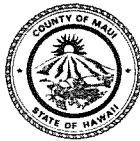


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Presiding Officer Pro Tempore
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Councilmembers
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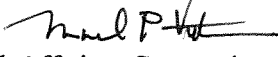


Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

April 19, 2016

MEMO TO: Patrick K. Wong
Corporation Counsel

F R O M: Michael P. Victorino, Chair 
Policy and Intergovernmental Affairs Committee

SUBJECT: **PROPOSED CHARTER AMENDMENTS (COUNCIL APPROVAL OF
MAYOR'S APPOINTMENT OF DEPARTMENT DIRECTORS)** (PIA-10(7))

The Policy and Intergovernmental Affairs Committee is in receipt of the attached proposed resolution entitled "PROPOSING AN AMENDMENT TO THE CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO REQUIRE COUNCIL APPROVAL OF THE MAYOR'S APPOINTMENT OF DEPARTMENT DIRECTORS."

The purpose of the proposed resolution is to place on the next General Election ballot the question of whether the Revised Charter of the County of Maui (1983), as amended, should be amended to require Council approval of the Mayor's appointment of department directors.

The first BE IT RESOLVED clause proposes to amend Charter Section 6-2(5) as follows (with deleted material in brackets and new material underscored):

"5. Within sixty (60) days of taking office, or within sixty (60) days after a vacancy is created, the mayor shall appoint the managing director, corporation counsel, [and] prosecuting attorney, director of finance, director of public works, director of parks and recreation, planning director, director of housing and human concerns, director of water supply, director of transportation, and director of environmental management, with written notice of the appointment to the council. The council shall confirm or deny the [confirmation] appointment within sixty (60) days after receiving

notice of the appointment by the mayor. If the council does not act within the 60-day period, the appointment shall be deemed to be confirmed. The [corporation counsel and prosecuting attorney] appointee shall take office upon appointment by the mayor but shall not continue in office if the council [denies confirmation] does not confirm the appointment. If the appointment is not confirmed by the council, the mayor shall make a new appointment within sixty (60) days of the council's denial, and the council shall confirm or deny within sixty (60) days after receiving notice of the new appointment by the mayor. If council does not act within the 60-day period, the appointment shall be deemed to be confirmed.”

The third sentence provides that the Council’s failure to act within 60 days will result in the appointment being confirmed. The fourth sentence, however, appears to disallow an appointee the right to continue in office if the Council takes no action. To resolve this apparent inconsistency, I would suggest a revision to establish that an appointee may continue in office unless and until the Council acts to deny the appointment.

Therefore, may I please request the fourth sentence be revised to read as follows: “The [corporation counsel and prosecuting attorney] appointee shall take office upon appointment by the mayor but shall not continue in office if the council denies [confirmation] the appointment.”

May I further request the title be revised to include the word “REVISED” before the word “CHARTER?”

I would appreciate receiving the revised proposed resolution, approved as to form and legality, by **April 29, 2016**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Kimberley Willenbrink at ext. 7761, or Tammy Frias at ext. 8005).

pia:ltr:010(7)acc01:kcw

Attachment

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO REQUIRE COUNCIL APPROVAL OF THE MAYOR'S APPOINTMENT OF DEPARTMENT DIRECTORS

WHEREAS, currently, the Revised Charter of the County of Maui (1983), as amended ("Charter"), provides for a process by which the Council shall confirm or deny the Mayor's appointments of the Corporation Counsel, Prosecuting Attorney, and Director of Water Supply; and

WHEREAS, although other department directors appointed by the Mayor are also charged with responsibilities that warrant the Council having approval authority over the appointments, no such process exists for the Mayor's appointment of department heads other than the Corporation Counsel, Prosecuting Attorney, and Director of Water Supply; 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 6-2 of the Charter, pertaining to the Appointment and Removal of Officers and Employees, be amended to read as follows:

"Section 6-2. Appointment and Removal of Officers and Employees.

1. The administrative head of a department may not appoint more than the staff for which appropriations have been made by the council.

2. No appointing authority shall appoint any person to any office or position exempted from civil service until satisfied by proper investigation that the person to be appointed is fully qualified by experience and ability to perform the duties of the office or position.

