



## CHARTER REVIEW COMMISSION

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**LORI KOGA**, CHAIR  
**JAN TENBRUGGECATE**, VICE CHAIR

**BRONSON BAUTISTA**, COMMISSIONER  
**REID KAWANE**, COMMISSIONER  
**MARISSA SANDBLOM**, COMMISSIONER  
**COTY TRUGILLO**, COMMISSIONER

### Meetings of the Charter Review Commission will be conducted as follows until further notice:

- Meetings will be publicly noticed pursuant to HRS Chapter 92.
- Minutes of meetings will be completed pursuant to HRS Chapter 92 and posted to the Commission's website upon completion and approval.

### Public Comments and Testimony:

- **Written testimony** will be accepted for any agenda item herein.
  - Written testimony indicating your 1) name, and if applicable, you position/title and organization you are representing, 2) the agenda item that you are providing comment on, and 3) contact information (telephone number and email address), may be submitted to [asegreti@kauai.gov](mailto:asegreti@kauai.gov) or mailed to the Charter Review Commission, c/o Office of Boards and Commission, 4444 Rice Street, Suite 300, Lihue, Hawaii 96766.
  - Written testimony received by the Charter Review Commission at least 24 hours prior to the meeting will be distributed to all Charter Review Commissioners prior to the meeting.
  - Any testimony received after this time and up to the start of the meeting will be summarized by the Clerk of the Commission during the meeting and added to the record thereafter.
  - Any late testimony received will be distributed to the to the members after the meeting is concluded.
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- **Oral testimony** will be taken during the public testimony portion of the meeting.
  - It is recommended that anyone interested in providing oral testimony register at least 24 hours prior to the meeting by emailing [asegreti@kauai.gov](mailto:asegreti@kauai.gov) or calling (808) 241-4917. Any request to register shall include your 1) name, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, and 3) contact information (telephone number and email address).
  - Per the Charter Review Commission's and Chairs practice, there is three-minute time limit per testifier per agenda item.
  - Individuals who have not registered to provide testimony will be given an opportunity to speak on an agenda item following the registered speakers.

### **SPECIAL ASSISTANCE**

IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS PLEASE CONTACT THE OFFICE OF BOARDS AND 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 ALTERNATIVE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.



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## SPECIAL MEETING NOTICE AND AGENDA

Monday, June 20, 2022  
3:00 p.m. or shortly thereafter  
Boards & Commissions Office Conference Room  
Pi`ikoi Building, Suite 300  
4444 Rice Street, Līhu`e, HI 96766

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. MINUTES of the meeting of the Open Session
  - 1. May 23, 2022
- E. PUBLIC TESTIMONY
- F. COMMUNICATION
- G. BUSINESS

CRC 2021-08	Discussion and possible action on proposed ballot question, purpose, and background to amend Charter Section 9A.05. Vacancy in Office related to the Office of the Prosecuting Attorney.
CRC 2022-05	Discussion and possible action on proposed ballot question, purpose, and background on Charter amendment to remove Article XXX relating to the Electric Power Authority.
CRC 2022-09	Discussion and possible action on a proposed ballot question, purpose, and background on proposed Charter amendment to amend Article XXIX of the Charter allowing the Salary Commission authority to establish the maximum salaries of all elected and appointed officials.

CRC 2022-12

Discussion and possible action on a proposed ballot question, purpose, and background on proposed Charter amendment to remove Charter Section 19.17 Surety Bonds.

**H. ANNOUNCEMENTS**

Next Meeting: June 27, 2022

**I. ADJOURNMENT**

**NOTICE OF EXECUTIVE SESSION**

Pursuant to Hawaii Revised Statutes §92-7(a), the Board 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: Teresa Tumbaga, Deputy County Attorney

COUNTY OF KAUAI  
Minutes of Meeting  
OPEN MEETING SESSION

**Draft to be Approved**

Board/Commission:	<b>CHARTER REVIEW COMMISSION</b>	Meeting Date	<b>MAY 23, 2022</b>
Location	Boards & Commissions Conference Room, Lihue Civic Center	Start of Meeting: 3:17 p.m.	End of Meeting: 4:53 p.m.
Present	Chair Lori Koga. Commissioners: Bronson Bautista, Reid Kawane (3:30pm), Marissa Sandblom, Coty Trugillo. Also: Teresa Tumbaga, Deputy County Attorney. Boards & Commissions Office Staff: Administrator Ellen Ching, Administrative Specialist Anela Segreti. County Attorney Matthew Bracken.		
Excused			
Absent	Vice Chair Jan TenBruggencate		

SUBJECT	DISCUSSION	ACTION
<b>A. Call To Order</b>		Chair Lori Koga, called the meeting to order at 3:17 p.m.
<b>B. Roll Call</b>		Roll Call: Commissioner Bautista-present Chair Kawane – tardy arrived at 3:30pm Commissioner Sandblom- present Commissioner Trugillo-present Vice Chair TenBruggencate-absent Chair Koga- present Quorum: 4 commissioners present
<b>C. Approval of Agenda</b>	Chair Koga entertained a motion to approve the agenda.	Commissioner Sandblom moved to approve the agenda. Commissioner Trugillo seconded.  Voice Vote: 4 Ayes, 0 Nays Motion carried 4:0
<b>D. Minutes</b>	<u>Open Session Minutes of April 25, 2022</u>  Chair Koga entertained a motion to approve the minutes of April 25, 2022.	Commissioner Sandblom moved to approve the minutes of April 25, 2022. Commissioner Bautista seconded.

