

Marissa Sandblom  
Chair  
Jan TenBruggencate  
Vice Chair

Commissioners:  
Virginia Kapali  
Carol Suzawa  
Patrick Stack  
Lori Koga  
Reid Kawane

**COUNTY OF KAUA'I CHARTER REVIEW COMMISSION  
NOTICE OF SPECIAL TELECONFERENCE AND AGENDA**

**Monday, June 29, 2020  
12:00 p.m. or shortly thereafter**

**Microsoft Teams Audio: +1 469-848-0234, Conference ID: 985 769 591#**

**This meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by calling the number above with the conference ID information. You may testify during the video conference or submit written testimony in advance of the meeting via e-mail, fax, or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.**

**CALL TO ORDER**

**ROLL CALL**

**APPROVAL OF AGENDA**

**PUBLIC TESTIMONY**

**COMMUNICATION**

**BUSINESS**

- |               |   |
|---------------|---|
| CRC 2020-17   | Discussion and possible action on proposed Charter amendment relating to Council Districting.   |
| CRC 2019-05   | Discussion and possible action on amendments to the proposed language to Charter Section 11.04 relating to the minimum requirements for the position of Chief of Police, ballot question, and educational material.                 |
| CRC 2019-06   | Discussion and possible action on amendments to the proposed language to Charter Section 20.04 relating to who must file a disclosure statement, ballot question, and educational material.   |
| CRC 2019-21 A | Discussion and possible action on amendments to the proposed language to Charter Section 13.02 relating to the minimum requirements for the position of County Engineer, ballot question, and educational material.                 |
| CRC 2019-21 C | Discussion and possible action on amendments to the proposed language to Charter Section 17.04 relating to the minimum requirements for the position of Manager and Chief Engineer of the Department of Water, ballot question, and |

educational material.

- CRC 2019-14 Discussion and possible action on amendments to the proposed language to Charter Section 9A.05 relating to a vacancy in the Office of Prosecuting Attorney, ballot question, and educational material.
- CRC 2019-04 Discussion and possible action on amendments to the proposed language to Charter Section 23.06 relating to notice of Claims against the County, ballot question, and educational material.
- CRC 2020-18 Discussion and possible action on a Commentary by Commission to The Garden Island Newspaper.
- CRC 2020-13 Discussion and possible action on plan for public education.

### **ANNOUNCEMENTS**

Next Meeting: Monday, July 27, 2020, 3:00 p.m., by teleconference

### **ADJOURNMENT**

### **NOTICE OF EXECUTIVE SESSION**

Pursuant to Hawai'i Revised Statutes §92-7(a), the Commission may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a). Discussions held in Executive Session are closed to the public.

cc: Deputy County Attorney Teresa Tumbaga

*An Equal Opportunity Employer*

### **PUBLIC COMMENTS and TESTIMONY**

#### **SPEAKER REGISTRATION**

**Prior to the Day of the Meeting:** Persons wishing to testify are requested to register their name, phone number, and agenda item via email at [asegreti@kauai.gov](mailto:asegreti@kauai.gov); or by calling 808-241-4917.

**On the Day of the Meeting:** Persons who have not registered to testify by the time the Commission meeting begins will be given the opportunity to speak on an item following oral testimonies of registered speakers.

Each speaker is limited to a three-minute presentation on each item.

#### **WRITTEN TESTIMONY**

Prior to the Day of the Meeting: Testimony may be emailed: [asegreti@kauai.gov](mailto:asegreti@kauai.gov) faxed: 808-241-5127, or mailed: County of Kauai, Office of Boards and Commissions, Board of Ethics, 4444 Rice St., Ste. 300, Lihue, HI 96766.

**SPECIAL ASSISTANCE**

**IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR [ASEGRETI@KAUAI.GOV](mailto:ASEGRETI@KAUAI.GOV) AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.**

**UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.**

**WRITTEN  
PUBLIC  
TESTIMONY**

**RECEIVED  
FOR CRC  
2020-17**

**Personal information has been  
redacted.**

June 21, 2020

Aloha Chair Marissa Sandblom and Members of the Commission,

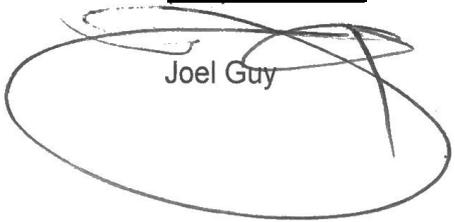
Thank you for providing agenda time for this important topic of whether the registered voters of Kauai should have the option to vote for a district form of county council.

As a lifelong resident of the Hawaii State House district 14, I have many reasons why having 3 council members within our district would be incredibly helpful in equitably managing our island, but that is not up for consideration. The question is "Should the registered voters have an opportunity to vote for district council representation or not?".

I would say **yes**. The strongest reasoning is clearly how beneficial this change has been to the rest of the state as we are the only island/county in Hawaii not utilizing a district form of council.

Thank you again for taking testimony and doing the work.

