

March 3, 2021

MEMO TO: GREAT-6 File

F R O M: Alice L. Lee, Chair



SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO
AMENDMENTS TO THE RULES OF THE COUNCIL** (PAF 20-164)

The attached legislative proposal pertains to Item 6 on the Committee's agenda.

paf:dmr:20-164b

Attachment

GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY
COMMITTEE
Amendment Summary Form

Legislation: Rules of the Council.

Proposer: Alice L. Lee, Council Chair

Description: Five proposed amendments to the Rules.

1st Motion: First, I move to amend Rule 7(G) to exempt resolutions from the requirement of committee referral and report.

Reasons: Under the existing rule, it is a challenge to determine which resolutions have “the force and effect of law” and must be referred to committee. It would be more efficient to exempt all resolutions.

Effect: If my motion is approved, Rule 7(G) would read as follows, with deleted material bracketed and new material underscored:

“G. Referral to committees; waiver of requirement. [In the case of bills or resolutions having the force and effect of law, except for resolutions relating to the election, establishment, or appointment of the Council’s officers, committees, or staff; the appointment of members to the Hawaii State Association of Counties Executive Committee, Western Interstate Region, or National Association of Counties; changing the date of a Council meeting; or amending these rules, the] The Council shall refer [the matter] bills to a standing committee and shall receive the committee’s report prior to first reading or adoption; provided that the Council may waive this requirement by the affirmative vote of two-thirds of the entire membership of the Council.”

2nd Motion: Second, I move to amend Rule 16 to specifically authorize chairs to use the “small board” rules in Robert’s, which allow more informality.

Reasons: Councilmembers have recently expressed the formal procedures in Robert’s can be unduly restrictive.

Effect: If my motion is approved, Rule 16 would read as follows, with deleted material bracketed and new material underscored:

“Rule 16. Rules of Procedure. The rules of parliamentary practice set forth in Robert’s Rules of Order Newly Revised, 11th Edition, shall govern the procedure for Council and committee meetings in all cases in which they are not inconsistent with law or the Rules of the Council. The presiding officer may invoke the procedures for small boards in Robert’s § 49.”

3rd Motion: Third, I move to amend Rule 18 to specify that County officials and employees do not need to be designated as resource persons.

Reasons: Most chairs understandably allow County officials to participate in meetings without being designated resource persons, though Rule 18 technically requires it. As amended, Rule 18 would say that only government officials and employees “from outside the County” would have to be designated as resource persons.

Effect: If my motion is approved, Rule 18 would read as follows, with new material underscored:

“Rule 18. Resource Persons. A. Participation as resource person. The presiding officer may allow government officials and employees from outside the County, legal advisors, and individuals who have special expertise in the subject matter being considered to participate in meetings as resource persons for the purpose of providing information or advice to facilitate the deliberative process. When practicable, the identity of resource persons anticipated to participate in a meeting shall be listed on the meeting agenda. At the meeting, the presiding officer shall state the resource person’s special expertise in the subject matter being considered and state whether the resource person is a paid lobbyist as defined by Section 2.56.040, MCC. Participation in the meeting by a resource person pursuant to this subsection shall not constitute testimony.”

4th Motion: Fourth, I move to repeal Rule 22 on Council Travel.

Reasons: This rule does not relate to parliamentary procedure and appears to be misplaced. Requirements for Council travel are established by ordinance and Council Chair policy.

Effect: If my motion is approved, Rule 22 would be deleted in its entirety:

“[Rule 22. Council Travel. A. Prior approval required. All expenditures from the County Council (including the Office of Council Services and Office of the County Clerk) travel accounts shall be subject to prior approval by the Council Chair or a representative designated for such purpose. B. Reporting requirements. The Council Chair shall require a report, as the Chair deems appropriate, from any officer or employee who expends public funds on off-island travel. Unless specifically required by the Chair, this requirement shall not apply to travel required to attend a meeting of the Council or a committee of the Council, or to travel required between a Council member’s residence and the County Building, Wailuku, Hawaii.]”

5th Motion: Fifth, I move to amend Rule 23 to provide that pending committee items are automatically filed at the end of the term, unless the Council chooses to forward them to the new Council term.

Reasons: The current rule—under which some items are automatically referred—created substantial confusion at the end of the last term.

Effect: If my motion is approved, Rule 23(A) would read as follows, with deleted material bracketed and new material underscored:

“A. End-of-term filing or referral of communications pending before committees. At the expiration of a Council term, all communications pending before committees shall be deemed filed and disposed of [provided that communications relating to the following shall be deemed referred] except that at its discretion the Council may refer pending items to the

Council Chair for the ensuing term, for consideration by the Council[.].

[1. A bill or resolution amending the current fiscal year's budget, submitted by the Mayor, Director of Finance, or Budget Director, including bond authorizations, capital improvement projects, and the operating budget;

2. A valid nomination of a County officer;

3. A resolution authorizing settlement pursuant to Section 3.16.020, MCC; indemnification of a County officer or employee, as requested by the Corporation Counsel; employment of special counsel pursuant to Section 3-6.6 of the Charter; proceedings in eminent domain pursuant to Section 4-2.7 of the Charter; or acceptance of a gift or donation pursuant to Chapter 3.56, MCC;

4. A bill for a land use ordinance for which recommendations of the appropriate planning commission or planning commissions have been received pursuant to Sections 8-8.4 or 8-8.6 of the Charter;

5. A resolution approving or disapproving a Board of Variances and Appeals action pursuant to Section 19.02A.040(D), MCC;

6. Department of Water Supply capital improvement plans or water use and development plans for which recommendations of the Board of Water Supply have been received pursuant to Section 8-11.6 of the Charter;

7. A bill for a traffic safety measure for which recommendations of the Public Works Commission have been received pursuant to Section 2.98.030(A), MCC;

8. A bill or resolution for which recommendations of the Maui County Cultural Resources Commission or the Public Works Commission have been received pursuant to Sections 2.88.060 or 2.98.030(B), MCC;

9. A bill to revise or update the General Plan or a community plan for which recommendations of the appropriate planning commission or planning commissions have been received pursuant to Chapter 2.80B, MCC;

10. A bill or resolution for which recommendations of the Maui County Arborist Committee have been received pursuant to Section 12.24A.030, MCC;

11. Resolutions approving, disapproving, or approving with modification a project pursuant to Chapter 201H, HRS; and

12. A bill or resolution that has passed one of two required readings and was subsequently referred to committee.

For purposes of this rule, “communication” means a County Communication; a General Communication; a Miscellaneous Communication; a recommitted committee report, bill, or resolution; or correspondence transmitted directly to a committee.】”

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