3. The term of office of any administrative head of a department who is appointed by the mayor[, including the corporation counsel and the prosecuting attorney,] shall end with the term of office of the mayor, except that any such administrative head may be earlier removed as provided for in this charter. Such

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officers shall not hold over more than sixty (60) days after their respective terms of office, and shall immediately vacate their respective offices at the end of the 60-day period or upon the appointment of a successor in accordance with this charter, whichever occurs first.

4. The mayor shall have the authority to appoint, on a temporary basis, an administrative head of any department, provided that such department is one where the administrative head is appointed by the mayor.

5. Within sixty (60) days of taking office, or within sixty (60) days after a vacancy is created, the mayor shall appoint the managing director, corporation counsel, [and] prosecuting attorney, director of finance, director of public works, director of parks and recreation, planning director, director of housing and human concerns, director of water supply, director of transportation, and director of environmental management, with written notice of the appointment to the council. The council shall confirm or deny the [confirmation] appointment within sixty (60) days after receiving notice of the appointment by the mayor. If the council does not act within the 60-day period, the appointment shall be deemed to be confirmed. The [corporation counsel and prosecuting attorney] appointee shall take office upon appointment by the mayor but shall not continue in office if the council [denies confirmation] does not confirm the appointment. If the appointment is not confirmed by the council, the mayor shall make a new appointment within sixty (60) days of the council's denial, and the council shall confirm or deny within sixty (60) days after receiving notice of the new appointment by the mayor. If council does not act within the 60-day period, the appointment shall be deemed to be confirmed.”;

2. That pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-1.2 of the Charter, pertaining to the Managing Director, be amended to read as follows:

“Section 8-1.2. Managing Director. The managing director 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. The managing director shall have had a minimum of five years of experience in an administrative capacity, either in public or private business, or both.”;

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3. That pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-4.2 of the Charter, pertaining to the Director of Finance, be amended to read as follows:

“Section 8-4.2. Director of Finance. The director of finance 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. The director of finance shall have had a minimum of five years of experience in a public or private financial position, at least three [years] of which shall have been in an administrative capacity.”;

4. That pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-5.2 of the Charter, pertaining to the Director of Public Works, be amended to read as follows:

“Section 8-5.2. Director of Public Works. The director of public works 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. The director of public works shall have had a minimum of five years of experience in an administrative capacity, either in public service or private business, or both.”;

5. That pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-6.2 of the Charter, pertaining to the Director of Parks and Recreation, be amended to read as follows:

“Section 8-6.2. Director of Parks and Recreation. The director of parks and recreation 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. The director of parks and recreation shall have had a minimum of five years of experience in an administrative capacity, either in public service or private business, or both.”;

6. That pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-8.2 of the Charter, pertaining to the Planning Director, be amended to read as follows:

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"Section 8-8.2. Planning Director. The planning director 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. The planning director shall have had a minimum of five years of experience in the field of planning, at least three of which shall have been in an administrative capacity.";

7. That pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-10.2 of the Charter, pertaining to the Director of Housing and Human Concerns, be amended to read as follows:

"Section 8-10.2. Director of Housing and Human Concerns. The director of [the department of] housing and human concerns 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. The director of [the department of] housing and human concerns shall have had a minimum of five years of experience in an administrative capacity, either in public service or private business, or both.";

8. That pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-14.2 of the Charter, pertaining to the Director of Transportation, be amended to read as follows:

"Section 8-14.2. Director of Transportation. The director of transportation 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. The director of transportation shall have had a minimum of five years of experience in an administrative capacity, either in public service or private business, or both.";

9. That pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 8-15.2 of the Charter, pertaining to the Director of Environmental Management, be amended to read as follows:

"Section 8-15.2. Director of Environmental Management. The director of environmental management 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. The director of environmental management shall have had a minimum of five

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years of experience in an administrative capacity, either in public service or private business, or both.”; and

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

11. That, pursuant to Section 14-2(1) of the Charter, the proposed Charter amendment initiated by this resolution be submitted to the voters of the County of Maui at the next General Election;

12. 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 require Council approval of the Mayor’s appointment of department directors?”;

13. That, pursuant to Section 14-2(3) of the Charter, should the majority of the voters voting thereon approve the proposed Charter amendment initiated by this resolution, the Charter amendment shall take effect at twelve o’clock meridian on the second day of January following the Mayor’s election in 2018; and

14. That certified copies of this resolution be transmitted to the County Clerk.

APPROVED AS TO FORM AND LEGALITY



EDWARD S. KUSHI, JR.
Department of the Corporation Counsel
County of Maui
2015-5586