As always, feel free to contact me anytime for anything. Email, text or call [REDACTED]

[REDACTED]  
  
Joel Guy

**From:** [REDACTED]  
**To:** [Anela Segreti](#)  
**Subject:** CRC 2020-17 Discussion and possible action on proposed Charter amendment relating to Council Districting  
**Date:** Monday, June 22, 2020 12:37:44 AM

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CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

June 21, 2020

TO:  
County of Kauai  
Charter Review Commission {CRC}

RE: Monday, June 22, 2020, Agenda Item  
CRC 2020-17 Discussion and possible action on proposed Charter amendment relating to Council Districting.

Thank you for allowing me and the CabebeCan team to present our briefing and testimony. I support the adoption of districts for Kauai County, increasing the number of seats on the Kauai County Council from the current seven-members to a nine-member council, with each district electing three members to represent each district.

This amendment is all about providing our community fair and equitable representation and access to government. Its a step in the direction of bringing better, more efficient governance to our island.

Adopting state districting policy allows Kauai County Council Members to function in sync with state representatives.

Increasing the council to nine seats increases opportunities for community members to participate in local governance and elect district focused representation. It increases the lines of communication between community members to our administrative bodies.

One additional point to consider is that there are no budget increases as the current funds allocated to council payroll would be dispersed amongst the nine members.

I believe we all can agree that now is the time to take action on what the community has considered and reconsidered before. That we can not return to a pre covid 19 world and that the general public's perception of government is that it is often unresponsive to the needs, wishes, and desires of the community. Allowing this amendment to go before the voters will show that the government is willing to work with people willing to take action now and not get in the way of where the government should get its guidance. The People. Why wait till later or sometime next year or beyond? Smart, logical, and well-planned action can be taken now. This proposal is well planed, sensible, and intelligent. It can help revitalize our economy, Respectfully, let the voters have a say in this matter.

Sincerely yours,

Donovan Kanani Cabebe

**From:** [REDACTED]  
**To:** [Anela Segreti](#)  
**Subject:** Opposed to Council Districting being on Nov. ballot  
**Date:** Monday, June 22, 2020 12:07:35 PM

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CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha:

I would like to voice my opposition to Council Districting being on the November ballot.

This issue has come up many times in the past and each time it is rejected because most of us don't want it.

I am opposed to Council Districting anyway, I prefer all At Large. Very often when I vote for the Council members, I only select a few as I don't think the rest would be a good choice. At least now, we do have all seven who represent us all. Imagine if my District person(s) would be like someone who shall remain nameless but who is sitting in jail right now. And if the only Council member I think is doing a good job is representing a district other than mine. Just a bad idea all around.

I also find it troublesome that Districting is being touted and supported by someone who is running for County Council. That would seem to be a conflict to me - he must have a ton of relatives in his district.....

Right now I am stuck with a Representative for my district for whom I have never voted as I think he does not do a good job. But I have no choice as he is my district. I certainly don't need a repeat of that at the Council level.

I respectfully request that this item NOT be placed on the ballot again. Been there, done that.

Mahalo nui loa  
Carol Beardmore



Virus-free. [www.avast.com](http://www.avast.com)

**From:** [REDACTED]  
**To:** [Anela Segreti](#)  
**Subject:** CRC 2020-17 Discussion and possible action on proposed Charter amendment relating to Council Districting Date: 2020-06-22 00:37  
**Date:** Monday, June 22, 2020 2:33:45 PM

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Subject: CRC 2020-17 Discussion and possible action on proposed Charter amendment relating to Council Districting

Date: 2020-06-22

June 21, 2020

TO:  
County of Kauai  
Charter Review Commission {CRC}

RE: Monday, June 22, 2020, Agenda Item  
CRC 2020-17 Discussion and possible action on proposed Charter amendment relating to Council Districting.

I support the adoption of three districts for Kauai County, increasing the number of seats on the Kauai County Council from the current seven-members to a nine-member council, with each district electing three members to represent each district.

I support equitable representation and access to government that represents each district. Adopting state districting policy allows Kauai County Council members to function in sync with state representatives and allow for more meaningful partnerships and opportunities for community engagement in those partnerships.

I also support that there are no budget increases as the current funds allocated to council payroll would be dispersed amongst the nine members.

In 2006 a districting proposal came. Wry close to passing but it was complicated. This proposal provides for direct representation in a less complicated system that is in sync with state representation districts.

Please consider this proposal and let voters chose if districting is a better representation of our community.

Sincerely,  
Kathleen Horgan

June 21, 2020

To: Marissa Sandblom, Chair  
County of Kauai Charter Review Commission

From: Norma Doctor Sparks, Esq.           *NDSparks*          

Re: Discussion and Possible Action on Proposed Charter Amendment Relating to Council Districting

Thank you for the opportunity to present my testimony in support of increasing the number of Kauai Council Members from seven to nine members.

A strong connection between County Council Members and their defined constituents is a good thing for democracy. It is good for County Council Members to listen closely to opinions of their constituents. It is good for constituents to inform their County Council Members about what they want and expect from government. And it is a good thing when County Council Members effectively communicate the intricacies of their (and the government's) actions to the people in their districts. To explain to constituents what he or she has done, and why, a county council member must 1) be accessible to constituents, 2) actively seek out constituent needs and opinions, and 3) educate constituents about issues and his or her legislative fairness.

