

**COUNCIL OF THE COUNTY OF MAUI**

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

April 6, 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 March 20, 2018, makes reference to County Communication 17-134, from Councilmember Yuki Lei K. Sugimura, relating to establishing additional qualifications for County department directors.

By correspondence dated March 14, 2018, the Department of the Corporation Counsel transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE ESTABLISHING ADDITIONAL QUALIFICATIONS FOR THE MANAGING DIRECTOR, CORPORATION COUNSEL, AND PROSECUTING ATTORNEY." The purpose of the revised proposed bill is to establish additional specific qualifications for the Managing Director, Corporation Counsel, and Prosecuting Attorney, pursuant to Section 6-4, Revised Charter of the County of Maui (1983), as amended ("Charter").

Your Committee notes Charter Section 6-4 provides that, in addition to any qualifications set forth in the Charter, specific qualifications for administrative heads appointed by the Mayor may be established by the Council by ordinance.

Your Committee further notes it began the process of establishing such additional qualifications after the voters passed a Charter amendment in the 2016 general election.

Your Committee further notes it previously reported on this matter through Committee Report 18-52, which recommended that the following revised proposed bills, entitled "A BILL FOR AN ORDINANCE AMENDING THE ADDITIONAL QUALIFICATIONS FOR THE DIRECTOR OF PUBLIC

COUNCIL OF THE COUNTY OF MAUI

# POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE

Page 2

**Committee  
Report No. \_\_\_\_\_**

WORKS AND THE DIRECTOR OF ENVIRONMENTAL MANAGEMENT, AND ESTABLISHING ADDITIONAL QUALIFICATIONS FOR THE DIRECTOR OF PARKS AND RECREATION AND THE DIRECTOR OF TRANSPORTATION” and “A BILL FOR AN ORDINANCE ESTABLISHING ADDITIONAL QUALIFICATIONS FOR THE DIRECTOR OF HOUSING AND HUMAN CONCERNS,” be passed on first reading and be ordered to print. At its meeting of March 23, 2018, the Council adopted the recommendations in Committee Report 18-52 (Bills 36 and 37 (2018)).

With respect to the position of Managing Director, the revised proposed bill restates the minimum qualifications set forth in the Charter requiring a minimum of five years of experience in an administrative capacity, either in public or private business, or both. The bill further requires three years of responsible managerial and budgetary experience, as a part of or in addition to the five years of administrative experience.

In addition to these qualifications, your Committee recommended that as a part of or in addition to the five years of administrative experience, the Managing Director shall have three years of experience in one or more of the following functions: acting as the principal management aide to a chief executive officer; supervising the administrative functions of agencies, departments, and boards and commissions; evaluating the management and performance of agencies under his or her supervision; prescribing standards of administrative practice to be followed by agencies under his or her supervision; supervising and coordinating the preparation and submittal of an annual operating budget and a capital program; supervising and coordinating the control, management, and execution of an annual operating budget and capital program; and supervising and coordinating a systematic and continual review of the finances, organizations, and methods of each department to assist in achieving the most effective expenditure of funds and to determine that such expenditures are in accordance with budget laws and controls in force.

**COUNCIL OF THE COUNTY OF MAUI**

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

Page 3

**Committee  
Report No. \_\_\_\_\_**

The bill further requires the Managing Director to have a bachelor's degree in business administration, public administration, or other relevant discipline, or a combination of education and work experience substantially equivalent to such a degree, as an additional qualification.

With respect to the position of Corporation Counsel, the revised proposed bill restates the minimum qualifications set forth in the Charter requiring the Corporation Counsel to be an attorney licensed to practice and in good standing before the Hawaii Supreme Court, and to have engaged in the practice of law for five years. As a part of or in addition to the five years of experience in the practice of law, three years shall be in civil litigation. The revised proposed bill further requires three years of responsible managerial and budgetary experience, as a part of or in addition to the five years of experience in the practice of law.

