

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE
Amendment Summary Form

Legislation: Proposed resolution to amend the Charter, relating to attorneys within the Office of Council Services.

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

Description: Amends proposed resolution by authorizing the Council, by a vote of two-thirds of its membership, to designate such attorneys as "special counsel" to serve as legal advisors without additional compensation; and by removing from the proposed function of attorneys within the Office of Council Services the phrase "and legal representatives of."

Motion: Move to amend the proposed resolution by adding under the Powers of the Council a new subsection (7) to authorize the Council to designate attorneys within the office of council services as special counsel to serve as legal advisors by a vote of two-thirds of the Council membership, which designation shall be without additional compensation; and by striking the phrase "and legal representatives of" from proposed Section 3-7(2), as shown on the attached marked-up version of the proposed resolution.

Effect: See attached.

Attachments: (1) Marked-up resolution showing proposed revisions; and
(2) "Clean" copy of revised proposed resolution, approved as to form and legality.

paf:scb:16-106b

Attachments

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE
REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED, RELATING TO
ATTORNEYS WITHIN THE OFFICE OF COUNCIL
SERVICES

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 3-7 of the Charter provides that the council may create such positions in the office of council services as it deems necessary to assist it in the exercise of its legislative power; and

WHEREAS, permitting attorneys within the office of council services to serve as legal advisors to ~~and legal representatives of the~~ council and its members will ensure the council and its members have access to independent legal advice when there is an actual or potential conflict or disagreement between the executive and legislative branches of government; now, therefore,

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 3-6 of the Charter, pertaining to the Powers of Council, be amended to read as follows:

"Section 3-6. Powers of Council. The council shall be the legislative body of the county. Without limitation of the foregoing grant or of other powers given it by this charter, the council shall have the power:

1. To legislate taxes, rates, fees, assessments and special assessments and to borrow money, subject to the limitations provided by law and this charter.

Resolution No. _____

2. To legislate appropriations for county purposes subject to the limitations provided by this charter.

3. To conduct investigations of (a) the operation of any department or function of the county and (b) any subject upon which the council may legislate.

4. To fix the salaries of such employees and officers as may be necessary.

5. To require periodic and special reports from all county departments concerning their functions and operations. Such reports shall be requested and submitted by and through the mayor.

6. To retain or employ, by a vote of two-thirds of its entire membership, special counsel for any special matter presenting a real necessity for such employment. Any such employment shall specify the compensation, if any, to be paid for said services.

7. To designate attorneys within the office of council services as special counsel to serve as legal advisors by a vote of two-thirds of its entire membership. Such designation shall be without additional compensation.”;

12. That, pursuant to Section 14-1(1), ~~Revised Charter~~ of the ~~County of Maui (1983), as amended~~ (“Charter”), it hereby proposes that Section 3-7 of the Charter, pertaining to the Office of Council Services, be amended to read as follows:

“Section 3-7. Office of Council Services. 1. There shall be an office of council services. The council may create such positions in the office of council services as it deems necessary to assist it in the exercise of its legislative power. The salaries of such positions shall be fixed by ordinance. Persons appointed to such positions by the council shall be exempt from civil service.

2. The attorneys within the office of council services may serve as legal advisors to [and legal representatives of] the council and its members, in addition to the attorneys within the department of the corporation counsel.”; and

Resolution No. _____

~~2. That pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 3-6 of the Charter, pertaining to the Powers of Council, be amended to read as follows:~~

~~“Section 3-6. Powers of Council. The council shall be the legislative body of the county. Without limitation of the foregoing grant or of other powers given it by this charter, the council shall have the power:~~

~~—— To legislate taxes, rates, fees, assessments and special assessments and to borrow money, subject to the limitations provided by law and this charter.~~

~~—— To legislate appropriations for county purposes subject to the limitations provided by this charter.~~

~~—— To conduct investigations of (a) the operation of any department or function of the county and (b) any subject upon which the council may legislate.~~

~~—— To fix the salaries of such employees and officers as may be necessary.~~

~~—— To require periodic and special reports from all county departments concerning their functions and operations. Such reports shall be requested and submitted by and through the mayor.~~

~~—— To retain or employ, by a vote of two-thirds of its entire membership, special counsel for any special matter presenting a real necessity for such employment. Any such employment shall specify the compensation, if any, to be paid for said services.~~

~~—— To designate attorneys within the office of council services as special counsel by a vote of two-thirds of its entire membership. Such employment shall be without additional compensation.”~~

[2]3. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-2.3 of the Charter, pertaining to the Powers, Duties, and Functions of the Corporation Counsel, be amended to read as follows:

“Section 8-2.3. Powers, Duties, and Functions.

The corporation counsel shall:

Resolution No. _____

1. Appoint such deputy corporation counsel and necessary staff as shall be authorized by the council. Deputy corporation counsel shall be exempt from civil service and shall serve at the pleasure of the corporation counsel.