Yet, under the present Charter, each individual County Council Member is given a special charge to represent all of the people on Kauai and their myriad interests. It is extremely difficult for any one County Council Member to represent all of Kauai and more importantly, to maintain contact and interaction with everyone on Kauai.

For the same reasons why the Hawaii Constitution scheduled three representatives for three Hawaii state representative districts on Kauai, the County Council should have nine members. With three members elected from each of three council districts, corresponding with Hawaii state representative districts as apportioned under the Hawaii Constitution, the people of Kauai will have stronger representation that will integrate the issues of the districts at the County and State levels.

I am available to answer any questions. [REDACTED]

June 21, 2020

To: Marissa Sandblom, Chair  
County of Kauai Charter Review Commission

From: Stephen A. Sparks 

Re: Discussion and Possible Action on Proposed Charter Amendment Relating to Council  
Districting

Thank you for the opportunity to present my testimony in support of increasing the number of Kauai Council Members from seven to nine members.

With nine County Council Members, there will be more diversity of individuals and ideas that will be brought forward. There will be greater opportunity for creativity and responsiveness on the Kauai Council.

With three districts, each County Council Member will be able to better present their ideas to their constituents. They will also have greater opportunity to really know their constituents and meet their needs than they have now.

I am available to answer any questions. 

County of Kaua'i

**From:** Tina Sakamoto [REDACTED]  
**Sent:** Monday, June 22, 2020 4:28 PM  
**To:** Mayor <[Mayor@kauai.gov](mailto:Mayor@kauai.gov)>  
**Subject:** Fw: Testimony in Opposition to Distric Elections-

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Attempting to submit testimony. Please forward to Charter Review Commission  
[asegret@kauai.gov](mailto:asegret@kauai.gov) ([asegret@kauai.gov](mailto:asegret@kauai.gov))  
Your message couldn't be delivered because the recipient's email server (outside Office 365) suspected that your message was spam.  
Mahalo

~~~~  
----- Original Message -----  
**From:** [REDACTED]  
**To:** [asegret@kauai.gov](mailto:asegret@kauai.gov)  
**Sent:** Monday, June 22, 2020 4:07 PM  
**Subject:** Testimony in Opposition to District Elections-

Meeting: County of Kauai Charter Review Commission  
Remote Meeting on June 20,.2020 at 3 p.m. or shortly after  
Lihue, Kauai, HI

[asegret@kauai.gov](mailto:asegret@kauai.gov)

Agenda Item: Proposed Kauai County Council District Election

Testifier: Tina Sakamoto  
PO Box 189  
Lawai, HI 96765-0189  
Phone [REDACTED]

Representing: Self  
Not a lobbyist, nor affiliated with any proclaimed group promoting legislation

Opinion: Testimony Opposing Proposed Kauai County Council District Election

~~~~~  
TESTIMONY

MY OBSERVATIONS:

NO BROKE, NO TRY FIX

A local news article stated that the County of Kauai Charter Review Commission is reconsidering a proposal to split Kauai into three (3) districts corresponding with the State House boundaries, with three (2) members each for a total of a nine-seat council. A two-year residency within a district of which the candidate would represent is a requirement.

This proposal is to create geographic districts from which the Kauai County Council would be elected based on the district he/she resides. Similar measures to elect the council members by district rather than at-large were rejected by voters 1982, 1996, and 2006. The Kauai County Council continues to be elected at-large, thus representing the entire island rather than a specific district.

MY OPINION:

I support the current at-large county council election system for the following reasons:

1. Selection - The selection of an at-large candidate is from a broader island base. A Kauai voter may choose any candidate regardless of where the candidate resides and not be compromised by a geographical area.
2. Representation - Each at-large candidate represents the entire island, not just his/her own district. Each candidate may be more likely to take interest in the overall betterment of the entire island and all its people.
3. Accountability - The at-large candidate will be accountable to every person on Kauai, not a designated group of people from a slice of the island. A person may address a concern to any council member.
4. Cost - Running district elections will increase costs in personnel, production, tabulation, and resources.
5. Vote - The at-large candidate must garner the majority of the votes whereas a district candidate needs only more votes than an opponent. It is possible for a candidate in a district election to win if either unopposed or with a single vote.
6. Philosophy - By tradition and culture Kauai's diversity is its strength. Our Kauai philosophy is the "we" concept, what is best for all the people and what is best for the entire island. The at-large election system supports the "we" philosophy and encourages cohesiveness. District elections will change the concept of "we" to "me" and the practice will be what "I want" regardless of the discord and divisiveness in competing for limited resources.

For these reasons it is my opinion that the current at-large system is the best choice for Kauai

and I urge you to oppose districting.

Mahalo, Tina Sakamoto

~ ~ ~

**From:** [REDACTED]  
**To:** [Anela Segreti](#)  
**Subject:** Proposed Charter Amendment CRC 2020-17  
**Date:** Monday, June 22, 2020 11:02:44 AM

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**CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.**

I support the Charter Review Commission CRC 2020-17, which would place on the ballot a proposal to establish Council districting for Kaua'i.

With a nine seat Council, including three dedicated seats, citizen representation should be both better balanced and also would allow for closer citizen-Councilpersons relations within each of the three districts.

