

REQUEST FOR LEGAL SERVICES

Date: July 6, 2016
From: Michael P. Victorino, Chair
Policy and Intergovernmental Affairs Committee

TRANSMITTAL

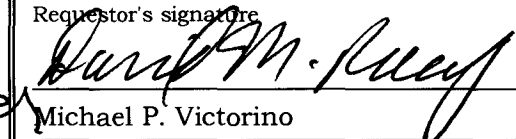
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Edward S. Kushi, Jr., Esq.

Subject: **PROPOSED CHARTER AMENDMENTS (ATTORNEYS WITHIN THE OFFICE OF COUNCIL SERVICES)** PIA-10(5))

Background Data: Proposed Charter amendment to allow attorneys within the Office of Council Services to serve as legal advisors to the Council and its members in addition to the Department of the Corporation Counsel attorneys; and to allow the Council to designate such attorneys as special counsel for any matter presenting a real necessity, upon a two-thirds vote of its entire membership.

Work Requested: ☒ [X] FOR APPROVAL AS TO FORM AND LEGALITY

☐ [] OTHER:

Requestor's signature  for Michael P. Victorino	Contact Person <u>Sharon Brooks</u> (Telephone Extensions: <u>7137</u>)
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☐ [] ROUTINE (WITHIN 15 WORKING DAYS) ☐ [] RUSH (WITHIN 5 WORKING DAYS)
☐ [] PRIORITY (WITHIN 10 WORKING DAYS) ☐ [] URGENT (WITHIN 3 WORKING DAYS)

☒ [X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): July 7, 2016 4:30 p.m.

REASON: For posting on July 8, 2016 for the Council's meeting of July 15, 2016.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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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 _____

(Rev. 7/03)

pia:ltr:010(5)acc01:scb

Attachment

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, 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 the 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, or designate, by a vote of two-thirds of its entire membership, special counsel as legal representative 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 to serve as legal advisors.”;

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

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:

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"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 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 attorneys within the Office of Council Services, in addition to the attorneys within the Department of the Corporation Counsel, to serve as legal advisors to the Council and its members, and 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 representatives for any special matter presenting a real necessity for such employment?”;

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;

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.

APPROVED AS TO FORM AND LEGALITY

Department of the Corporation Counsel
County of Maui

pia:misc:010(5)areso01:scb