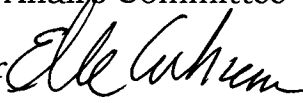


April 28, 2016

MEMO TO: Michael P. Victorino, Chair
Policy and Intergovernmental Affairs Committee

F R O M: Elle Cochran, Councilmember



SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO
PROPOSED CHARTER AMENDMENTS** (PIA-10)

The attached legislative proposal pertains to Item 10 on your committee's agenda.

paf:gig:16-065b

Attachment

Resolution

No. _____

PROPOSING AN AMENDMENT TO THE REVISED
CHARTER OF THE COUNTY OF MAUI (1983), AS
AMENDED, TO REQUIRE AT LEAST TWO MEMBERS
OF THE BOARD OF ETHICS TO BE MEMBERS OF
THE HAWAII STATE BAR ASSOCIATION

WHEREAS, Article 10 of the Revised Charter of the County of Maui (1983), as amended, establishes a Board of Ethics with powers and responsibilities that have long-term legal implications for the County's employees, elected and appointed officers, and residents; and

WHEREAS, the responsibilities of the Board of Ethics include duties where knowledge of Hawaii law and legal procedure would be of substantial benefit to the Board and the public; and

WHEREAS, the Board of Ethics is charged with initiating impeachment proceedings against elected officers and officers appointed to elective office who are found by the Board after investigation to have violated the Code of Ethics; and

WHEREAS, the Board of Ethics adopts rules, having the force and effect of law, as necessary to provide for the enforcement of the Code of Ethics; and

WHEREAS, the Board of Ethics is required, after due deliberation on issues before it, to make findings of facts and conclusions of law regarding such issues and to transmit its findings to the appropriate appointing authority and the Prosecuting Attorney for appropriate disposition; and

WHEREAS, requiring that at least two members of the Board of Ethics to have working knowledge of Hawaii law and legal procedure is in the best interest of the Board and the County; 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 10-2 of the Charter, pertaining to the authority of the Board of Ethics, be amended to read as follows:

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“Section 10-2. There shall be a Board of Ethics.

1. The board shall consist of nine members appointed by the mayor with the approval of the council. At least two members of the board shall be attorneys licensed to practice law in the State of Hawaii and active members of the Hawaii State Bar Association.

2. The board shall:

a. Initiate, receive, hear and investigate complaints of violations of this Article.

b. Initiate impeachment proceedings against elected officers and officers appointed to elective office who are found by the board after investigation to have violated this Article. Such proceeding shall be brought in the name of the board, which shall be represented by special counsel of the board's choosing.

c. Render advisory opinions with respect to application of this Article on request. All requests for advisory opinions shall be answered within forty-five (45) days of its filing; failure to submit an advisory opinion within the forty-five (45) days shall be deemed a finding of no breach of this Article.

d. Prescribe forms for the disclosures provided in this section and to implement the requirements of the disclosure provisions.

e. Examine all disclosure statements filed and to comment on or advise corrective action as to any matters that may indicate a conflict of interest.

f. Adopt such rules, having the force and effect of law, as will be necessary to provide for the enforcement of the provisions of this Article.

3. In the course of its investigations, the board shall have the power to administer oaths and subpoena witness and to compel the production of books and papers pertinent thereto.

4. The board, after due deliberation on issues before it, shall make findings of facts and conclusions of law regarding such issues and shall transmit the same to the appropriate appointing authority and the prosecuting attorney for appropriate disposition.

5. If any officer or employee, or former officer or employee, obtains an advisory opinion from the board and acts accordingly, or acts in accordance with the opinions of the board, the officer or employee shall not be held liable for violating any of the provisions of this Article.

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6. The council and mayor shall cooperate and provide financing and personnel reasonably required by the board in the performance of its duties.”

2. That new material underscored;

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

4. That, pursuant to Section 14-2(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 require that at least two members of the Board of Ethics be attorneys licensed to practice law in the State of Hawaii and active members of the Hawaii State Bar Association?

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

5. That, pursuant to Section 14-2(3), 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

6. That certified copies of this resolution be transmitted to the Mayor and the County Clerk.

APPROVED AS TO FORM AND LEGALITY

Deputy Corporation Counsel
County of Maui

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