

2009-2010 HAWAI'I COUNTY CHARTER COMMISSION
CHARTER AMENDMENT PROPOSAL FORM

1. GENERAL INFORMATION

Name of Commission Member: Chairman Ed Haituka

2. If applicable, list the charter provision(s) to be deleted or amended:

Amends Article III, Section 3-6; Article IV, Section 4-5; Article V, Section 5-3.1; Article VI, Section 6-3.4; Article VI, Section 6-9.1; Article VII, Sections 7-1.5 and 7-2.5; Article XIII, Sections 13-3 and 13-9 of the Charter relating to Civil Service laws that are under the jurisdiction of the State of Hawai'i.

3. Provide a brief description of the purpose of the proposed charter amendment; include a description of the issue the proposal would address:

The State Supreme Court has ruled that the civil service laws of the State take precedence over contrary local laws and ordinances. Thus, Mike Ben, Director of Human Services recommended that those provisions referencing civil service and exemptions there from and the classification plan prescribed by state law which conflict with the Charter provisions be removed.

4. If the proposal is based on a provision(s) in the charter or law of another jurisdiction, name the jurisdiction and, if possible, attach a copy of the relevant provision(s).

N/A

5. If the proposal is based on any written materials you have, please attach a copy with a citation to its source.

See reverse side

6. Attach the text of the proposed charter amendment in Ramseyer format (see below).

Ramseyer Format, if proposing:

Amendments to Existing Charter Provisions

Any language being proposed to be added to the Charter shall be underscored.

Any language being proposed to be deleted from the Charter shall be [bracketed].

Replacing Existing Charter Provisions in their Entirety

Clearly indicate the article(s), chapter(s), and/or section(s) of the Charter to be proposed to be deleted, and provide the text of any provisions proposed to replace the deleted material.

New Charter Provisions

Provide the text of the new provision(s) and, if possible, indicate where in the Charter the new material should be inserted.

Form

CHARTER AMENDMENT NO.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI'I:

Section 1. The Hawai'i County Charter contains numerous references to civil service laws that are under the jurisdiction of the State of Hawai'i.

Section 2. Article III, section 3-6(b), Hawai'i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“ARTICLE III LEGISLATIVE BRANCH COUNTY COUNCIL

Section 3-6. Organization of the Council; Officers; Employees

- (b) The council shall appoint the county clerk [which position shall be exempt from civil service laws and classifications]. The county clerk shall:
- (1) Be the clerk of the council.
 - (2) Be custodian of the county seal.
 - (3) Conduct all elections held within the county.
 - (4) Appoint the deputy county clerk, with the approval of the council [and such position shall be exempt from civil service laws and classifications].
 - (5) Perform such other functions as the council may prescribe.
 - (6) Appoint necessary staff for which appropriations have been made by the council[, subject to civil service laws and classifications,] and exercise the same power with respect to the personnel of the clerk's office as the department heads in the executive branch, with the exception of the office of the legislative auditor.”

Section 3. Article IV, section 4-5(a), Hawai'i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

“ARTICLE IV EXECUTIVE BRANCH GENERAL PROVISIONS

Section 4-5. Powers and Duties of Agency Heads.

Subject to the provisions of this charter, the administrative heads of each agency or executive agency of the county shall have the power to:

- (a) Appoint and remove a deputy or assistant and a private secretary [and such positions shall be exempt from civil service laws and classifications]. No such appointment shall be made unless the positions have been created and appropriations therefor have been made by the council.”

Section 4. Article V, Chapter 1, section 5-1.3, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE V
EXECUTIVE BRANCH
THE MAYOR AND STAFF AGENCIES**

**CHAPTER 1
MAYOR**

Section 5-1.3. Powers, Duties and Functions.

The mayor shall be the chief executive officer of the county vested with all the executive powers of the county, except as otherwise provided by this charter. The mayor shall have the power to:

- (a) Through the managing director supervise and coordinate all executive agencies of the county, except as otherwise provided by this charter.
- (b) Appoint necessary staff for which appropriations have been made by the council. [All positions in the mayor’s office shall be exempt from civil service laws and classifications.]
- (c) Create positions, including position of deputy or assistant to each head of an agency where such position has not been created by this charter, for which appropriations have been made by the council and abolish positions with the consent of the council.
- (d) Make transfers of positions between agencies or between subdivisions of agencies [subject to applicable civil service regulations].
- (e) Recommend to the council a pay plan for all officers and employees of the county or any of its boards and commissions, except those whose pay is otherwise provided for; provided that the salary of any officer or employee who is exempt from civil service laws shall be subject to approval by the council and the mayor.
- (f) Submit an operating budget, an operating program, a capital budget and a capital program annually to the council.”

