

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

1. GENERAL INFORMATION

Name of Commission Member: _____

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

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

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).

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.

(As of February 20, 2001)

Section 3-107. Organization of Council; Officers; Rules; Meetings; Employees --

1. The council shall meet in the council room at the city hall for its organization at twelve o'clock meridian on the second day of January of every odd-numbered year or on the next business day if the second day be a Sunday or a holiday. At the meeting, the council shall elect one of its councilmembers as chair and presiding officer of the council. It shall also elect one of its councilmembers as vice-chair who shall act as the presiding officer in the event of the chair's absence or disability. The council shall appoint a presiding officer pro tempore from its own members in the event of the absence or disability of both the chair and the vice-chair. All councilmembers shall have the right to vote in the council at all times. A majority of the entire membership of the council shall constitute a quorum and, except as otherwise provided, the affirmative vote of a majority of the entire membership shall be necessary to take any action.

2. The council shall adopt rules governing its officers and employees, the organization of committees and the transaction of business.

3. The council shall keep a journal of its proceedings in which the ayes and noes shall be entered as required by this charter or at any other time upon the demand of any member.

4. The council may suspend, without pay for not more than one month, any member for disorderly or contemptuous behavior in its presence, upon an affirmative vote of at least two-thirds of its entire membership. The presiding officer or the council may, by a majority vote, expel any other person who is guilty of disorderly, contemptuous or improper conduct at any meeting.

5. The council may authorize the employment of special counsel to represent it, upon the affirmative vote of at least two-thirds of its entire membership.⁶ Any such authorization shall specify the compensation, if any, to be paid such special counsel, and the council shall make an appropriation therefor.

6. The presiding officer of any committee of the council or a majority of the committee may expel any person who is guilty of disorderly, contemptuous or improper conduct at any committee meeting.

7. The council may establish an office of council services and create such positions therein as it deems necessary to assist it in the exercise of its legislative power. The council shall fix the salaries of such positions by ordinance. Funds appropriated for such salaries shall be allotted by, and the persons holding such positions shall be appointed by and serve under the direction of, the presiding officer of the council. Staff shall be appointed in a manner consonant with the merit principles set forth in Section 6-1102 of this charter, but shall not otherwise be subject to the provisions of Chapter 11 of Article VI of this charter, pursuant to Section 6-1104 of this charter.

The council may authorize attorneys within the office of council services to represent it in court litigation where the dispute is with the Executive Branch and where the corporation counsel may represent the Mayor or officers of the Executive Branch. In the event that attorneys within the office of council services should be authorized to represent the city council, those staff

⁶Following charter revision, power of council to retain special counsel to represent it was enlarged from one exercisable only for a matter presenting a real necessity for such employment to one exercisable without express limitation. City Council v. Sakai, 58 Haw. 390, 570 P.2d 565 (1977).

(As of February 20, 2001)

attorneys shall be deemed to have the status of "special counsel."

8. The council shall hold regular meetings and shall meet at least once each month. All meetings of the council shall be open to the public, and every vote taken by the council shall be by open ballot. Any councilmember who has a direct personal financial interest in any matter on which a vote is taken may abstain from voting after declaring the conflict of interest. The council shall adopt rules governing abstention from voting. With the exception of consultations with the corporation counsel on claims where premature public disclosure of information would adversely affect the city's interest and consultation with its own counsel or staff, all council committee meetings shall be open to the public.⁷ The council may adjourn to any meeting place, provided notice of the time and place of the meeting is published at least three days prior to such meeting in a daily newspaper of general circulation in the city, and notice is also given to all councilmembers at least three days prior to the meeting.

9. The council shall, prior to making its decisions on confirmations, hold public hearings on the appointees of the mayor. (*Reso. 78-277, 83-357 and 84-197; 1992 General Election Charter Amendment Question No. 7; 1998 General Election Charter Amendment Question No. 8(III)*)

⁷Municipal charter permitted city council to confer with corporation counsel on existing or potential claims where premature public disclosure would adversely affect city's interest; council is not required to wait until claim is actually asserted before attorney-client privilege attaches. Hui Malama Aina O Ko'olau v. Pacarro, 4 Haw. App. 304, 666 P.2d 177 (1983).

CHARTER AMENDMENT NO.

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

Section 1. Article III, Hawai'i County Charter, is amended to add a new section as follows with added language underlined:

“Section 3- . Office of Council Services.

The council may establish an office of council services and create such positions therein as it deems necessary to assist it in the exercise of its legislative power. The council shall fix the salaries of such positions by ordinance. Funds appropriated for such salaries shall be allotted by, and the persons holding such positions shall be appointed by and serve under the direction of the council. The council may authorize attorneys within the office of council services to represent it in court litigation where the dispute is with the Executive Branch and where the corporation counsel may represent the Mayor or officers of the Executive Branch. In the event that attorneys within the office of council services should be authorized to represent the county council, those staff attorneys shall be deemed to have the status of "special counsel."”

Section 2. Article VI, section 6-5.3, Hawai'i County Charter, is amended to read as follows, with added language underscored and deleted language bracketed and stricken through:

“Section 6-5.3. Powers, Duties and Functions.

The corporation counsel shall be the chief legal advisor and legal representative of all county agencies, the council and all officers and employers in matters related to their official powers and duties. Except as otherwise provided in this Charter, [~~The~~] the corporation counsel shall represent the county in all civil legal proceedings and shall perform all other services incident to the office as may be required by law. [~~The corporation counsel shall, however, be prohibited from representing any elected officer in impeachment proceedings.~~]”

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