

POLICY COMMITTEE

Council of the County of Maui

Meeting Agenda

Wednesday, November 30, 2011

9:00 a.m.

Council Chamber, 8th Floor
200 South High Street, Wailuku, Hawaii

website: <http://www.mauicounty.gov/committees/POL>

OFFICE OF THE
COUNTY CLERK

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VOTING MEMBERS

G. Riki Hokama, Chair

Robert Carroll, Vice-Chair

Gladys C. Baisa

Elle Cochran

Donald G. Couch, Jr.

Danny A. Mateo

Joseph Pontanilla

Michael P. Victorino

Mike White

AGENDA ITEMS ARE SUBJECT TO CANCELLATION. For a confirmation of the meeting date and time, and for tentative scheduling of agenda items, please contact the Committee Staff (Carla Nakata or Tammy Frias) at: Office of Council Services, 200 South High Street, Wailuku, HI 96793, 808-270-7838, 1-800-272-0026 (toll-free from Molokai), 1-800-272-0098 (toll-free from Lanai), 808-270-7686 (fax).

ORAL OR WRITTEN TESTIMONY on any agenda item will be accepted. Each testifier shall be allowed to speak for three minutes on each item. If additional time is requested, the testifier shall be allowed one minute to conclude the testimony on the item. These time limits may be suspended pursuant to the Rules of the Council, provided a suspension would apply equally to all testifiers and all items. No further oral testimony by the testifier on the item shall be permitted. An individual's request to testify shall be deemed withdrawn if the individual does not answer when called to testify. To ensure its distribution prior to the meeting, written testimony must be received in the Office of Council Services at least 24 hours prior to the meeting; provided, that if a meeting will be held on a Monday, written testimony shall be received by 12:00 noon on the business day preceding the meeting. If written testimony is submitted at the meeting, 16 copies are requested.

INDIVIDUALS WHO INTEND TO ATTEND THE MEETING AND WHO HAVE DISABILITIES REQUIRING SPECIAL ASSISTANCE should call the Office of Council Services at least three days in advance.

DOCUMENTS ON FILE WITH THE COMMITTEE, which may include correspondence relating to the agenda items below, may be inspected prior to the meeting date. Photocopies may be ordered, subject to charges imposed by law (Maui County Code, Sec. 2.64.010). Please contact the Office of Council Services to make arrangements for inspection or photocopying of documents.

TO LEARN MORE ABOUT COUNCIL-RELATED ISSUES, tune in to Akaku: Maui Community Television.

POL-2(25)

NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (MAUI COUNTY CULTURAL RESOURCES COMMISSION)

DESCRIPTION:

The Committee is in receipt of correspondence dated November 2, 2011 (received November 2, 2011), from the Mayor, transmitting a proposed resolution entitled "APPOINTMENT OF MEMBER TO THE MAUI COUNTY CULTURAL RESOURCES COMMISSION", along with a completed application form for the nominee. The purpose of the proposed resolution is to approve or disapprove the appointment of Patricia Maluo, for a term expiring on March 31, 2015, to fill an existing vacancy due to the resignation of Jacey Laborte.

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STATUS: The Council must approve or disapprove the nomination by January 1, 2012, or the nomination will be deemed approved. The Committee may consider whether to recommend adoption of the proposed resolution, with or without revisions. The Committee may also consider other related action.

POL-3(5) HAWAII STATE ASSOCIATION OF COUNTIES (“HSAC”) (PROPOSALS FOR 2012 HSAC LEGISLATIVE PACKAGE FROM HONOLULU CITY COUNCIL AND HAWAII COUNTY COUNCIL)

DESCRIPTION: The Committee is in receipt of correspondence dated November 21, 2011, from Councilmember Joseph Pontanilla, Treasurer, Hawaii State Association of Counties (“HSAC”), transmitting a proposed resolution entitled “APPROVING PROPOSALS FROM HAWAII COUNTY AND THE CITY AND COUNTY OF HONOLULU FOR INCLUSION IN THE 2012 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE”. The purpose of the proposed resolution is to approve for inclusion in the HSAC Legislative Package the following State bills or resolutions:

- a. A proposed bill entitled “A BILL FOR AN ACT RELATING TO AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION OF ORIGIN LABELING”. The purpose of the proposed bill is to amend Chapter 486, Hawaii Revised Statutes (“HRS”), relating to branding agricultural products and labeling them with the country or region of origin to protect Hawaii’s regional crops and growers’ investment, protect the consumer, prevent misleading information on labels, create an identity for Hawaii’s agricultural products, increase the minimum percentage in blends of any product to 75 percent before a Hawaiian or Hawaii regional name may be placed on the label, and equalize agricultural products in the way they are labeled and blended.
- b. A proposed bill entitled “A BILL FOR AN ACT RELATING TO GALLONAGE TAX ON LIQUOR”. The purpose of the proposed bill is to increase the gallonage tax on liquor by 30 percent, collect and transfer the additional revenue to the respective counties, and partially reimburse counties for the cost of handling crashes involving driving under the influence of an intoxicant.
- c. A proposed bill entitled “A BILL FOR AN ACT RELATING TO THE EMPLOYEES’ RETIREMENT SYSTEM”. The purpose of the proposed bill is to include county representation on the membership of the Board of Trustees of the Employees’ Retirement System.
- d. A proposed bill entitled “A BILL FOR AN ACT RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND”. The purpose of the proposed bill is to require that one of the five seats on the Board of Trustees of the Hawaii Employer-Union Health Benefits Trust Fund allocated to public employers be occupied by a member appointed by the mayors of all four counties and approved by the HSAC.
- e. A proposed bill entitled “A BILL FOR AN ACT RELATING TO ADULT RESIDENTIAL CARE HOMES”. The purpose of the proposed bill is to require publication of notice and a public hearing for Type II residential care home applications.
- f. A proposed bill entitled “A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING”. The purpose of the proposed bill is to create a new bargaining unit for water safety officers employed by the state or counties.
- g. A proposed bill entitled “A BILL FOR AN ACT RELATING TO LIABILITY”. The purpose of the proposed bill is to provide the counties with liability protection for natural conditions on or near public beach parks.
- h. A proposed House Concurrent Resolution entitled “URGING THE UNITED STATES GOVERNMENT TO REIMBURSE THE CITY AND COUNTY OF HONOLULU, HAWAII COUNTY, KAUAI COUNTY AND MAUI COUNTY, FOR ALL COSTS RELATING TO THE ASIA PACIFIC ECONOMIC COOPERATION LEADERS MEETING”. The purpose of the proposed resolution is to urge the United States (“U.S.”) government to reimburse the counties for all costs relating to the Asia Pacific Economic Cooperation Leaders (“APEC”) Meeting.