Section 5. Article VI, Chapter 3, section 6-3.4, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE VI
EXECUTIVE BRANCH
THE MANAGING DIRECTOR AND AGENCIES
UNDER THE MANAGING DIRECTOR**

**CHAPTER 3
DEPARTMENT OF PARKS AND RECREATION**

Section 6-3.4. County Bands.

The county bands shall be a part of the department of parks and recreation for administrative purposes[. The bandmasters shall be appointed by the mayor and may be removed by the mayor. The members of the bands and other employees connected therewith shall be appointed by the bandmasters and may be removed by the bandmasters with the approval of the managing director, and all positions in the bands shall be exempt from civil service laws and classifications.]; provided, the appointing authority for the bandmasters shall be the mayor, and the appointing authority for the band members shall be the appropriate bandmaster.”

Section 6. Article VI, Chapter 9, section 6-9.1, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE VI
EXECUTIVE BRANCH
THE MANAGING DIRECTOR AND AGENCIES
UNDER THE MANAGING DIRECTOR**

**CHAPTER 9
MISCELLANEOUS**

Section 6-9.1. Clerical Pool.

There may be a clerical pool consisting of such positions as the mayor may recommend and for which appropriations have been made by the council. The purpose of such pool shall be to provide periodic staff assistance to the various agencies of the county when necessitated by heavy workloads. The clerical pool shall be attached to the mayor’s office for purposes of administration, assignment and coordination [but the personnel of the clerical pool shall be subject to the civil service laws of the State].”

Section 7. Article VII, Chapter 1, section 7-1.5, Hawai‘i County Charter, is deleted in its entirety with subsequent sections appropriately renumbered, with deleted language bracketed:

**“ARTICLE VII
EXECUTIVE BRANCH-DEPARTMENTS OR
AGENCIES UNDER COMMISSIONS**

**CHAPTER 1
DEPARTMENT OF HUMAN RESOURCES**

[Section 7-1.5. Position Classification Plan; Compensation.

Except as otherwise provided by law or this charter, all positions in the service of the county shall be classified within a position classification plan, and all persons holding such positions shall be compensated as provided by the compensation law of the state.]”

Section 8. Article VII, Chapter 2, section 7-2.5, Hawai‘i County Charter, is deleted in its entirety with subsequent sections appropriately renumbered, with deleted language bracketed:

**“ARTICLE VII
EXECUTIVE BRANCH-DEPARTMENTS OR
AGENCIES UNDER COMMISSIONS**

**CHAPTER 2
POLICE DEPARTMENT**

[Section 7-2.5. Dismissal, Suspension, Demotion, or Grievance.

The dismissal, suspension, demotion, or grievance of any police officer or employee in the police department shall be under procedures set forth by civil service laws and regulations.]”

Section 9. Article XIII, section 13-3, Hawai‘i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed:

**“ARTICLE XIII
GENERAL PROVISIONS**

Section 13-3. Appointments, civil service, exemptions.

- (a) All appointments to positions prescribed in this charter shall be subject to applicable provisions of the civil service laws of the State. Where civil service laws are not applicable, a position shall be considered exempt from civil service, provided, civil service laws may exempt certain positions yet require such position to be included in the position classification plan prescribed by such civil service laws.
- (b) No appointing authority shall appoint any person to any office or position which is exempt from the civil service laws until satisfied by proper investigation that the person to be appointed is fully qualified by experience and ability to perform the duties of that office or position.”

Section 10. Article XIII, section 13-9, is deleted in its entirety with subsequent sections appropriately renumbered, with deleted language bracketed:

**“ARTICLE XIII
GENERAL PROVISIONS**

[Section 13-9. Non-Civil Service Status and Classification.

From and after the full effective date of this charter, no employees or officers of the county who are exempt from the civil service laws shall have their positions included in a position classification plan established under the civil service laws.]”

Section 3. This amendment shall take effect upon its approval by the electorate.