Thank you for considering my opinion, Dana Bekeart, Kapa'a resident.

Sent from [Mail](#) for Windows 10

**From:** [REDACTED]  
**To:** [Anela Segreti](#)  
**Subject:** Correction for 2020-17  
**Date:** Monday, June 22, 2020 11:20:31 AM

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From Dana Bekeart. After reading TGI article, it looks like the representation would be three per district.

I believe this might create competing three horse-trading relations.

Perhaps two per district and three at-large would work well.

**From:** [Anela Segreti](#)  
**To:** [REDACTED]  
**Cc:** [Ellen Ching](#); [Teresa Tumbaga](#)  
**Subject:** FW: Message from Unknown sender (8088238162)  
**Date:** Monday, June 22, 2020 1:15:00 PM  
**Attachments:** [VoiceMessage.wav](#)  
[image001.png](#)  
[image002.jpg](#)

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Good Afternoon Commissioners,

I returned Ms. Marge Dente's call. She is not able to join the meeting today, but wanted to express some concerns she has regarding districting. She lives on Waipouli Rd. which is divided by District 14 on the North and District 15 on the South. She says that this causes confusion for police and in voting. She feels that this needs to be examined as to why this is. She feels that lines, borders for this road needs to be either completely on North or South side. She would prefer North because of Ag., which she feels is more align to the community. She shared that they are a close community and wants to know why separated. She invited Commission to call her with questions at [REDACTED].

Mahalo,  
Anela Segreti  
Administrative Specialist 1



County of Kaua'i  
**Office of Boards and Commissions**  
4444 Rice Street, Suite 300  
Lihue, HI. 96766  
Phone: (808) 241-4917  
Fax: (808) 241-5127  
Email: [asegreti@kauai.gov](mailto:asegreti@kauai.gov)  
<https://www.kauai.gov/BoardsandCommissions>

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**From:** Cisco Unity Connection Messaging System <unityconnection@voicemail.kauai.gov>

**Sent:** Monday, June 22, 2020 12:38 PM

**To:** asegrete@voicemail.kauai.gov

**Subject:** Message from Unknown sender (8088238162)

**ARTICLE I  
THE COUNTY AND ITS GOVERNMENT**

**Section 1.03. County Elections**

A. Nonpartisan elections. County elections shall be conducted in accordance with the state election laws insofar as applicable, but all elective county officers shall be elected by nonpartisan elections.

B. Offices of the mayor and prosecuting attorney.

1. For the offices of mayor and prosecuting attorney, the names of the two candidates receiving the highest number of votes for these offices in the primary election shall be placed on the ballot for the general election. However, if there is only one candidate for each of said offices, such candidate shall be elected in the primary election.

2. At the general election, the candidates receiving the highest number of votes for mayor and prosecuting attorney shall be elected.

3. Tie votes. In the event of a tie vote for mayor and prosecuting attorney in the primary or general election, the winner shall be determined by a method of chance as determined by the county clerk.

C. Office of [~~at-large~~] councilmembers.

1. For [~~at-large~~] council offices, [~~two~~] up to six candidates for each vacant [~~at-large~~] council office receiving the highest number of votes in the primary election within each council district shall be placed on the ballot for the general election.

2. At the general election, the three candidates receiving the highest number of votes [~~for each vacant at-large council office~~] within each council district shall be elected.

3. Tie votes. In the event of a tie vote for the last remaining [~~at-large~~] council office within each council district in the primary election, the candidates receiving the same number of votes shall be placed on the ballot for the general election.

In the event of a tie vote for the last remaining [~~at-large~~] council office within each council district in the general election, the winner shall be determined by a method of chance as determined by the county clerk.

**ARTICLE III  
COUNTY  
COUNCIL**

**Section 3.01. Legislative Power.** The legislative power of the county shall be vested in and exercised by the county council, except as otherwise provided by this charter.

**Section 3.02. Composition.** There shall be a council of ~~seven~~ nine members elected ~~[at large]~~ by the qualified voters of their respective council district, with three members elected from each of three council districts. Council districts shall correspond with Hawai'i state representative districts as apportioned under Article IV of the Hawaii Constitution.

**Section 3.03. Terms.** The terms of office of councilmembers shall be for two years beginning at twelve o'clock meridian on the first working day of December following their election. No person shall be elected to the office of councilmember for more than four consecutive two year terms. (Amended 1980, 1984, 2006)

**Section 3.04. Qualifications.**

A. To be eligible for the council, a person must be a citizen of the United States and must have been a duly qualified elector of ~~[the county]~~ their district for at least two years immediately preceding such person's election or appointment.

B. Any councilmember who removes said councilmember's residence from ~~[the county]~~ their district or is convicted of a felony shall immediately forfeit the office.

C. The council shall be the judge of the qualifications of its members and for that purpose shall have power to subpoena witnesses, take testimony and require the production of records. Decisions made by the council in the exercise of the powers granted in this subsection shall be subject to review by the Fifth Circuit Court of the State of Hawai'i.