- i. A proposed House Concurrent Resolution entitled “URGING THE UNITED STATES DEPARTMENT OF STATE, THE DEPARTMENT OF HOMELAND SECURITY, AND THE UNITED STATES ATTORNEY GENERAL TO EASE VISA RESTRICTIONS FOR THE PEOPLE’S REPUBLIC OF CHINA”. The purpose of the proposed resolution is to urge the U.S. Department of State, the Department of Homeland Security, and the U.S. Attorney General to ease visa restrictions for the People’s Republic of China.
- j. A proposed House Concurrent Resolution entitled “URGING THE LEGISLATURE OF THE STATE OF HAWAII TO PROVIDE FUNDING FOR ANY ACTIVITIES MANDATED TO ANY OF THE COUNTIES BY THE STATE OF HAWAII”. The purpose of the proposed resolution is to urge the Legislature to provide funding for any activities mandated to any of the counties by the State of Hawaii.
- k. A proposed House Resolution entitled “URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII TO PRESERVE THE COUNTIES’ SHARE OF THE TRANSIENT ACCOMMODATIONS TAX”. The purpose of the proposed resolution is to urge the Governor and the Legislature to maintain the counties’ share of the transient accommodations tax.

STATUS: The Committee may consider whether to recommend adoption of the proposed resolution, with or without revisions. The Committee may also consider other related action. The Council previously adopted Maui County’s proposals for the HSAC Legislative Package by Resolutions 11-104, 11-105, and 11-106.

POL-1(14) LITIGATION MATTERS (SETTLEMENT AUTHORIZATION AND INDEMNIFICATION AUTHORIZATION: MARIE J. KOSEGARTEN V. DEPARTMENT OF THE PROSECUTING ATTORNEY, COUNTY OF MAUI; BENJAMIN M. ACOB; AND TIMOTHY T. TATE; CIVIL 10-00321 LEK/KSC)

DESCRIPTION: The Committee is in receipt of the following:

- 1. Correspondence dated July 12, 2011, from the Department of the Corporation Counsel, requesting consideration of a proposed resolution entitled “AUTHORIZING SETTLEMENT OF MARIE J. KOSEGARTEN V. THE DEPARTMENT OF THE PROSECUTING ATTORNEY, COUNTY OF MAUI; BENJAMIN M. ACOB; AND TIMOTHY T. TATE; CIVIL NO. CV 10-00321 LEK/KSC”. The complaint alleges that the Defendants discriminated against the Plaintiff based on her sex and sexual orientation, and committed unlawful employment practices in violation of the Fourteenth Amendment to the United States Constitution and Hawaii State law. The purpose of the proposed resolution is to authorize settlement of the case.
- 2. Correspondence dated July 8, 2011, from the Department of the Corporation Counsel, transmitting a copy of the First Amended Complaint and requesting consideration of the following:
 - a. A proposed resolution entitled “INDEMNIFYING BENJAMIN M. ACOB IN MARIE J. KOSEGARTEN V. THE DEPARTMENT OF THE PROSECUTING ATTORNEY, COUNTY OF MAUI; BENJAMIN M. ACOB; AND TIMOTHY T. TATE; CIVIL NO. CV 10-00321 LEK/KSC”. The purpose of the proposed resolution is to indemnify Benjamin M Acob, former Prosecuting Attorney, in the case.
 - b. A proposed resolution entitled “INDEMNIFYING TIMOTHY T. TATE IN MARIE J. KOSEGARTEN V. THE DEPARTMENT OF THE PROSECUTING ATTORNEY, COUNTY OF MAUI; BENJAMIN M. ACOB; AND TIMOTHY T. TATE; CIVIL NO. CV 10-00321 LEK/KSC”. The purpose of the proposed resolution is to indemnify Timothy T. Tate, Deputy Prosecuting Attorney, in the case.

STATUS: The Committee may consider whether to recommend adoption of the proposed resolutions, with or without revisions. The Committee may also consider other related action.

NOTE: With reference to this agenda item, one or more executive meetings are anticipated pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee; and Section 92-5(a)(8), Hawaii Revised Statutes, to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order.

POL-1(4) LITIGATION MATTERS (STATUS: MOLOKAI VETERANS CARING FOR VETERANS, ET AL. V. COUNTY OF MAUI, ET AL.; CIVIL 10-00538 LEK/RLP AND CIVIL 11-00483 LEK/RLP)

DESCRIPTION: The Committee is in receipt of correspondence dated November 21, 2011, from the Department of the Corporation Counsel, requesting the opportunity to advise the Committee of the status of the two lawsuits filed by the Molokai Veterans Caring for Veterans.

STATUS: The Committee may discuss the status of these cases. The Committee may also consider other related action.

NOTE: With reference to this agenda item, one or more executive meetings are anticipated pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.