

COUNCIL OF THE COUNTY OF MAUI

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

June 20, 2014

**Committee
Report No.** _____

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

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on May 13, 2014, and June 5, 2014, 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 March 31, 2014, the Chair of your Committee transmitted a proposed resolution entitled “PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO ABOLISHING THE COST OF GOVERNMENT COMMISSION”. The purpose of the proposed resolution is to place on the next General Election ballot the question of whether Sections 3-9.2(4) and 3-9.3 of the Charter shall be amended to abolish the Cost of Government Commission (“Commission”), whose functions have been subsumed by the newly established Office of the County Auditor.

The Chair of your Committee distributed a revised proposed resolution entitled “PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO CLARIFY THE DUTIES OF THE COST OF GOVERNMENT COMMISSION”. The purpose of the revised proposed resolution is to place on the next General Election ballot the question of whether Section 3-9.3 of the Charter shall be amended to state the Commission acts only upon the request of the County Auditor, to whom it is advisory.

Your Committee notes the voters of the County of Maui approved a Charter amendment in 2012 to establish the Office of the County Auditor. The amendment also removed Article 8, Chapter 16, of the Charter, which contained provisions for a stand-alone Commission. The Charter amendment transferred the policy declaration previously applicable to the Commission to a new Section 3-9, forming a framework for the Office of the County Auditor.

COUNCIL OF THE COUNTY OF MAUI

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

Page 2

**Committee
Report No.** _____

Your Committee further notes Charter Section 3-9 declares it to be the policy of the County to promote economy, efficiency, and improved service in the transaction of the public business in the legislative and executive branches of the County. The section calls for limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions; eliminating duplication; consolidating services, activities, and functions of a similar nature; and abolishing unnecessary services, activities, and functions.

Charter Section 3-9.2 states the Office of the County Auditor shall conduct, or cause to be conducted, certain audit functions. It also empowers the Office to conduct evaluations of County organizations, operations, and regulations, some part of which may previously have been undertaken at the discretion of the Commission.

Ancillary to the County Auditor is the Commission, set forth in Section 3-9.3 of the Charter, whose task under the 2012 Charter amendment is to “be advisory to the county auditor”. In submitting its budget to the Council, the County Auditor is required to also include a budget for the Commission.

Your Committee noted the Office of the County Auditor was structured to be independent, and Commission members, while appointed by the Mayor with the approval of the Council, generally work with the Administration.

Your Committee expressed concern about the Commission’s focus on evaluating, investigating, and controlling the newly established Office of the County Auditor, even though the Office has only recently begun its operations. Your Committee noted the Commission was to be “advisory,” not “supervisory”. In addition, your Committee notes the Commission admitted a need for clarification of its role in relation to the Office of the County Auditor in its 2013-2014 Annual Report.

Your Committee debated the merits of each resolution. On the one hand, your Committee noted the duties now assigned to the County Auditor may render the Commission unnecessary. Your Committee also noted the directions undertaken by the Commission seemed to interfere with the efficient performance of the County Auditor’s role. In keeping with the policies set forth in Charter Section 3-9, the Commission should, therefore, be abolished.

COUNCIL OF THE COUNTY OF MAUI
**POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE**

Page 3

**Committee
Report No.** _____

On the other hand, your Committee noted the Commission could prove a useful tool to the County Auditor and, if requested to provide advice by the Auditor, could perform a valuable service to the County.

Your Committee opted to pursue the proposal that would retain the Commission but establish that its function is to serve in an advisory capacity to the County Auditor and to act only upon the request of the Auditor. Your Committee opined the amendment would increase collaboration between the County Auditor and the Commission.

Your Committee notes the revised proposed resolution deletes specified powers and duties of the Commission to confirm that any studies and investigations conducted by the Commission shall not be done of its own accord, but only at the request of the County Auditor. Your Committee further notes the deletion of Section 3-9.3(2), relating to the Commission's authorization to secure information needed to carry out its duties, does not affect the authority granted boards and commissions generally under Section 13-2 of the Charter, including the authority under Section 13-2(10) to subpoena witnesses on matters within their authority.

