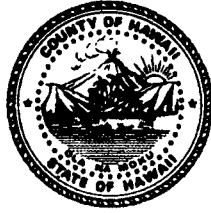


William P. Kenoi
Mayor



Lono A. Tyson
Director

Ivan M. Torigoe
Deputy Director

County of Hawai'i
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
25 Aupuni Street • Hilo, Hawai'i 96720
(808) 961-8083 • Fax (808) 961-8086
http://co.hawaii.hi.us/directory/dir_envmng.htm

August 11, 2009

Mr. Edmund Haitzuka, Chair
And Members of the Hawai'i County Charter Commission
c/o Karen Eoff
Kona County Council Office
75-5706 Hanama Place, Suite 109
Kailua-Kona, HI 96740
Hilo, HI 96720

SUBJECT: COUNTY CHARTER AMENDMENTS PERTAINING TO THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT


Dear Chairman Haitzuka and Charter Commission Members,

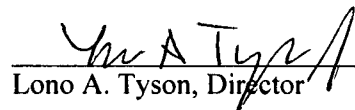
At the July 29, 2009 meeting of the County of Hawai'i Environmental Management Commission, a motion was made and unanimously passed, in support of the enclosed comments and recommendations provided by the County Department of Environmental Management ("Department") director.

The Charter Commission had requested Department comments relating to three proposed amendments:

- The first amendment would change the qualifications for the Director of the Department of Environmental Management to require a Civil Engineering degree, P.E. or similar registration.
- The second amendment would create a more specific and detailed description of the Powers, Duties and Functions of the Department.
- The third proposed amendment would give the Department responsibility and authority over County Food and Energy Sustainability programs.

Should you have any questions, please contact Ivan Torigoe at 961-8083.


Suzanne Mayhew, Chair


Lono A. Tyson, Director

enclosure

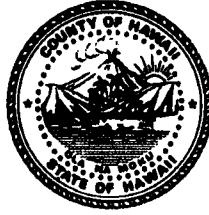
cc: William P. Kenoi, Mayor
Bill Takaba, Managing Director
Ivan Torigoe, Deputy Director

COMM. 27

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COUNTY OF HAWAII
RECEIVED

William P. Kenoi
Mayor



Lono A. Tyson
Director

Ivan M. Torigoe
Deputy Director

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MEMORANDUM

DATE : May 15, 2009
TO : Environmental Management Commissioners
FROM : Lono Tyson *LT*
SUBJECT: County Charter Amendments pertaining to the Department of Environmental Management

The County Charter is the foundational legal document which incorporates the County of Hawai'i, and establishes its basic structure, including its departments. It's something like a "constitution" for the County. Every ten years, as required by County Charter Section 15-3, an 11-member Charter Commission is convened to study and review the Charter. After holding public hearings, the Charter Commission may propose amendments to the Charter. These proposed amendments are then voted on by the people of the County.

A ten-year Charter review is now underway. On May 8, 2009, the Charter Commission held a meeting at which they began review of Charter Article VI, Chapter 5, regarding the Department of Environmental Management (see attachment). The Charter Commission asked for EMC and Department comments on the following three possible Charter amendments under consideration. Please provide your input at the next EMC meeting.

1. Section 6-5.3: Should the qualifications for the Director of the Department of Environmental Management require a Civil Engineering degree, or P.E. ("Professional Engineer") or similar registration. (The current wording requires a "minimum of five years' administrative experience in a related field.")

Director's Comments and Recommendations:

A review of Hawai'i Government Charters regarding the qualifications for the Director of the Department of Environmental Management (Hawai'i/Maui), Director of Environmental Services (City/County) and Director of the Department of Public Works (Kauai) is as follows:

Hawai'i County: Section 6-5.3 of the Hawai'i County Charter specifies that "*The director shall have had a minimum of five years administrative experience in a related field*";

Mauai County: Section 8-15.2 of the Maui County Charter specifies that *"The director of environmental management shall have had a minimum of five years of experience in an administrative capacity, either in public service or private business, or both"*.

City & County of Honolulu: Section 6-801 of the C&C Charter specifies that *"There shall be a department of environmental services headed by a registered engineer who shall have a background in sanitary engineering...."*

Section 6-802 of the C&C Charter specifies that *"The director of the department of environmental services shall have a minimum of five years engineering experience, three of which shall have been in sanitary engineering and three years of administrative experience. The administrative experience does not have to be directly related to sanitary engineering."*

Kauai County: Section 13.01 of the Kauai County Charter specifies that *"There shall be a department of Public works consisting of a county engineer and the necessary staff."*

Section 13.02 of the Kauai County Charter specifies that the county engineer *"shall have had a minimum of five years of training and experience in an engineering position, at least three years of which shall have been in a responsible administrative capacity."*

Interestingly, only the City & County requires that the director possess engineering registration. All Counties requires some amount of administrative experience, with no County requiring that the director hold an engineering degree. (It should be noted that possession of an engineering degree is not an absolute requirement for obtaining engineering registration within the State of Hawai'i.)

