

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

August 6, 2010

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on July 15, 2010, makes reference to County Communication No. 09-229, from Michael J. Molina, Chair of your Committee, relating to Charter amendments.

By correspondence dated April 29, 2010, Mayor Charmaine Tavares transmitted a proposed resolution entitled "PROPOSING AMENDMENTS TO SECTIONS 4-3, 9-2, 9-5, AND 9-6 OF THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE BUDGET ORDINANCE AND CAPITAL PROGRAM ORDINANCE". The purpose of the proposed resolution is to place the following question on the 2010 General Election ballot:

Should the Charter be revised to: (1) Reduce by ten days the amount of time the mayor has to veto budget and capital program ordinances; (2) Extend by ten days, to March 25 of each year, the deadline for the mayor to submit to Council annual budget and capital program ordinance proposals; and (3) Extend by ten days, to June 10 of each year, the date by which the Council must pass annual budget and capital program ordinances?

The Budget Director explained that the proposed Charter amendment, if enacted, will extend by ten days, from March 15 to March 25, the Mayor's deadline to submit to the Council the annual budget and capital program ordinance proposals. This additional time would provide for improved budget forecasting by the Administration.

The Director of Finance also explained that the proposed Charter amendment, if enacted, will extend by ten days, from May 31 to June 10, the Council's deadline to pass the annual budget and capital program ordinances. Noting that the Council's annual budget review process overlaps with the State's legislative session, the Director of Finance stated that the additional ten days would give the Council more time to consider any laws passed by the Legislature that would affect County revenues. The Director

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further noted that the proposed Charter amendment, if enacted, would shorten, from 20 to 10 days, the Mayor's deadline to veto the annual budget and capital program ordinances.

Your Committee noted that the proposed resolution does not indicate a specific date on which the proposed Charter amendment shall take effect. Your Committee agreed that voters should be informed of a specific effective date, so that it is clear in which Fiscal Year the new deadlines will apply. Your Committee further agreed that the proposed resolution should be revised to reflect an effective date that permits implementation of the new deadlines as soon as practicable.

Your Committee voted 5-0 to recommend passage of the revised proposed resolution on first reading. Committee Chair Molina, Vice-Chair Mateo, and members Johnson, Kaho'ohalahala, and Medeiros voted "aye". Committee members Baisa, Nishiki, Pontanilla, and Victorino were excused.

Your Committee is in receipt of a revised proposed resolution specifying that the proposed Charter amendment shall take effect on January 1, 2011, and including the effective date in the ballot question to be presented to the electorate.

Your Committee notes that Section 14-1(1) of the Charter requires that amendments to the Charter shall be initiated by resolution of the Council adopted after two readings on separate days and passed by a vote of six or more members of the Council.

Your Committee of the Whole **RECOMMENDS** that Resolution No. _____, attached hereto, entitled "PROPOSING AMENDMENTS TO SECTIONS 4-3, 9-2, 9-5, AND 9-6 OF THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE BUDGET ORDINANCE AND CAPITAL PROGRAM ORDINANCE", be **PASSED ON FIRST READING** and be **ORDERED TO PRINT**.

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This report is submitted in accordance with Rule 7 of the Rules of the Council.



MICHAEL J. MOLINA, Chair

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Resolution

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PROPOSING AMENDMENTS TO SECTIONS 4-3, 9-2, 9-5, AND 9-6
OF THE REVISED CHARTER OF THE COUNTY OF MAUI (1983),
AS AMENDED, RELATING TO THE BUDGET ORDINANCE
AND CAPITAL PROGRAM ORDINANCE

BE IT RESOLVED by the Council of the County of Maui:

1. That, pursuant to Section 14-1(1), Revised Charter of the County of Maui (1983), as amended ("Charter"), it hereby proposes that Section 4-3 of the Charter, relating to Submission of Bills to the Mayor, be amended to read as follows:

"Section 4-3. Submission of Bills to the Mayor.

1. Every bill which has passed the council shall be presented to the mayor for the mayor's approval. If the mayor approves it, the mayor shall sign it and the bill shall then become effective as an ordinance as provided herein. If the mayor disapproves it, the mayor shall specify the mayor's objections thereto in writing and return the bill to the county clerk with the mayor's objections within ten (10) days (excluding Saturdays, Sundays and legal holidays) after receiving it. If the mayor does not return it with a disapproval within that time, it shall take effect as an ordinance as if the mayor had signed it. The council may, after five (5) and within thirty (30) days after the bill has been so returned, reconsider the vote upon the bill. If the bill, upon reconsideration, is again passed by a two-thirds vote of the entire membership of the council, the presiding officer shall verify that fact on the bill and, when so verified, the bill shall take effect as an ordinance as if it had been signed by the mayor. If the bill fails to receive the two-thirds vote of the entire membership of the council, it shall be deemed lost.

