

KENNETH G. GOODENOW
County Clerk



RODNEY OSHIRO
Deputy County Clerk

County of Hawai'i
Office of the County Clerk
25 Aupuni Street
Hilo, Hawai'i 96720
Telephone: (808) 961-8255
Facsimile: (808) 961-8912

December 17, 2009

Sent via e-mail to keoff@co.hawaii.hi.us; no hard copy will follow

Honorable Edmund Haituka and Members of the
County of Hawai'i Charter Commission
c/o Hawai'i County Council
25 Aupuni Street
Hilo, Hawai'i 96720

Dear Chairman Haituka and Commission Members:

RE: Comments about Charter Amendment Proposal CA-35

Thank you for the opportunity to comment on proposed Charter amendment CA-35 which would replace the current recall procedures in Article XII.

The Office of the County Clerk, which includes the Office of Elections, is opposed to the current language in proposed amendment CA-35. In general, the procedures outlined in CA-35 are confusing and the proposed process convoluted. Additional specific concerns are as follows:

- 1) Section 12-1.4(a) requires the county clerk to provide the committee with a street map showing all of the streets and the boundaries of that council district. Currently, our office does not have the capability to create a map showing all of the streets within a particular council district. Election maps are created following adoption of a final plan by the reapportionment commission. An island view map is created showing council district boundaries and additional maps with some street names are created for areas where council districts border.

Honorable Edmund Haituka and Members of the
County of Hawai'i Charter Commission

Re: CA-35

December 17, 2009

Page 2

- 2) Section 12-1.4(b) requires that the recall committee members provide the clerk with the name and address of each of the five-committee members as they appear on the general county register. We request that the committee members also provide their current residence address or an affirmation that the member still resides at the address that appears on the general county register.
- 3) Section 12-1.4(e) requires the clerk to provide a "timeline that gives dates at which submissions and specific actions shall occur". Our office can provide a timeline that states the time requirement for receipt of a ballot question by the state office of elections, but it is unclear what is meant by "specific actions". I do not feel it is appropriate that the clerk should dictate to any organization as to when they should begin a petition process.
- 4) A residence address should be required under proposed section 12-1.5(b). This is vital to verify that the person signing a petition is a qualified voter as has been discussed in other communications related to other Charter amendment proposals.
- 5) The fifty-five calendar days provided to the clerk to hold a special election is insufficient, especially given new Federal requirements that overseas military personal have forty-five days to return a ballot. At the very least, the standard sixty calendar days should be provided.
- 6) Section 12-1.7(b) should be amended to be consistent with current Primary and General Election law and procedure which provides that ballots should be accepted until 6:00 p.m. on election day.
- 7) Section 12-1.7(d) should be amended to be consistent with our current publishing requirement for charter amendments which is publication once, not less than forty-five days prior to the General election. If balloting is by mail, publishing on the Sunday preceding the recall election is unnecessary, especially if the date of the special election is on a Monday, Tuesday or Wednesday, as subsection (b) states that the return envelope be postmarked no later than three days before the election date. Also, in the case of absentee voting, a majority of ballots are received prior to the final week preceding an election.

Honorable Edmund Haitsuka and Members of the
County of Hawai'i Charter Commission

Re: CA-35
December 17, 2009
Page 3

- 8) I suggest that section 12-1.7(e) be amended to read:
- (1) The total number of votes validly cast in the recall election shall be no less than fifty (50) percent of the total number of valid votes cast in the last election for the office of the official sought to be recalled; and
 - (2) A majority of all valid votes cast shall be required to vote "Yes" in that recall election in order to recall the elected official.
- 9) Section 12-1.8 is redundant as other Charter sections already deal with vacancies in office. Please also see my comments to proposed Charter amendment CA-27.

If I can provide further information or assistance, please do not hesitate to contact me at 961-8271.

Yours, very truly,



KENNETH G. GOODENOW
County Clerk