

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

May 18, 2012

Committee
Report No. _____

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

Chair and Members:

Your Policy Committee, having met on May 8, 2012, makes reference to County Communication 09-229, from Michael J. Molina, Chair, Committee of the Whole, relating to proposed amendments to the Revised Charter of the County of Maui (1983), as amended ("Charter").

By correspondence dated April 25, 2012, the Chair of your Committee received a proposed resolution, approved as to form and legality, from the Department of the Corporation Counsel, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO VACANCY IN OFFICE". The purpose of the proposed resolution is to propose an amendment to Section 3-4 of the Charter to clarify that the remainder of an unexpired term served by a Council member filling a vacancy in office shall not be counted towards the maximum number of consecutive terms the Council member may serve. The proposal was introduced by the Chair of your Committee.

Currently, Section 3-2(5) of the Charter provides that the term of office of Council members shall be for two years, and that no member of the County Council shall serve more than five consecutive full terms of office. Despite the clear wording of this provision, a legal challenge has been brought against a Council member filling a vacancy for less than a two-year term, questioning how many consecutive full terms that member may subsequently serve.

Your Committee supported inserting proposed language in Section 3-4 of the Charter to confirm that the remainder of an unexpired term served by a Council member filling a vacancy in office shall not be counted towards the maximum number of consecutive terms the Council member may serve. The proposed Charter amendment would, if passed, alleviate the potential difficulties a member filling a vacancy in office may later face with respect to term limits. By inserting the proposed language in the same section of the Charter that dictates how the vacancy shall be filled, the amendment is intended to dispel any uncertainty as to how that remaining portion of the term will be treated, thereby avoiding unnecessary litigation.

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

May 18, 2012
Page 2

Committee
Report No. _____

Your Committee notes that the Charter Commission has proposed a Charter amendment to change Council terms from two years to four years. The amendment would also delete the word “full” from the reference to the number of consecutive terms a Council member may serve. While your Committee earlier supported four-year Council terms, it cautioned that deletion of the word “full” could create confusion as to whether a partial term would count toward the maximum number of terms a Council member may serve. The subject proposed amendment to Section 3-4 of the Charter, relating to a vacancy in the office of a Council member, will be even more essential as a result.

Your Committee voted 8-0 to recommend passage on first reading of the proposed resolution. Committee Chair Hokama, Vice-Chair Carroll, and members Baisa, Cochran, Couch, Mateo, Victorino, and White voted “aye”. Committee member Pontanilla was excused.

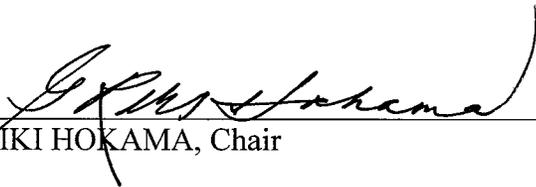
Your Policy Committee RECOMMENDS that Resolution _____, attached hereto, entitled “PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO VACANCY IN OFFICE”, be PASSED ON FIRST READING and be ORDERED TO PRINT.

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

May 18, 2012
Page 3

Committee
Report No. _____

This report is submitted in accordance with Rule 8 of the Rules of the Council.



G. RIKI HOKAMA, Chair

pol:cr:12010(14)aa:cmn

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE REVISED
CHARTER OF THE COUNTY OF MAUI (1983), AS
AMENDED, RELATING TO VACANCY IN OFFICE

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

1. That, pursuant to Section 14-1(1) of the Revised Charter of the County of Maui (1983), as amended (“Charter”), it hereby proposes that Section 3-4 of the Charter, pertaining to a vacancy in the office of a council member, be amended to read as follows:

“Section 3-4. Vacancy in Office. A vacancy in the office of any council member shall be filled for the remainder of the unexpired term. The remainder of the unexpired term served by a council member filling such a vacancy shall not be counted towards the maximum number of consecutive terms the council member may serve. The vacancy shall be filled in the following manner:

1. If the unexpired term is less than fifteen (15) months, the remaining members of the council shall appoint a person by resolution adopted by a majority of its remaining members to fill the vacancy for the current unexpired term. Should the council fail to fill any vacancy within thirty (30) days after its occurrence, the mayor shall appoint a person to fill the vacancy for the current unexpired term. The person appointed by the council or mayor shall have the same qualifications required of a candidate elected by the voters.

2. If the unexpired term is fifteen (15) months or more, the vacancy shall be filled by a special election to be called by the council within thirty (30) days and to be held within ninety (90) days after the occurrence of the vacancy. The electors of the county shall then elect a successor with requisite qualifications to fill the vacancy for the remainder of the term. At the special election, the candidate receiving the highest number of votes shall be deemed elected.”; and

2. That new material is underscored; and

3. 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

4. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election; and

Resolution No. _____

5. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that the following question be placed on the next general election ballot:

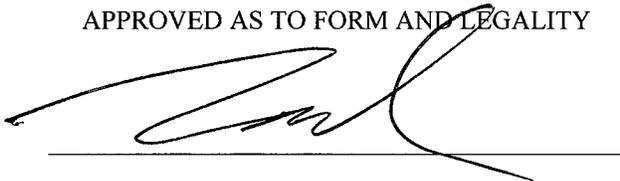
“Shall the Charter be amended to clarify that a council member who fills a vacancy in office for the remainder of an unexpired term shall not have the remainder of the unexpired term counted towards the maximum number of consecutive terms the council member may serve?”;
and

6. That pursuant to Section 14-2(2) of the Charter, the County Clerk publish this proposed amendment in a newspaper of general circulation; and

7. 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 shall take effect; and

8. That certified copies of this resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY



Department of the Corporation Counsel
County of Maui

pol:misc:010(14)areso01:cmn