Your Committee voted 6-0 to recommend passage of the revised proposed resolution on first reading. Committee Chair Hokama and members Carroll, Cochran, Crivello, Guzman, and White voted "aye". Committee Vice-Chair Couch and members Baisa and Victorino were excused.

Your Committee is in receipt of a further revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating technical revisions to the text of proposed Section 3-9.3 of the Charter and the accompanying ballot question.

Your Committee notes Section 14-1(1) of the Charter provides 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.

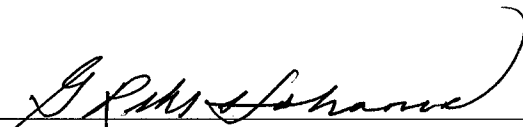
Your Policy and Intergovernmental Affairs Committee **RECOMMENDS** that Resolution _____, attached hereto, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO CLARIFY THE DUTIES OF THE COST OF GOVERNMENT COMMISSION", be **PASSED ON FIRST READING** and be **ORDERED TO PRINT**.

COUNCIL OF THE COUNTY OF MAUI
**POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE**

Page 4

Committee
Report No. _____

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



G. RIKI HOKAMA, Chair

pia:cr:14010(2)aa:scb

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE REVISED
CHARTER OF THE COUNTY OF MAUI (1983), AS
AMENDED, TO CLARIFY THE DUTIES OF THE COST
OF GOVERNMENT COMMISSION

WHEREAS, in 2012, the voters of the County of Maui approved an amendment to the Revised Charter of the County of Maui (1983), as amended (“Charter”), to establish the Office of the County Auditor and to provide that the Cost of Government Commission shall be advisory to the auditor; and

WHEREAS, the Office of the County Auditor is mandated to conduct, or cause to be conducted, certain audit functions, and is empowered to conduct evaluations of County organizations, operations, and regulations, portions of which may previously have been undertaken at the discretion of the Cost of Government Commission; and

WHEREAS, the County Auditor is required to submit its office budget, including the budget of the Cost of Government Commission, to the Council; and

WHEREAS, Section 3-9 of the Charter declares it to be the policy of the County to promote economy, efficiency, and improved service in the transaction of the public business in the legislative and executive branches of the County; and

WHEREAS, the policy mandates the limitation of expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions; and

WHEREAS, the policy also mandates elimination of duplicative and overlapping services, activities, and functions; now, therefore,

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

1. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 3-9.3 of the Charter, pertaining to the Cost of Government Commission, be amended to read as follows:

“Section 3-9.3. Cost of Government Commission. 1. For the purpose of carrying out the policy set forth herein, in accordance with section 13-2 of this charter, the mayor with the approval of the council shall appoint a cost of government commission consisting of nine members.

Resolution No. _____

2. The commission shall [be advisory] provide advice to the county auditor[.] only upon the auditor's request. In addition, if requested by the county auditor, the commission shall submit a report of its findings, recommendations, and conclusions to the auditor, the mayor, and the council.

[The commission shall have the power and duty to:

1. Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices, and other instrumentality of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.

2. Be authorized to secure directly from any department, commission, board, office, or any other instrumentalities of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates, and statistics necessary to carry out its duties.

3. Submit an annual report of its findings and recommendations to the mayor, council, and county auditor.]”

2. That material to be repealed is bracketed and 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

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 Section 3-9.3 of the Charter be amended to state that the Cost of Government Commission acts only upon the request of the County Auditor, to whom it is advisory?”

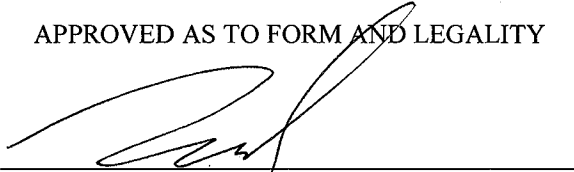
6. That, pursuant to Section 14-2(2) of the Charter, the County Clerk publish this proposed amendment in a newspaper of general circulation; and

7. That, upon approval by the majority of the voters voting on the proposed amendment and upon official certification of such result, the amendment proposed herein shall take effect; and

Resolution No. _____

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

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, appearing to read 'Edward S. Kushi, Jr.', is written over a horizontal line.

Edward S. Kushi, Jr.
First Deputy Corporation Counsel
County of Maui

pi:misc:010(2)areso01