

REQUEST FOR LEGAL SERVICES

Date: May 3, 2018
From: Yuki Lei K. Sugimura, Chair
Policy, Economic Development, and Agriculture Committee

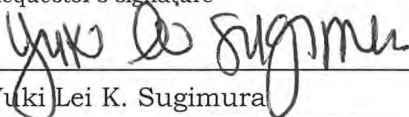
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Edward S. Kushi, Jr., Esq.

Subject: **PROPOSED CHARTER AMENDMENTS (CLAIMS)** (PEA-10(1))

Background Data: Please review attached revised proposed resolution and, if appropriate, approve it as to form and legality. Revisions include updates to BE IT RESOLVED paragraphs 6 and 7, insertion of an effective date in the ballot question, and changing references to an office or department to an individual, pursuant to Section 46-72, Hawaii Revised Statutes. A track-changes version is also attached for ease of reference. A signed hard copy is requested with your response.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

Requestor's signature  Yuki Lei K. Sugimura	Contact Person Carla Nakata (Telephone Extension: 7659)
---	---

ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): Friday, May 11, 2018
REASON: To allow for possible consideration at PEA meeting of May 14, 2018.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
--------------	----------------	-----

TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE REVISED
CHARTER OF THE COUNTY OF MAUI (1983), AS
AMENDED, AMENDING SECTION 13-6,
RELATING TO CLAIMS

WHEREAS, Section 13-6 of the Revised Charter of the County of Maui (1983), as amended (~~"Charter"~~), establishes the process by which claims may be filed with the County; and

WHEREAS, this provision stipulates that claims must be filed with the County Clerk within the time period provided by law; and

WHEREAS, once the ~~Office of the~~ County Clerk receives a written claim, ~~it~~ the Office of the County Clerk prepares an acknowledgement notice to the claimant, and forwards the claim to the third-party administrator; and

WHEREAS, the Office of the County Clerk provides copies of the notice to the third-party administrator to the Mayor, Corporation Counsel, and ~~the~~ Council Chair; and

WHEREAS, the Office of the County Clerk has no further part in the claims process, other than to forward requests and communications seeking clarification and information on, or the status or disposition of, a claim to the Department of the Corporation Counsel, Risk Management Division; and

WHEREAS, Section 46-72, Hawaii Revised Statutes, provides, in part, for a claim against the County to be filed with "the individual identified in the respective county's charter"; and

WHEREAS, Section 13-111, Revised Charter of the City and County of Honolulu, provides, in part, for claims against the City and County of Honolulu to be "filed with the corporation counsel"; and

WHEREAS, providing for claims to be filed with ~~the Department of~~ the Corporation Counsel instead of the ~~Office of the~~ County Clerk would assist in streamlining the claims process, provide greater clarity for claimants, and eliminate bureaucratic inefficiencies; now, therefore,

Resolution No. _____

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 13-6 of the Charter, pertaining to claims, be amended to read as follows:

“No action shall be maintained for the recovery of damages for any injury to person or property by reason of negligence of any officer or employee of the county unless a written statement stating fully when, where, and how the injuries occurred, the extent thereof, and the amount claimed therefor, has been filed with the [county clerk] ~~department of the~~ corporation counsel within the time period as provided by law.”; and

2. That material to be repealed is bracketed and new material is underscored; and
3. 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
4. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election; and
5. 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 Section 13-6 of the Charter be amended, effective January 2, 2019, to require that claims be filed with the ~~Department of the~~ Corporation Counsel, instead of the ~~Office of the~~ County Clerk?"; and

6. That pursuant to Section 14-2(2) of the Charter, the County Clerk shall publish ~~this the~~ proposed amendment as set forth in this resolution in its entirety in a newspaper of general circulation; and
7. That, upon approval by the majority of the voters voting on the proposed amendments as indicated by the number of votes cast and upon official certification of such result, the

Resolution No. _____

amendment proposed herein shall take effect as of January 2, 2019; and

8. 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
[2017-0626pea:misc:010\(1\)areso01](#)

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE REVISED
CHARTER OF THE COUNTY OF MAUI (1983), AS
AMENDED, AMENDING SECTION 13-6,
RELATING TO CLAIMS

WHEREAS, Section 13-6 of the Revised Charter of the County of Maui (1983), as amended (“Charter”), establishes the process by which claims may be filed with the County; and

WHEREAS, this provision stipulates that claims must be filed with the County Clerk within the time period provided by law; and

WHEREAS, once the County Clerk receives a written claim, the Office of the County Clerk prepares an acknowledgement notice to the claimant, and forwards the claim to the third-party administrator; and

WHEREAS, the Office of the County Clerk provides copies of the notice to the third-party administrator to the Mayor, Corporation Counsel, and Council Chair; and

WHEREAS, the Office of the County Clerk has no further part in the claims process, other than to forward requests and communications seeking clarification and information on, or the status or disposition of, a claim to the Department of the Corporation Counsel, Risk Management Division; and

WHEREAS, Section 46-72, Hawaii Revised Statutes, provides, in part, for a claim against the County to be filed with “the individual identified in the respective county’s charter”; and

WHEREAS, Section 13-111, Revised Charter of the City and County of Honolulu, provides, in part, for claims against the City and County of Honolulu to be “filed with the corporation counsel”; and

WHEREAS, providing for claims to be filed with the Corporation Counsel instead of the County Clerk would assist in streamlining the claims process, provide greater clarity for claimants, and eliminate bureaucratic inefficiencies; now, therefore,

Resolution No. _____

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 13-6 of the Charter, pertaining to claims, be amended to read as follows:

“No action shall be maintained for the recovery of damages for any injury to person or property by reason of negligence of any officer or employee of the county unless a written statement stating fully when, where, and how the injuries occurred, the extent thereof, and the amount claimed therefor, has been filed with the [county clerk] corporation counsel within the time period as provided by law.”; and

2. That material to be repealed is bracketed and new material is underscored; and
3. 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
4. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election; and
5. 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 Section 13-6 of the Charter be amended, effective January 2, 2019, to require that claims be filed with the Corporation Counsel instead of the County Clerk?"; and

6. That pursuant to Section 14-2(2) of the Charter, the County Clerk shall publish the proposed amendment as set forth in this resolution in its entirety in a newspaper of general circulation; and
7. That, upon approval by the majority of the voters voting on the proposed amendment, the amendment proposed herein shall take effect as of January 2, 2019; and

Resolution No. _____

8. 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
pea:misc:010(1)areso01