2. If any bill is presented to the mayor appropriating money, the mayor may veto any items or portions thereof by striking out or reducing the same. Such veto power shall extend to conditions, limitations or restrictions imposed with respect to the disbursement of any appropriation. In the case of such a veto, the mayor shall append to the bill at the time of signing it a statement of the items or portions thereof to which the mayor objects and the reasons therefor, and the

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items or portions thereof, so vetoed, shall not take effect unless passed notwithstanding the mayor's veto. Each item so vetoed may be reconsidered by the council in the same manner as bills which have been disapproved by the mayor.

3. Notwithstanding the provisions of Subsection 4-3.1, if the mayor disapproves of any bill passed by the council pursuant to Section 9-5 and 9-6, or any items or portions thereof, the mayor shall return the bill and the statement to the county clerk within [twenty] ten [(20)] (10) days after receiving it. If the mayor does not return it with a disapproval within that time, it shall take effect as an ordinance as if the mayor had signed it. The council may, within ten (10) days after the bill has been so returned, reconsider the vote upon the bill and override the mayor's veto as provided in Subsection 4-3.1."; and

2. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 9-2 of the Charter, relating to Preparation and Submission of Budget and Capital Program, be amended to read as follows:

"Section 9-2. Preparation and Submission of Budget and Capital Program.

1. On or before the [fifteenth] twenty-fifth day of March before the ensuing fiscal year begins, the mayor shall submit to the council (a) an operating budget for the ensuing fiscal year, including an executive operating budget and a legislative operating budget, (b) a capital program, and (c) an accompanying message.

2. Upon submission, the budget, the capital program and the message shall be a public record in the office of the county clerk and shall be open to public inspection. The mayor shall at the same time make available copies of the budget, the capital program and the message for distribution to interested persons."; and

3. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 9-5 of the Charter, relating to Budget: Council Action, be amended to read as follows:

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"Section 9-5. Budget: Council Action.

1. After the public hearing, the council may pass the budget with or without amendment. In amending, it may add new items or increase items in the budget. It may decrease or delete items, except appropriations required by law and appropriations to pay any indebtedness. In all cases the estimated revenues, proposed expenditures and total appropriations for the ensuing fiscal year shall be equal in amount.

2. The council shall pass the budget on or before the [thirty-first] tenth day of [May] June of the fiscal year currently ending. If it fails to do so, the budget submitted by the mayor shall be deemed enacted as the budget for the ensuing fiscal year.

3. The enacted budget shall be in effect on and after the first day of the fiscal year to which it applies. By virtue of the adoption of the budget, the several amounts listed in the budget column entitled "Appropriations" shall be appropriated to the specified departments and programs."; and

4. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 9-6 of the Charter, relating to Capital Program: Scope; Council Action, be amended to read as follows:

"Section 9-6. Capital Program: Scope; Council Action.

1. The capital program shall contain at least the following:

a. A simple, clear general summary of the detailed contents of the program.

b. The capital improvements pending or proposed to be undertaken within the ensuing fiscal year, together with the estimated cost of each improvement and the pending or proposed method of financing it.

c. The capital improvements proposed for the five (5) years next succeeding the ensuing fiscal year, together with the estimated cost of each improvement and the proposed method of financing it.

2. Capital expenditures to be financed from current revenues in the ensuing fiscal year shall be included in the budget as well as in the capital

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program. Appropriations for such expenditures shall be included in the budget.

3. After the public hearing on the capital program, the council may pass the program with or without amendment.

4. The council shall pass the capital program on or before the [thirty-first] tenth day of [May] June of the fiscal year currently ending. If it fails to do so, the program submitted by the mayor shall be deemed enacted as the program for the ensuing fiscal year. The enacted program shall be in effect on and after the first day of that fiscal year.

5. At any time during a fiscal year the capital program may be amended by ordinance."; and

5. That the following question be placed on the 2010 General Election ballot:

"Should the Charter be revised, effective as of January 1, 2011, to: (1) Reduce by ten days the amount of time the mayor has to veto budget and capital program ordinances; (2) Extend by ten days, to March 25 of each year, the deadline for the mayor to submit to council annual budget and capital program ordinance proposals; and (3) Extend by ten days, to June 10 of each year, the date by which Council must pass annual budget and capital program ordinances?" and

6. That, pursuant to Section 14-2(1) of the Charter, this Resolution be submitted to the voters of the County of Maui at the next general election; and

7. That the County Clerk prepare the necessary ballot for presentation to the voters at the 2010 General Election; and

8. That, upon approval by the majority of the voters as indicated by the number of votes cast and upon official certification of such result, the amendment proposed herein take effect on January 1, 2011; and

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9. That certified copies of this Resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



TRACI FUJITA VILLAROSA
First Deputy Corporation Counsel
County of Maui

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