**Section 3.05. Vacancy in Office.** In the event a vacancy occurs in the council, the remaining members of the council shall appoint a successor with the required qualifications to fill the vacancy for the unexpired term. If the council is unable to fill a vacancy within thirty days after its occurrence, the mayor shall make the appointment to such vacancy. The foregoing provisions shall apply in the event a person elected as councilmember dies before taking office; provided, however, that the vacancy shall be filled by the newly elected council within thirty days after the beginning of the new term.

**Section 3.06 Compensation.** The salary of each councilmember shall be established in accordance with the provisions of article XXIX of this charter. (Amended 1988, 2006)

**Section 3.07. Organization of Council; Officers; Rules; Employees.**

A. The council shall meet in the council room at the county building or in the Kaua'i War Memorial Convention Hall for its organization promptly after its inauguration and swearing-in ceremony at which time it shall elect one of its members as chair and presiding officer of the council. Until such time as the chair is elected, the mayor shall preside at the council meetings, provided that the mayor shall not have a vote. The council shall also elect one of its members as vice-chair who shall act as the presiding officer in the event of the chair's absence. The council shall appoint a presiding officer pro tempore from its members in the event of the absence of both the chair and vice-chair. A majority of the entire membership of the council shall constitute a quorum and, except as otherwise provided, the affirmative vote of a majority of the entire membership shall be necessary to take any action. (Amended 1984)

B. The council shall adopt such rules as it may deem necessary for the organization of committees and the transaction of its business.

C. The council shall keep a journal of its proceedings.

D. The council may, upon an affirmative vote of at least two-thirds of its entire membership, suspend without pay for not more than one month any member for disorderly or contemptuous behavior in its presence. The presiding officer or the council by a majority vote may expel any other person who is guilty of disorderly, contemptuous, or improper conduct at any meeting.

E. The council shall meet regularly at least twice in every month at such times as the council may prescribe by rule. Special meetings may be held on the call of the mayor, chair, or by [~~five~~] six or more members. All council and council committee meetings shall be open to the public except as provided for in chapter 92, Hawai'i Revised Statutes. (Amended 2008)

F. Council Staff. The council may appoint the necessary personnel for the transaction of its business, and such appointments shall be subject to the civil service and classification requirements. The chair of the council shall be the administrative officer of the staff employees. (Amended 2008)

**Section 3.08. Mayor May Appear Before Council.** The mayor may propose in writing any motion, resolution, or ordinance, or amendments thereto, but shall have no right to vote thereon.

**Section 3.09. Eminent Domain.** The council shall by resolution determine and declare the necessity of taking property for public purposes, describing the property and stating the uses to which it shall be devoted.

**Section 3.10. Annual Budget and Capital Program.** The council shall enact an annual budget ordinance, which shall include both the operational and capital expenditures for the fiscal year and the method of financing same. The council shall provide sufficient revenues to assure a balanced budget.

**Section 3.11. Adoption of Pay Plan.** The council by ordinance shall appropriate the salaries of all officers and employees who are exempt from civil service in accordance with the provisions of section 7.05E and article XXIX of this charter. All other officers and employees shall be classified and paid in accordance with law. (Amended 1984, 1988, 2006)

**Section 3.12. Audit.**

A. Financial audit. At least once every two years and at any other time as may be deemed necessary, the council shall cause an independent audit of all county funds and accounts to be made by a certified public accountant or firm of certified public accountants. The scope of the audit shall be in accordance with the terms of a written contract to be signed by the chair which shall provide for the completion of the audit within a reasonable time. If the state makes such an audit, the council may accept it as satisfying the requirements of this section. The audit shall be a matter of public record.

B. Performance audit. To ensure and determine whether government services are being efficiently, effectively, and economically delivered, the council may at any time provide for a performance audit of any or all of the offices, agencies, departments, programs, and operations for which the county is responsible. The council may exercise its authority to conduct performance audits through the hiring of a qualified in-house auditor, through the hiring of a qualified contract auditor, or both. The scope of the audit shall be in accordance with the terms of an assignment referred to the office of the county clerk by the county council or a written contract to be approved by the council and signed by the presiding officer of the council, but may include the following activities:

(1) Examination and testing of county offices', agencies', programs', and departments' implementation processes to determine whether the laws, policies, and programs of the county are being carried out in the most effective, efficient, and economical manner.

(2) Examination and testing of the internal control systems of offices, agencies, programs, operations, and departments to ensure that such systems are properly designed to safeguard public assets against loss from waste, fraud, error, to promote efficient operations, and to encourage adherence to prescribed management policies.

Said assignment or contract shall encourage recommendations for changes in the organization, management, and processes which will produce greater efficiency and effectiveness in meeting the objectives of the programs or operations carried out by

the respective county agencies, departments, offices, programs, and operations and shall provide for the completion of the audit within one calendar year. A copy of the audit report shall be filed with the county clerk and shall be public record. (Amended 2000)

**Section 3.13. Creation of General Debt.**

A. The council by the affirmative vote of at least [~~five~~] six members may authorize the issuance of general obligation bonds in accordance with the Constitution and laws of the State of Hawai'i.

B. Each bond authorization shall specify the purpose for which moneys are to be borrowed and the maximum amount of bonds to be issued for that purpose.

C. Notwithstanding any limitation contained in this charter, the council may accept and receive participating or nonparticipating federal and state loans for public improvement projects or other purposes, the aggregate of which, together with any bonded indebtedness outstanding, shall not at any time exceed the total bonded indebtedness authorized by the Constitution of the State of Hawai'i.

