

HOLD FOR MEETING

June 1, 2016, PIA Committee meeting

PIA-10(1)

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE
Amendment Summary Form

Legislation: Proposed resolution to amend the Revised Charter of the County of Maui (1983), as amended, to allow the Council to initiate removal of the Corporation Counsel.

Proposer: Don S. Guzman, Council Vice-Chair.



Description: Amends the proposed resolution to allow the Council or the Mayor, independently, to remove the Corporation Counsel or the Prosecuting Attorney.

Motion: Move to amend the proposed resolution, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, ALLOWING THE COUNCIL TO INITIATE REMOVAL OF THE CORPORATION COUNSEL," in accordance with the marked-up version attached.

Effect: The proposed resolution is for a proposed Charter amendment to allow the Council to initiate removal of the Corporation Counsel.

The amendment would allow the Mayor or the Council, independently, to remove both the Corporation Counsel and the Prosecuting Attorney.

Reasons: The amendment would provide equal accountability of the Corporation Counsel and the Prosecuting Attorney to both the Mayor and the Council.

Attachments: Marked-up resolution showing proposed revisions.

paf:scb:16-100b

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, ALLOWING THE COUNCIL TO INITIATE REMOVAL OF THE CORPORATION COUNSEL

OR THE MAYOR TO REMOVE

AND THE PROSECUTING ATTORNEY

WHEREAS, Section 8-2.3 of the Revised Charter of the County of Maui (1983), as amended ("Charter") provides that the Corporation Counsel shall be the chief legal advisor and legal representative of the County, the Council, the Mayor, all departments, all boards and commissions, and all officers and employees in matters relating to their official duties; and

WHEREAS, Section 8-2.2 of the Charter currently permits the removal of the Corporation Counsel only if initiated by the Mayor; and

WHEREAS, as the chief legal advisor of both the Council and the Mayor, the Council and the Mayor should be equally authorized to determine whether their respective interests are being adequately represented by the Corporation Counsel, and to initiate removal of the Corporation Counsel at their discretion; now, therefore, and

remove

Exhibit 1

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

1. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-2.2 of the Charter, pertaining to the Corporation Counsel, be amended to read as follows:

"Section 8-2.2. Corporation Counsel. The corporation counsel shall be appointed by the mayor with the approval of the council and may be removed by the mayor with the approval of the council, or by resolution approved by a two-thirds vote of the entire membership of the council with the approval of the mayor. The corporation counsel shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least three years."; and

Exhibit 2

3 2 and That material to be repealed is bracketed and new material is underscored;

Resolution No. _____

43. That, pursuant to Section 14-2(1) of the Charter, this resolution be submitted to the voters of the County of Maui at the next general election; and

54. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election; and

65. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that the following question be placed on the next general election ballot:

“Shall the Charter be amended to allow the Council or the Mayor, independently, to initiate removal of the County’s chief legal advisor and representative, the Corporation Counsel?”; and

*and the
County's
Prosecuting
Attorney*

76. That, pursuant to Section 14-2(2) of the Charter, the County Clerk publish this proposed amendment in a newspaper of general circulation; and

87. That, upon approval by the majority of the voters voting on the proposed amendment and upon official certification of such result, the amendment proposed herein shall take effect; and

98. That certified copies of this resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY

Department of the Corporation Counsel
County of Maui

paf:cmn:14-196a

EXHIBIT 1

WHEREAS, Section 8-3.2 of the Charter currently permits the removal of the Prosecuting Attorney only if initiated by the Mayor; and

WHEREAS, the Council and the Mayor should be equally authorized to initiate removal of the Prosecuting Attorney; now, therefore,

EXHIBIT 2

2. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-3.2 of the Charter, pertaining to the Prosecuting Attorney, be amended to read as follows:

“Section 8-3.2. Prosecuting Attorney. The prosecuting attorney shall be appointed by the mayor with the approval of the council and may be removed by the mayor with the approval of the council[.], or by resolution approved by a two-thirds vote of the entire membership of the council. The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law for at least three years.”; and