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OFFICE OF THE
COUNTY COUNCIL

MEMO TO: G. Riki Hokama, Chair
Policy and Intergovernmental Affairs Committee

F R O M: Mike White
Council Member



SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO
PROPOSED CHARTER AMENDMENTS (CODE OF ETHICS)** (PIA-10; PAF
13-222)

The attached legislative proposal pertains to Item 10 on your committee's agenda.

Paf:elf:13-222f

Attachment

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE CODE OF ETHICS

WHEREAS, the need for fair and equal treatment in government has led to a demand for guidelines to be put in place regarding the hiring of relatives; and

WHEREAS, the restriction on appointment and promotion of relatives will ensure that only qualified applicants are hired for employment; and

WHEREAS, the restriction on appointment and promotion of relatives will discourage the hiring of potential applicants to the County of Maui based on relation; now, therefore,

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

1. That, pursuant to Section 14-1(1), Revised Charter of the County of Maui (1983), as amended ("Charter"), it hereby proposes that Section 10-2 of the Charter, pertaining to Board of Ethics, be amended as follows:

"Section 10-2. Board of Ethics. There shall be a board of ethics.

1. The board shall consist of nine members appointed by the mayor with the approval of the council.

2. The board shall:

a. Initiate, receive, hear, inquire, and investigate complaints of violations of this Article.

b. Initiate impeachment proceedings against elected officers and officers appointed to elective office who are found by the board after [investigation] a hearing to have violated this Article. Such proceeding shall be brought in the name of the board which shall be represented by special counsel of the board's choosing.

c. Render advisory opinions after a hearing, which shall include findings of fact, conclusions of law, and recommendations, with respect to application of this Article on request. All requests for advisory opinions shall be answered within sixty (60) days of its filing; failure to submit an advisory opinion within the sixty (60) days shall be deemed a finding of no breach of this Article. The sixty-day period may be extended for an additional thirty (30) days if the board provides to the requestor,

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within the initial sixty (60) days, a written explanation of circumstances causing the delay.

d. Prescribe forms for the disclosures provided in this section and to implement the requirements of the disclosure provisions.

e. Examine all disclosure statements filed and to comment on or advise corrective action as to any matters that may indicate [an appearance of possible] a conflict of interest [which may rise to a violation of this code].

f. Adopt such rules, having the force and effect of law, as will be necessary to provide for the enforcement of the provisions of this Article.

g. Put on probation, demote, suspend, or discharge an employee or officer who is found by the board to have violated any provision of the code of ethics of the county as contained in this Article.

3. In the course of its investigations, the board shall have the power to administer oaths and subpoena witness and to compel the production of books and papers pertinent thereto.

4. The board, after due deliberation on issues before it, shall make findings of facts and conclusions of law regarding such issues and shall transmit the same to the appropriate appointing authority and the prosecuting attorney for appropriate disposition.

5. If any officer or employee, or former officer or employee, obtains an advisory opinion from the board and acts accordingly, or acts in accordance with the opinions of the board, the officer or employee shall not be held liable for violating any of the provisions of this Article.

6. The council and mayor shall cooperate and provide financing and personnel reasonably required by the board in the performance of its duties.

2. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Article 10 of the Charter, pertaining to the Code of Ethics, be amended to add a new section to be appropriately designated and read as follows:

“Section 10- . Fair and Equal Treatment. 1. No elected or appointed officers or employees shall:

a. Use their official positions to secure or grant special consideration, treatment, advantage, privilege, or exemption to themselves or any person beyond that which is available to every other person.

b. Hire, promote, supervise, or otherwise participate in the employment of a relative.

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c. This subsection shall not prohibit elected or appointed officers or employees from hiring, promoting, supervising, or participating in the employment of a relative if the relative is on a list of eligible employees.”

3. That 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 14-1(1) of the Charter, it hereby proposes that the following question be placed on the next general election ballot:
- “Shall Article 10 of the Charter be amended to: 1) establish a provision that provides for fair and equal treatment of all potential applicants to the County of Maui so that potential applicants will be hired based on qualification rather than relation; and 2) give the Board of Ethics authority to impose penalties, such as probation, suspension, termination, or a fine, on employees or officers if they are found to have violated any provision of the Code of Ethics of the County of Maui?”;
and
7. That, upon approval by the majority of the voters as indicated by the number of votes cast and upon official certification of such result, the amendment proposed herein shall take effect; and
8. That certified copies of this resolution be transmitted to the County Clerk and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY

Department of the Corporation Counsel
County of Maui

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