D. The council may provide for the refunding of general obligation bonds.

**Section 3.14. Creation of Special Assessment Debt.** The council may authorize the issuance of improvement bonds to finance assessable public improvements in the manner provided by law.

**Section 3.15. Revenue Bond Indebtedness.** The council may authorize the issuance of revenue bonds for the purpose of initiating, constructing, acquiring, extending, replacing, or otherwise improving any revenue-producing facility as provided by law.

**Section 3.16. Temporary Borrowing.**

A. The council may borrow money in any fiscal year in anticipation of revenues to be derived from taxes for that year, and for any of the purposes to which the revenues are appropriated. No such borrowing shall be in excess of 25 percent of the amount of the uncollected taxes of that year.

B. When any warrants are presented to the county for payment, and the same are not paid for lack of funds, the director of finance shall issue a warrant note, equal in amount to the face value of the warrant or warrants so presented for payment. The warrant note shall be in a form and shall be due at a date prescribed by the director of finance. It shall bear interest at the lowest obtainable rate. The notes shall be a first charge on the moneys of any fund against which the warrants are issued.

C. The council upon recommendation of the mayor may authorize the director of finance to obtain temporary loans from the state.

## Proposed Charter Amendment Relating to Council Districts

**Section 3.17. Investigation.** The council or any authorized committee thereof shall have the power to conduct investigations of the operation of any agency or function of the county and any subject upon which the council may legislate. In investigations, the presiding officer shall have the right to administer oaths and in the name of the council to subpoena witnesses and compel the production of books and papers pertinent thereto. If any person subpoenaed as a witness or to produce any books or papers called for by the process of the council or committee shall fail or refuse to respond thereto, the circuit court upon request of the council shall have power to compel obedience to any process of the council and require such witness to answer questions put to the witness as aforesaid, and to punish, as a contempt of the court, any refusal to comply therewith without good cause shown therefor.

False swearing by any witness shall constitute perjury and be punished as such, and whenever the council is satisfied that a witness has sworn falsely in any hearing or investigation, it shall report same to the county attorney for prosecution. In any investigation which concerns the alleged gross misconduct, or alleged criminal action on the part of any individual, such individual shall have the right to be represented by counsel, the right of reasonable cross-examination of witnesses, and the right to process of the council to compel the attendance of witnesses in the individual's behalf.

**Section 3.18. Restrictions on County Council and Councilmembers.** The council and its members shall not interfere with the administrative processes delegated to the mayor.

Except for the purpose of investigative inquiries under section 3.17, the council or its members, in dealing with county employees, or with county officers who are subjected to the direction and supervision of the mayor, shall deal solely through the mayor, and neither the council nor its members shall give orders to any such employee or officer either publicly or privately. Any willful violation of the provisions of this section by a member of the council shall be sufficient grounds for an action for the member's removal from office.

## **POLICE CHIEF QUALIFICATIONS (CRC2019-05):**

### **Ballot question:**

Shall police chief qualifications (Section 11.04) be increased to require 10 years law enforcement experience plus educational requirements?

### **Charter language submitted for review:**

Section 11.04. Chief of Police. The chief of police shall be appointed by the police commission. The chief of police may be removed by the police commission only after being given a written statement of the charges against the chief and a hearing before the commission. The chief of police shall have a minimum of ~~[five]~~ fifteen years of training and experience ~~[in law enforcement,]~~ at least 10 years of which as a peace officer in a full-service, public sector, law enforcement agency, and at least three years of which shall be in [a responsible, administrative capacity,] performing management-level duties at the rank of lieutenant or higher. The chief of police shall have a bachelor's degree in administration of justice, business administration, public administration or a similar administrative field. The chief of police shall make such reports from time to time as the commission shall require and shall annually make a report to the commission on the state of affairs and condition of the police department.

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

### **Three suggestions:**

1.

Section 11.04. Chief of Police. The chief of police shall be appointed by the police commission. The chief of police may be removed by the police commission only after being given a written statement of the charges against the chief and a hearing before the commission. The chief of police shall have had a minimum of ~~[five]~~ fifteen years of training and experience in law enforcement, of which at least ten years have been as a peace officer in a full-service, public sector, law enforcement agency, and at least three of the ten years ~~[of which shall be in a responsible, administrative capacity.]~~ have been in performing management-level duties at the rank of lieutenant or higher. The chief of police shall have a bachelor's degree in administration of justice, business administration, public administration, or a similar administrative field. The chief of police shall make such reports from time to time as the commission shall require and shall annually make a report to the commission on the state of affairs and condition of the police department. (Amended 1984)

2.

Section 11.04. Chief of Police. The chief of police shall be appointed by the police commission. The chief of police may be removed by the police commission only after being given a written statement of the charges against the chief and a hearing before the commission. The chief of police shall have had a minimum of ~~[five]~~ fifteen years of training and experience in law enforcement, of which at least ten years have been as a peace officer in a full-service, public sector, law enforcement agency, and at least three of those ten years ~~[of which shall be in a responsible, administrative capacity.]~~ have been in performing management-level duties at the rank of lieutenant or higher. The chief of police shall have a bachelor's degree in administration of justice, business administration, public administration, or a similar administrative field. The chief of police shall make such reports from time to time as the commission

shall require and shall annually make a report to the commission on the state of affairs and condition of the police department. (Amended 1984)

3.

