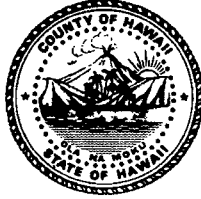


William P. Kenoi  
Mayor



William Takaba  
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## County of Hawaii

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September 4, 2009

**Sent via email to keoff@co.hawaii.hiu.us; no hard copy will follow**

Honorable Edmund Hiatsuka and Members of the  
County of Hawai'i Charter Commission  
c/o Hawai'i County Council  
333 Kīlauea Ave., 2<sup>nd</sup> Floor  
Hilo, HI 96720

Dear Chairman Hiatsuka and Commission Members:

**RE: Administration comments regarding CA-1 through CA-6**

Thank you for allowing the administration to comment on proposed Charter amendments CA-1 through CA-6.

Items CA-1, CA-2, and CA-3 represent verbiage and placement changes in the Charter, and the administration has no objections.

With respect to item CA-4, the administration has no objection to deleting reference to "civil service law and classification" as proposed, since HRS Section 76-77 makes clear many of the affected positions are in any event specifically exempt from State civil service law. However it is unclear whether employees in the clerical pool (Section 6-9.1) are exempt from civil service law since they are "attached to the mayor's office for purposes of administration, assignment and coordination." We recommend relocation of the clerical pool section of the Charter to Article V, Chapter 1, so there is no ambiguity and it is made clear members of the clerical pool are exempt from civil service law. We also recommend it be made clear the mayor is the appointing authority for employees in the clerical pool.

Further, it is recommended input be received from other affected departments. For example, present Charter Section 6-4.4(e) authorizes the fire chief to "appoint the deputy fire chief and the private secretaries to the fire chief and the deputy fire chief." This section obviously contemplates that both secretary positions be appointees not subject to civil service law. However passage of the proposed item CA-4 would effectively require the private secretary to the deputy fire chief to be a civil service

position. This is because HRS Section 76-77(11) exempts from the civil service law only "one private secretary for each department head."

Item CA-5 proposes staggered terms for members of the Merit Appeals Board. The administration has no objections to the proposed amendments.

Item CA-6 proposes a requirement that any motion for the removal of the human resources director, director of the Department of Liquor Control, fire chief, and manager of the Department of Water Supply "must contain a statement of reasons, and the (respective) commission (or board) shall not vote to remove the director...unless the director...has been given an opportunity to respond to the statement of reasons at a hearing before the commission (or board)." The administration does not support any Charter amendment placing additional burdens on citizen boards and commissions from exercising their responsibility in the hiring and firing of these directors.

One of the hallmarks of our democracy is the right of citizens to participate in their government process. Citizen board and commission members serving on the Merit Appeals Board, Liquor Commission, Fire Commission and Water Board, having undergone a significant screening process and appointment and confirmation, are charged with the responsibility of overseeing their respective departments and hiring and firing the department's head. This transparent process promotes accountability. Service of the department head as an at-will appointee presumably furthers this accountability.

The imposition of additional burdens in the removal of the aforementioned department heads defeats the purpose of at-will employment and is not consistent with the goals of accountability. Any suggestion these four department heads should somehow be treated differently from other department and agency heads appointed by the mayor and confirmed by the Council is not supported by any evidence. Acceptance of an at-will appointment is a voluntary choice. Accepting such an appointment must come with the recognition their service is at the pleasure of the appointing authority. So long as dismissal of a department head is not based on unconstitutional bases or reasons, the authority and prerogative of citizen commissioners should not be diluted.

We conferred with the present chairs of the Fire Commission, Liquor Commission and Police Commission (for some inexplicable reason the Police Chief was omitted from this proposed amendment). All chairs indicated they would not support such an amendment for the reasons stated above. In conferring with the chair of the Merit Appeals Board, he indicated he was aware of the proposal. His only concern was any "hearing before the commission (or board)" should not be conducted in open session. It is not clear what is contemplated in the proposed amendment to the Charter.

The Water Board met to discuss this proposed change. At their meeting on August 25, 2009, they decided to take no position on the proposals made to the Charter Commission.

Honorable Edmund Hiatsuka

September 4, 2009

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Thank you again for allowing the administration to review and comment on these proposals. We thank all of you again for your dedicated service to our County and for undertaking this very important responsibility.

Very truly yours,



WILLIAM P. RENOI  
Mayor