Control.
2. County Communication 18-28, from the Chair of the Liquor Control Commission, advising that the results of the annual review and evaluation of the Director of Liquor Control for the period June 1, 2016 to December 31, 2017, were that the Director received above average, satisfactory marks in all categories of the evaluation.

Your Committee is in receipt of correspondence dated January 22, 2018, from Councilmember Sugimura to the Department of the Corporation Counsel, transmitting a proposed resolution entitled "AUTHORIZING THE COUNCIL CHAIR TO CONTRACT FOR A PERFORMANCE AUDIT OF THE DEPARTMENT OF LIQUOR CONTROL." The purpose of the proposed resolution is to authorize the Council Chair to contract for a performance audit of the Department of Liquor Control, pursuant to Section 3-6 of the Revised Charter of the County of Maui (1983), as amended ("Charter"), which authorizes the Council to conduct investigations of the operation of any department or function of the County.

At its meeting, your Committee received a revised proposed resolution, approved as to form and legality by the Department of the

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Corporation Counsel, and a draft scope of the proposed audit. The revised proposed resolution removed the fifth WHEREAS clause from the original version, which stated that “public confidence in the performance of the Department of Liquor Control is waning.”

Your Committee discussed the desirability of an audit of the Department of Liquor Control. Your Committee recommended the fifth WHEREAS clause be reinserted, but that the reference to waning confidence in the Department’s performance be changed from “public confidence” to “the Council’s confidence.”

Your Committee notes the draft scope of the audit distributed at its meeting includes certain minimum areas the performance audit should cover. The draft scope itemizes the following: obtaining confidential feedback on Department operations from various groups, including County departments and employees, liquor licensees, and business advisory groups; analyzing Department staffing needs; analyzing interpretation of State law and its implementation by the Department for the past five years; determining whether the license application process can be streamlined and changes recommended; reviewing the internal structure and responsibilities of the licensing and enforcement sections; evaluating the Department’s vehicle policy; determining whether term limits should be set for Liquor Control Commission members; and analyzing the relationship between the Commission and the Department.

Your Committee discussed the breadth of the audit, the desire to have it completed by the end of the fiscal year, and the need to tailor it accordingly. To that end, your Committee noted the audit scope should include the Liquor Control Commission but not the Department’s vehicle policy because the latter issue should be evaluated as part of an overall State or County policy.

Your Committee discussed whether it would be worthwhile for the auditor to pursue a confidential licensee survey with responses made available to the Council for review. Questions might include whether

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licensees feel the amount they pay is fair and whether fees collected are spent on areas of priority for licensees.

Your Committee discussed whether the Commission's process for conducting an annual evaluation of the Director, including its most recent evaluation, should be analyzed. Your Committee noted the audit should not target specific individuals and should not be an attempt at micromanaging the Department or Commission. However, an audit of the Department would necessarily include the Commission, and part of the Commission's audit would include a review of whether it has been fulfilling its Charter-mandated responsibilities. Another area might be whether the two boards – the Liquor Control Commission (Charter Section 8-13.2) and the Liquor Control Adjudication Board (Charter Section 8-13.3) – are still necessary.

Your Committee noted the draft and comments on the audit scope would be useful to the Council Chair in developing the request for proposals.

Your Committee also requested the execution of a contract for the audit and the auditor's report back to the Council be expedited. Your Committee noted, for instance, that if the audit recommends the two boards be consolidated, the change would require a Charter amendment, with sufficient time for a proposal to be placed on the ballot.

Your Committee voted 6-0 to recommend adoption of the revised proposed resolution. Committee Chair Sugimura, Vice-Chair Crivello, and members Atay, Carroll, Hokama, and King voted "aye." Committee members Cochran, Guzman, and White were excused.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revision.

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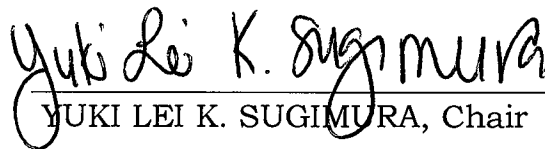
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Your Policy, Economic Development, and Agriculture Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING THE COUNCIL CHAIR TO CONTRACT FOR A PERFORMANCE AUDIT OF THE DEPARTMENT OF LIQUOR CONTROL," be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



YUKI LEI K. SUGIMURA, Chair

pea:cr:18056aa:ske/cmn

Resolution

No. _____

AUTHORIZING THE COUNCIL CHAIR TO CONTRACT FOR A PERFORMANCE AUDIT OF THE DEPARTMENT OF LIQUOR CONTROL

WHEREAS, pursuant to Section 3-6 of the Revised Charter of the County of Maui (1983), as amended (“Charter”), the Council has the authority to conduct investigations of the operation of any department or function of the County and any subject upon which the Council may legislate; and

WHEREAS, pursuant to Section 8-13.5 of the Charter, the Department of Liquor Control is responsible for investigating violations of the liquor control laws of the State and of rules established by the Liquor Control Commission, and investigating applications for liquor licenses; and

WHEREAS, in the performance of those investigations, including the processing of liquor license applications, the Director administers certain practices and procedures to implement State requirements; and

WHEREAS, although Chapter 281, Hawaii Revised Statutes, applies statewide, it appears the manner of implementation has diverged from the way in which other counties in the State implement those same laws and, in fact, have diverged from implementation of those laws as previously performed by Maui County; and

WHEREAS, the Council’s confidence in the performance of the Department of Liquor Control is waning; and

WHEREAS, gains in operational integrity and efficiency that would benefit the Department and the public could be identified through a third-party performance audit, to be funded through the Council Services Program budget for audits; now, therefore,

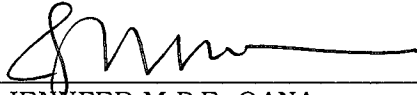
BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby authorizes the Council Chair to contract for a performance audit of the Department of Liquor Control; and

Resolution No. _____

2. That certified copies of this resolution be transmitted to the Mayor, the Managing Director, the Director of Liquor Control, and the Chair of the Liquor Control Commission.

APPROVED AS TO FORM AND LEGALITY



JENNIFER M.P.E. OANA
Deputy Corporation Counsel
County of Maui
2017-0098
PEA-56 2018-01-30 Resolution