In addition to these qualifications, your Committee recommended that as a part of or in addition to the five years of experience in the practice of law, the Corporation Counsel shall have three years of experience in one or more of the following functions: serving as chief legal advisor or legal representative of a municipality or other governmental entity, its departments, boards and commissions, or officers and employees in matters relating to their official duties; and representing a public or private entity in legal proceedings.

With respect to the position of Prosecuting Attorney, the revised proposed bill restates the minimum qualifications set forth in the Charter requiring the Prosecuting Attorney to be an attorney licensed to practice and in good standing before the Hawaii Supreme Court, and to have engaged in the practice of law for five years. As a part of or in addition to the five years of experience in the practice of law, three years shall be in criminal litigation. The revised proposed bill also requires three years of responsible managerial and budgetary experience, as a part of or in addition to the five years of experience in the practice of law. The revised proposed bill further requires that as a part of or in addition to the five years of experience in the practice of law, the Prosecuting Attorney shall

**COUNCIL OF THE COUNTY OF MAUI**

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

Page 4

**Committee  
Report No. \_\_\_\_\_**

have three years of experience in one or more of the following functions: attending and appearing in courts of competent jurisdiction, and prosecuting criminal offenses on behalf of a municipality or other governmental entity; instituting proceedings, or directing the chief of police of a municipality or other governmental entity to institute proceedings, before a judge of a court of competent jurisdiction for the arrest of persons charged with or reasonably suspected of criminal offenses; drawing and presenting indictments to a grand jury for consideration; and prosecuting administrative violations of liquor laws.

Your Committee noted the educational requirement for the Corporation Counsel and Prosecuting Attorney was deleted because to become an attorney, an individual must have obtained their juris doctorate from an accredited law school.

Your Committee discussed the need to clearly state the responsibilities of the Prosecuting Attorney to include defending criminal offenses on behalf of a municipality or other governmental entity. Your Committee recommended revising Section 2.14.110.5.a. of the proposed bill to read, "attending and appearing in courts of competent jurisdiction, and prosecuting criminal offenses on behalf of a municipality or other governmental entity or defending against such proceedings."

Your Committee discussed amending the revised proposed bill to delete the qualifications of the Managing Director. Your Committee considered adopting the qualifications of the Managing Director as a separate bill. The proposal to pursue a separate bill for qualifications of the Managing Director failed. Therefore, no separate bill was prepared.

Your Committee considered the revised proposed bill, as amended, relating only to the qualifications of the Corporation Counsel and Prosecuting Attorney.

Your Committee voted 6-0 to recommend passage of the revised proposed bill, as amended, relating to the qualifications for the

**COUNCIL OF THE COUNTY OF MAUI**  
**POLICY, ECONOMIC DEVELOPMENT,**  
**AND AGRICULTURE COMMITTEE**

Page 5

**Committee**  
**Report No. \_\_\_\_\_**

Corporation Counsel and the Prosecuting Attorney. Committee Chair Sugimura, Vice-Chair Crivello, and members Atay, Guzman, King, and White voted “aye.” Committee members Carroll, Cochran, and Hokama were excused.

Your Committee is in receipt of a further revised proposed bill entitled, “A BILL FOR AN ORDINANCE ESTABLISHING ADDITIONAL QUALIFICATIONS FOR THE CORPORATION COUNSEL AND PROSECUTING ATTORNEY,” approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions to establish additional qualifications for the Corporation Counsel and Prosecuting Attorney only and nonsubstantive revisions.

Your Committee notes the bill, if enacted, will take effect on January 2, 2019, in conformance with Resolution 16-96, requiring Council approval of the Mayor’s appointment of department directors and allowing additional qualifications for department directors to be established by ordinance.

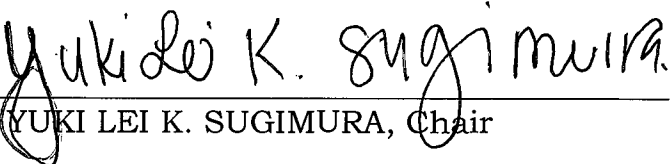
Your Policy, Economic Development, and Agriculture Committee RECOMMENDS that Bill \_\_\_\_\_ (2018), attached hereto, entitled “A BILL FOR AN ORDINANCE ESTABLISHING ADDITIONAL QUALIFICATIONS FOR THE CORPORATION COUNSEL AND PROSECUTING ATTORNEY,” be PASSED ON FIRST READING and be ORDERED TO PRINT.