2. Be the chief legal advisor and legal representative of the County of Maui; of the council, the mayor, all departments, and all boards and commissions, and of all officers and employees in matters relating to their official duties[.], except as otherwise provided in this charter.

3. Represent the county in all legal proceedings.

4. Perform such other duties and functions as may be incident to the department or required by law.”; ~~and~~

~~[3]~~4. That, ~~new~~ **material to be repealed is bracketed and new material** is underscored; ~~and~~

~~4. 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]~~

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

6. That, pursuant to Section 14-~~21~~**21**(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 to designate, by two-thirds vote of its entire membership,** attorneys within the Office of Council Services **as special counsel** to serve as legal advisors to ~~[and legal representatives of]~~ the Council and its members, ~~in addition to the attorneys within the Department of the Corporation Counsel?~~”;

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

Resolution No. _____

8. That, **pursuant to Section 14-2(3) of the Charter**, 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

9. That certified copies of this resolution be transmitted to the Mayor, ~~and~~, -the Corporation Counsel, **and the County Clerk**.

APPROVED AS TO FORM AND LEGALITY

Department of the Corporation Counsel
County of Maui

paf:scb:16-106a

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE
REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED, RELATING TO
ATTORNEYS WITHIN THE OFFICE OF COUNCIL
SERVICES

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 3-7 of the Charter provides that the council may create such positions in the office of council services as it deems necessary to assist it in the exercise of its legislative power; and

WHEREAS, permitting attorneys within the office of council services to serve as legal advisors to the council and its members will ensure the council and its members have access to independent legal advice when there is an actual or potential conflict or disagreement between the executive and legislative branches of government; now, therefore,

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 3-6 of the Charter, pertaining to the Powers of Council, be amended to read as follows:

"Section 3-6. Powers of Council. The council shall be the legislative body of the county. Without limitation of the foregoing grant or of other powers given it by this charter, the council shall have the power:

1. To legislate taxes, rates, fees, assessments and special assessments and to borrow money, subject to the limitations provided by law and this charter.

Resolution No. _____

2. To legislate appropriations for county purposes subject to the limitations provided by this charter.

3. To conduct investigations of (a) the operation of any department or function of the county and (b) any subject upon which the council may legislate.

4. To fix the salaries of such employees and officers as may be necessary.

5. To require periodic and special reports from all county departments concerning their functions and operations. Such reports shall be requested and submitted by and through the mayor.

6. To retain or employ, by a vote of two-thirds of its entire membership, special counsel for any special matter presenting a real necessity for such employment. Any such employment shall specify the compensation, if any, to be paid for said services.

7. To designate attorneys within the office of council services as special counsel to serve as legal advisors by a vote of two-thirds of its entire membership. Such designation shall be without additional compensation.”;

2. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 3-7 of the Charter, pertaining to the Office of Council Services, be amended to read as follows:

“Section 3-7. Office of Council Services. 1. There shall be an office of council services. The council may create such positions in the office of council services as it deems necessary to assist it in the exercise of its legislative power. The salaries of such positions shall be fixed by ordinance. Persons appointed to such positions by the council shall be exempt from civil service.

2. The attorneys within the office of council services may serve as legal advisors to the council and its members, in addition to the attorneys within the department of the corporation counsel.”;

3. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-2.3 of the Charter, pertaining to the Powers, Duties, and Functions of the Corporation Counsel, be amended to read as follows:

Resolution No. _____

"Section 8-2.3. Powers, Duties, and Functions.

The corporation counsel shall:

1. Appoint such deputy corporation counsel and necessary staff as shall be authorized by the council. Deputy corporation counsel shall be exempt from civil service and shall serve at the pleasure of the corporation counsel.

2. Be the chief legal advisor and legal representative of the County of Maui; of the council, the mayor, all departments, and all boards and commissions, and of all officers and employees in matters relating to their official duties[.], except as otherwise provided in this charter.

3. Represent the county in all legal proceedings.

4. Perform such other duties and functions as may be incident to the department or required by law.”;

4. That material to be repealed is bracketed and new material is underscored;

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

6. That, pursuant to Section 14-2(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 to designate, by two-thirds vote of its entire membership, attorneys within the Office of Council Services as special counsel to serve as legal advisors to the Council and its members?;

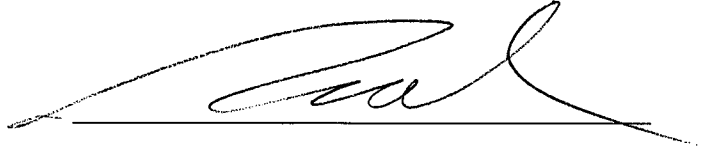
7. That, pursuant to Section 14-2(2) of the Charter, the County Clerk shall publish the proposed amendment in a newspaper of general circulation;

8. That, pursuant to Section 14-2(3) of the Charter, 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

Resolution No. _____

9. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, and the County Clerk.

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, appearing to be 'Paul', is written over a horizontal line.

Department of the Corporation Counsel
County of Maui

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