Section 11.04. Chief of Police. The chief of police shall be appointed by the police commission. The chief of police may be removed by the police commission only after being given a written statement of the charges against the chief and a hearing before the commission. The chief of police shall have had a minimum of ~~five~~ fifteen years of training and experience in law enforcement, of which at least ten years have been as a peace officer in a full-service, public sector, law enforcement agency, and of those ten years, at least three years [of which shall be in a responsible, administrative capacity.] have been in performing management-level duties at the rank of lieutenant or higher. The chief of police shall have a bachelor's degree in administration of justice, business administration, public administration, or a similar administrative field. The chief of police shall make such reports from time to time as the commission shall require and shall annually make a report to the commission on the state of affairs and condition of the police department. (Amended 1984)

**Educational material:**

The Kaua'i Police Commission, after having gone through the process of hiring a new police chief, recommended more stringent requirements for future police chief candidates. The goal of this measure is to ensure that candidates for the county's top law enforcement post meet adequate minimum standards, which match standards in other communities.

Under this measure, a candidate would need a college degree in an appropriate field, a 15-year work history, of which at least 10 years would be as an officer in full-service law enforcement agency, and three years as a lieutenant or higher rank.

Leaving the language as-is would retain minimal standards of five years of training, three of which were as an administrator.

## **ETHICS DISCLOSURE (CRC 2019-06):**

### **Ballot question:**

Shall the list of county officials required to file ethics disclosures (Section 20.04) be expanded to include the managing director and regulatory employees?

### **Charter language:**

Charter 20.04. Disclosure.

A. The mayor, councilpersons, ~~[all department heads and deputies,]~~ managing director, heads and deputies of all departments, agencies, and divisions, members of boards and commissions, the purchasing administrator, and ~~[any employee delegated or authorized to act on behalf of the director of finance and the deputy director of finance in their absence shall]~~ regulatory employees shall, within thirty days of assuming office, file with the board a list of all real property within the county in which such person has any right, title, or interest, a list of all business firms which contract for county business in which such person has any interest, and all of such person's places of employment, including part-time employment, all sources and amounts of income, business ownership, officer and director positions, debts, creditor interests in insolvent businesses, and the names of persons represented before government agencies. Amendments to the list, including additions, deletions, or changes in title, interest in property or of employment, shall be made within thirty days of the occurrence of the amendment. The list shall be a matter of public record[-]; provided that the lists of regulatory employees shall not be open to public inspection. (Amended 2008, 2010)

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

### **Educational material:**

Certain county employees are required to file disclosure of their interests in business and local real estate. This change ~~would~~ would include on the list the county managing director, heads and deputies of county departments, agencies and their divisions. It would also include regulatory ~~employees like such as~~ employees like such as building permit inspectors and liquor ~~inspectorscontrol investigators~~. Specific "regulatory employee" classifications would be defined later via administrative rule by the Board of Ethics.

If this provision were to remain as-is, such ethics disclosure requirements would be limited to elected officials, department heads and deputies, the purchasing administrator and members of boards and commissions.

CRC 2019-06

## **COUNTY ENGINEER QUALIFICATIONS (CRC 2019-21 A):**

### **Ballot question submitted for review:**

Shall an individual who has extensive work and supervisory experience in an engineering or related field be qualified to serve as the County Engineer, head of the Department of Public Works?

### **Edited ballot question:**

Shall an individual who has extensive work and supervisory experience in an engineering or related field also be qualified to serve as the County Engineer, head of the Department of Public Works?

### **Charter language submitted for review:**

~~CRC 2019-21 A~~Section 13.02. County Engineer. The county engineer shall be appointed and may be removed by the mayor. The county engineer [~~shall be a registered engineer and~~] shall have had a minimum of five years of training and experience in an engineering related position, at least three years of which shall have been in a responsible administrative capacity. (Amended 1980)

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

### **Edited charter language:**

Section 13.02. County Engineer. The county engineer shall be appointed and may be removed by the mayor. The county engineer [~~shall~~] may but is not required to be a registered engineer and shall have had a minimum of five years of training and experience in an engineering related position, at least three years of which shall have been in a responsible administrative capacity. (Amended 1980)

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

### **Educational material:**

The County Engineer oversees the largest department in the county, the Department of Public Works. While this was once a position with extensive engineering requirements, it is now primarily a management and administrative assignment, and engineering is performed by trained and certified engineers within the department's divisions.

Mayors for many years have had difficulty filling the position with registered engineers. This amendment recognizes the changing function of the position, and it would expand the pool of qualified applicants.

Leaving the provision as-is would continue to require a Hawai'i-registered engineer hold the position.

## **WATER BOARD MANAGER (CRC 2019-21 C):**

### **Ballot question submitted for review:**

Shall an individual who has extensive work and supervisory experience in an engineering or related field be qualified to serve as manager and chief engineer of the Department of Water?