**COUNCIL OF THE COUNTY OF MAUI**  
**POLICY, ECONOMIC DEVELOPMENT,**  
**AND AGRICULTURE COMMITTEE**

Page 6

**Committee**  
**Report No. \_\_\_\_\_**

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

  
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YUKI LEI K. SUGIMURA, Chair

pea:cr:18027ad:ske

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2018)

A BILL FOR AN ORDINANCE ESTABLISHING ADDITIONAL QUALIFICATIONS  
FOR THE CORPORATION COUNSEL AND PROSECUTING ATTORNEY

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Purpose. The purpose of this ordinance is to establish additional qualifications for the Corporation Counsel and Prosecuting Attorney, pursuant to Section 6-4, Revised Charter of the County of Maui (1983), as amended ("Charter"). Section 6-4 of the Charter authorizes the Council to establish specific qualifications for administrative heads appointed by the Mayor in addition to any set forth in the Charter. More specific qualifications will help identify skilled, experienced individuals to lead the County's departments, strengthen operations, and better serve the public.

SECTION 2. Chapter 2.14, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

**"2.14.100 Corporation counsel.** The corporation counsel shall have the following minimum qualifications:

1. As set forth in the charter, the corporation counsel shall be an attorney licensed to practice and in good standing before the Hawaii supreme court.

2. As set forth in the charter, the corporation counsel shall have engaged in the practice of law for five years.

3. As a part of or in addition to the five years of experience in the practice of law, three years of civil litigation experience.

4. As a part of or in addition to the five years of experience in the practice of law, three years of responsible managerial and budgetary experience.

5. As a part of or in addition to the five years of experience in the practice of law, three years of experience in one or more of the following functions:

a. Serving as chief legal advisor or legal representative of a municipality or other governmental entity, its departments, boards and commissions, or officers and employees in matters relating to their official duties.

b. Representing a public or private entity in legal proceedings.

SECTION 3. Chapter 2.14, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

**“2.14.110 Prosecuting attorney.** The prosecuting attorney shall have the following minimum qualifications:

1. As set forth in the charter, the prosecuting attorney shall be an attorney licensed to practice and in good standing before the Hawaii supreme court.

2. As set forth in the charter, the prosecuting attorney shall have engaged in the practice of law for five years.

3. As a part of in addition to the five years of experience in the practice of law, three years of criminal litigation experience.

4. As a part of or in addition to the five years of experience in the practice of law, three years of responsible managerial and budgetary experience.

5. As a part of or in addition to the five years of experience in the practice of law, three years of experience in one or more of the following functions:

a. Attending and appearing in courts of competent jurisdiction, and prosecuting criminal offenses on behalf of a municipality or other governmental entity or defending against such proceedings.

b. Instituting proceedings, or directing the chief of police of a municipality or other governmental entity to institute proceedings, before a judge of a court of competent jurisdiction for the arrest of persons charged with or reasonably suspected of criminal offenses.

c. Drawing and presenting indictments to a grand jury for consideration.

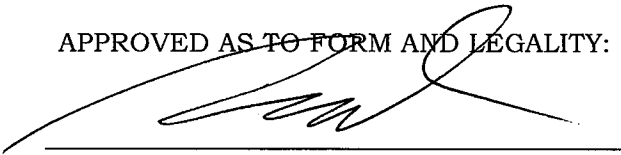


d. Prosecuting administrative violations of liquor laws."

SECTION 4. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 5. This ordinance shall take effect on January 2, 2019.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in black ink, appearing to be 'J. M. ...', is written over a horizontal line. The signature is stylized and cursive.

Department of the Corporation Counsel  
County of Maui

pea:misc:027abill10(corp counsel-pros atty)