HRS Chapter 464, Section 464-4(A) states that public works projects involving alteration or new construction shall be required to have "Plans or specifications prepared by or under the supervision of an appropriately licensed professional engineer, architect, or landscape architect." Additionally, Section 464-4(B) requires that such projects have "A licensed professional engineer, architect, or landscape architect designated by the State, County or political subdivision that is undertaking the public works project to observe the alteration or new construction." However, a department director would not be expected to perform either of these functions as these project-specific tasks normally fall under the responsibility of department staff. If the County of Hawai'i had a requirement for the environmental management department director to be a registered engineer, I'd still be living in Australia.

Having served as this Department's Solid Waste Division Chief (9/16/03 to 7/4/05), and now the Department Director, I feel uniquely qualified to comment on this issue. This department provides an essential service to the County. In addition to the Civil Defense, Fire and Police departments, this department provides vital Public health and safety services. Beyond these agencies, this department manages programs and facilities which also affect the environment. In order to provide appropriate oversight and support to this department's solid waste and wastewater divisions, the Director should possess an understanding of the scope and impacts relative to department programs, as well as an understanding of operations, maintenance and monitoring of County facilities. For these reasons, I believe our County would best be served by including a requirement that the Director possess an engineering degree in a related field.

2. Section 6-5.4: *Should there be a more specific and detailed description of the Powers, Duties and Functions of the department? (Current language is "The department of environmental management shall manage the solid waste, wastewater and recycling programs of the county, and exercise other functions prescribed by ordinance")*.

Director's Comments and Recommendations:

The current description does not include the department's existing management of the County's Abandoned Vehicle Disposal Program (AVDP). Additionally, certain projects which the department could undertake, such as investigation and remediation of brownfields, would likely require an

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ordinance. Modification of the powers, duties and functions should be carefully considered as there would be financial ramifications, such as budgeting to provide for expanded powers, duties and functions (not necessary for the AVDP as this program is funded by the Vehicle Disposal Fund). Although the department may possess technical expertise in areas beyond our current scope, future resources may not be available to support expanded powers, duties and functions. My recommendation is to amend the ordinance requirement of Charter Section 6-5.4 and Section 2-202 of the Hawai'i County Code ("HCC") and substitute the first sentence with the following (new language bolded and underlined):

*"The department of environmental management shall manage the solid waste, wastewater, and recycling programs of the County, and exercise other functions **as directed by the Mayor or prescribed by ordinance.**"*

Additionally, I would recommend that Section 2-203(a)(2) of the HCC be revised to read as follows:

*"Solid Waste Division. The solid waste division shall be responsible for the construction, maintenance, **monitoring** and operation of all solid waste facilities operated by and for the County **and for management of solid waste recycling programs and the Abandoned Vehicle Disposal Program.**"*

I've included monitoring in the above clause as the County is mandated to undertake environmental monitoring at West Hawai'i and Hilo landfills. Additionally, I've included the AVDP as I cannot find any Charter or HCC reference to this program being within the responsibility of this department. The AVDP could certainly be argued as being a solid waste or recycling program, however, given the scope of the AVDP and associated special fund status, I would suggest that it be considered as a specific responsibility.

3. Should the Department of Environmental Management be Given Responsibility and Authority over County Food and Energy Sustainability Programs? (Not currently spelled out in the Charter, but being handled through Department of Research and Development ["R&D"])

Director's Comments and Recommendations:

The County Council has a Food and Energy Sustainability Committee. Our department was recently requested to attend a meeting of that committee to provide a status report for a photovoltaic system feasibility study being undertaken for the department's Kealakehe Wastewater Treatment Plant. As far as I know, our department has no other business currently being considered by this committee.

It is appropriate for our department to take on an official role in the County's Sustainability plans, especially in regards to waste management and recycling. Energy issues are also significant for us as our Wastewater Division incurs almost \$2 million annually in energy bills. As the County's sustainability plans are currently being developed and encompass a much wider scope than our department's responsibilities and expertise, I would not recommend that our department be given primary responsibility and authority over County Food and Energy Sustainability Programs. Our department could best serve the County as a support agency to a County Sustainability Program administered by the County's Department of Research and Development.