### **Edited ballot question:**

Shall an individual who has extensive work and supervisory experience in an engineering or related field also be qualified to serve as manager and chief engineer of the Department of Water Supply?

### **Charter language submitted for review:**

Section 17.04. Staff. The [~~board shall appoint an engineer duly registered under Hawai'i state laws pertaining to registration of engineers~~] manager and chief engineer shall be appointed and may be removed by the board of water. [~~Said person shall be known as the manager and chief engineer and shall be the head of the department.~~] The manager and chief engineer shall have had a minimum of five years of training and experience in an engineering related position, at least three years of which shall have been in a responsible administrative capacity. Said person shall have the powers and duties prescribed by the board. (Amended 1980)

### **Edited charter language:**

Section 17.04. Staff. The [~~board shall appoint an engineer duly registered under Hawai'i state laws pertaining to registration of engineers~~] manager and chief engineer shall be appointed and may be removed by the board of water. Said person [~~shall be known as the manager and chief engineer and shall be the head of the department.~~] The manager and chief engineer may but is not required to be an engineer duly registered under Hawai'i state laws pertaining to registration of engineers, and shall have had a minimum of five years of training and experience in an engineering related position, at least three years of which shall have been in a responsible administrative capacity. Said person shall have the powers and duties prescribed by the board. (Amended 1980)

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

### **Educational material:**

The direction of the Department of Water is increasingly an administrative rather than an engineering function. This provision would recognize that a qualified manager with engineering experience could meet the requirements of the position as well as would a Hawai'i-registered engineer.

Furthermore, as the Board of Water Supply has had difficulty filling this position with qualified engineers, this provision has the capacity to expand the pool of qualified applicants.

Leaving the provision as-is would continue to require a Hawai'i-registered engineer hold the position.

**PROSECUTOR VACANCY (CRC 2019-14):**

**Ballot Question:**

Shall the mayor, with the approval of the Council, fill a vacancy of less than 18 months in the Prosecuting Attorney's position if a first deputy is unable to fill the position (Section 9A.5 ~~?)~~?

**Charter Language:**

Section 9A.05. Vacancy in Office. A vacancy in the office of prosecuting attorney shall be filled in the following manner:

A. If the unexpired term is less than ~~[a year]~~ eighteen months, the first deputy shall act as prosecuting attorney. If the position of first deputy is vacant or if the first deputy is unable to so act, the mayor with the approval of the council shall fill the vacancy by appointment of a person with requisite qualifications within thirty days after the occurrence of the vacancy.

B. If the unexpired term is for eighteen months or more, or in the event the person elected as prosecutor dies before taking office or is unable to qualify, then the vacancy shall be filled by a special primary election and a special general election, patterned after the primary and general election laws of the state, insofar as applicable. The special primary election shall be called by the council and held within forty-five days after the occurrence of the vacancy. The special general election shall be held thirty days after the special primary election. Pending a special election, the first deputy shall act as prosecuting attorney. (Amended 1972)

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

**Educational Material:**

Due to an oversight, there is currently no provision for filling a vacancy in the Prosecuting Attorney's office if a vacancy is expected to last between one year and 18 months.

If a vacancy is longer than 18 months, a special election would be held. Under current language, if a vacancy is less than a year, the first deputy would fill in as prosecutor. But there is no guidance on what to do if a Prosecuting Attorney vacates the office with a remaining term of between one year and 18 months. This measure would allow the first-deputy to fill in the position for those 18 months. If there is no first deputy or the first deputy is unable to fill the position, the mayor, with council approval, could appoint a Prosecuting Attorney.

Leaving the language as-is could require going to court for direction in the event of a vacancy of 12 to 18 months.

## **NEGLIGENCE CLAIMS (CRC 2019-04):**

### **Ballot question:**

Shall Section 23.06, establishing a time limit for negligence claims against the county, be amended to comply with state law?

### **Charter language:**

Section 23.06. Claims. No action shall be maintained for ~~the~~ recovery of damages for death or injury to person or property by reason of negligence of any officer or employee of the county unless a written statement stating fully when, where, and how the damages occurred, the extent thereof and the amount claimed therefor, has been filed with the county clerk within ~~[six months after the date the death, injury, or damages were sustained]~~ the time period provided in Hawai'i Revised Statutes section 46-72.

\*(Language to be deleted is bracketed and stricken through. Language to be added is underlined.)

### **Educational material:**

Section 23.06 establishes a six-month time limit in which anyone alleging they have been injured by the negligence of the County must file a written claim. This six-month time limit conflicts with state law, which allows two years within which to file a claim against the County. The proposed amendment deletes the six-month time limit from section 23.06, and brings the Charter into harmony with state law.

Section 23.06, titled "Claims," requires that any person who believes they have been injured or damaged by the negligence of the County must submit a written statement with the details of their claim within a specified period of time. Under the current Charter, the time limit for submitting a claim against the County is six months.

Before 2007, state law (HRS Section 46-72) provided a six-month time limit for submitting such claims. In 2007, however, the state legislature amended state law to extend the time limit to two years.

Because state law is superior to the County Charter on this issue, the six-month time limit set out in the Charter currently has no meaningful effect.

Leaving the language as-is keeps the county claims language out of compliance with state law.