



## County of Hawai'i Department of Human Resources

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November 4, 2009

The Honorable Edmund Haitzuka, Chair  
And Members of the County of Hawai'i Charter Commission  
c/o Hawai'i County Clerk-Council  
333 Kilauea Avenue  
Ben Franklin Building, 2nd Floor  
Hilo, Hawai'i 96720

Dear Chair Haitzuka and Commission members:

I am Michael R. Ben, Director of Human Resources for the County of Hawai'i. I am commenting today on proposed charter amendments CA-24 Boards and Commissions and CA-28 Civil Defense.

### **CA-24 Boards and Commissions**

My comment is directed to the proposed Section 13-4 (b) (2) wherein it reads:

In the case of an area specific board, the council members who are serving in the districts which are affected by this board or commission shall nominate the board or commission members . . . .

I am concerned about the use of the phrase "area specific," as I am not clear on how this term is used. By reading the entire clause 2, there is a sense that "area specific" refers to a geographical area. However, one meaning of the word "area" is the scope of a concept, operation, or activity.<sup>1</sup> Our five-member Merit Appeals Board easily falls within this definition.

I ask then that the language be revised so that it's clear and on point as to what is meant by an "area specific" board or commission.

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<sup>1</sup> Webster's Ninth New Collegiate Dictionary ©1983

## **CA-28 Civil Defense**

### Necessary Staff for the Civil Defense Agency

First, I'm sure it was an oversight that language was omitted that provides necessary staff for the civil defense agency. You will note that throughout the County Charter, provisions which establish departments, offices, or agencies all make references to having the "necessary staff." I suggest that language be included that will staff the civil defense agency with additional personnel.

### Duties

While the duties described in the proposed amendments may be comprehensive, I think we would be remiss to not include a general statement about performing other duties. I suggest language be included to recognize that there may be other duties required of the civil defense administrator other than what is described in the proposal.

### Civil Defense Administrator

Chapter 128, Hawai'i Revised Statutes, is the authorizing law for the creation of our civil defense agency and its staff.

Everyone thinks of our civil defense administrator as the top civil defense personnel in our County. This is not true. Our top civil defense personnel is the Mayor. The Mayor has been appointed as deputy director to the state civil defense administrator. The appointment was done under § 128-3(d), HRS. I would point out that while the Mayor has usually been appointed as the deputy director, § 128-3(d) makes no reference to appointing the Mayor as such.

Next, our civil defense administrator's position is the "assistant" referenced in § 128-13(1). Under this section of law then, the civil defense administrator is appointed by the deputy director (of civil defense).

I suggest that CA-28 be rewritten to reflect that the civil defense administrator be appointed by the deputy director of civil defense for the County, rather than the Mayor.

Also, because § 128-13(1) specifically states that the position is subject to Chapter 76, HRS, which is our civil service law, the Charter should be specific on this issue too so it is not misinterpreted as having the civil defense administrator as an at-will employee; that is, subject to termination at any time at the "whim" of the deputy director.

Mr. Edmund Haituka and Commission members  
November 4, 2009  
Page 3 of 3

I know that what I have just explained may be confusing. I strongly suggest that you have counsel review this matter further. While I believe Chapter 128, HRS, controls on civil defense matters, I defer to counsel to advise accordingly. Notwithstanding this, I have prepared a rewrite of CA-28 for your perusal.

Sincerely,

A handwritten signature in black ink that reads "Michael R. Ben". The signature is written in a cursive, flowing style.

Michael R. Ben, SPHR  
Director of Human Resources

enclosure

cc: William P. Kenoi, Mayor  
Quince Mento, Civil Defense Administrator

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3  
4 **CHARTER AMENDMENT NO.**

5  
6 BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF HAWAI'I:

7  
8 Section 1. Article V, Hawai'i County Charter, is amended by adding a new chapter to be  
9 appropriately designated to read as follows:

10 **“CHAPTER \_\_**  
11 **CIVIL DEFENSE AGENCY**

12 **Section 5-\_\_1. Organization.**

13  
14 There shall be a civil defense agency [~~headed by~~] consisting of a civil defense administrator and  
15 necessary staff [~~who shall be appointed and may be removed by the mayor in accordance with~~  
16 ~~law~~]. The civil defense administrator shall be appointed and may be removed by the County's  
17 designated deputy director of civil defense. Chapter 76, Hawai'i Revised Statutes, shall apply to  
18 the civil defense administrator.

19  
20 **Section 5-\_\_2. Powers, Duties and Functions.**

21 The civil defense administrator shall:

22 (a) Develop, prepare and, under disaster or emergency situations, assist in the  
23 implementation of civil defense plans and programs to protect and promote the  
24 public health, safety and welfare of the people of the county.

25 (b) Coordinate the civil defense activities and functions of the county with those  
26 of the state and federal governments and other public and private organizations  
27 for civil defense with the state.

28 (c) Perform such other duties as may be required by law.

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30  
31 Section 2. The revisor shall appropriately renumber charter chapter numbers, section numbers,  
32 and cross references pursuant to amendments approved by the electorate that displace existing or  
33 newly enacted charter provisions.

34  
35 Section 3. This amendment shall take effect upon approval by the electorate.