SUBJECT	DISCUSSION	ACTION
		Voice Vote: 4 Ayes, 0 Nays Motion carried 4:0
<b>E. Public Testimony</b>	<p><u>CRC 2022-10 Written testimony dated April 23, 2022 from Gary Hooser regarding CRC 2022-08 and CRC 2020-17.</u></p> <p>Commissioner Sandblom noted that Mr. Hooser referenced a no action recommendation in the PIG report and she clarified that that was not one of the recommendations.</p>	<p>Commissioner Trugillo moved to receive testimony for the record. Commissioner Sandblom seconded.</p> <p>Voice Vote:            4 Ayes, 0 Nays            Motion carried 4:0</p>
<b>F. Communication</b>	<p><u>CRC 2022-11 Possible conflict of interest and recusal dated May 12, 2022, from Vice Chair Jan TenBruggencate on CRC 2022-05, relating to a proposed charter amendment to remove Article XXX relating to the Electric Power Authority.</u></p> <p>Chair Koga entertained a motion to receive CRC 2022-11.</p>	<p>Commissioner Sandblom moved to receive CRC 2022-11. Commissioner Bautista seconded.</p> <p>Voice Vote:            4 Ayes, 0 Nays            Motion carried 4:0</p>
	<p><u>CRC 2022-12 Memo dated May 17, 2022, from Matthew Bracken, County Attorney, relating to a proposed Charter amendment to remove Charter Section 19.17 Surety Bonds.</u></p> <p>Chair Koga entertained a motion to receive CRC 2022-12.</p>	<p>Commissioner Bautista moved to receive CRC 2022-12. Commissioner Trugillo seconded.</p> <p>Voice Vote:            4 Ayes, 0 Nays            Motion carried 4:0</p>
<b>G. Business</b>	<p><u>CRC 2020-17 Discussion and possible action on proposing a Charter amendment relating to Council Districting.</u></p> <p>Administrator Ching reported to the Commission that Mr. Lyon's continues to email on the status of this item. She asked if the Commission</p>	

SUBJECT	DISCUSSION	ACTION
	<p>wanted to keep this item on the agenda. She noted that it was deferred at the last meeting and continue it on the agenda.</p> <p>Chair Koga clarified that if the move to receive it will go off the agenda.</p> <p>Deputy County Attorney Tumbaga clarified that a motion could be made to be taken off the agenda and Chair may have it on the agenda at any times. Or the Chair may use her discretion to have it on the agenda or not.</p> <p style="text-align: center;"><i>Commissioner Kawane joined the meeting at 3:30pm</i></p>	<p>Commissioner Trugillo moved to defer CRC 2020-17. Commissioner Kawane seconded.</p> <p>Voice Vote:            5 Ayes, 0 Nays            Motion carried 5:0</p>
	<p><u>CRC 2021-08 Discussion and possible action on proposed ballot question, purpose, and background to amend Charter Section 9A.05. Vacancy in Office related to the Office of the Prosecuting Attorney.</u></p> <p>Administrator went over the suggested proposed language and edits made.</p> <p>Deputy County Attorney Tumbaga read the exact language as edited for the Background and Purpose to the Commission.</p> <p>Commission discussed proposed language and edits for background and purpose.</p> <p>Administrator Ching read the ballot question: “Shall the County Charter be amended to require that future elections for Prosecuting Attorney occur at the same time as the County’s regularly scheduled election”.</p> <p>The Commissioners worked with the Deputy County Attorney and Administrator on a revised purpose: “The purpose of this amendment is to amend the County Charter to avoid the high cost of conducting a special election for the sole purpose of filling a vacancy of the Prosecuting</p>	<p>Commissioner Sandblom moved to approve the revised ballot question as presented for CRC 2021-08. Commissioner Bautista seconded.</p> <p>Voice Vote:            5 Ayes, 0 Nays            Motion carried 5:0</p> <p>Commissioner Sandblom moved to approve the revised purpose for 2021-08, taking out “an independent” and replacing with “for the sole purpose of electing a prosecuting</p>

SUBJECT	DISCUSSION	ACTION
	<p>Attorney”.</p> <p>Deputy County Attorney Tumbaga read the edited portion of the background: “The recent resignation of the Prosecuting Attorney triggered a special election for the sole purpose of electing a Prosecuting Attorney, pursuant to the Charter ...”.</p>	<p>attorney” version. Commissioner Trugillo seconded.</p> <p>Commissioner Sandblom amended her motion to approve the version noted in the minutes. Commissioner Trugillo seconded.</p> <p>Voice Vote:            5 Ayes, 0 Nays            Motion carried 5:0</p> <p>Commissioner Kawane moved to approve the revised background as presented for CRC 2021-08. Commissioner Bautista seconded.</p> <p>Voice Vote:            5 Ayes, 0 Nays            Motion carried 5:0</p>
	<p><u>CRC 2022-05 Discussion and possible action on proposed ballot question, purpose, and background on Charter amendment to remove Article XXX relating to the Electric Power Authority.</u></p> <p>No discussion.</p>	<p>Commissioner Kawane moved to approve the revised ballot question, purpose, and background as written/presented for CRC 2022-05. Commissioner Trugillo seconded.</p> <p>Voice Vote:            5 Ayes, 0 Nays            Motion carried 5:0</p>
	<p><u>CRC 2022-09 Discussion and possible action on a proposal to amend</u></p>	

SUBJECT	DISCUSSION	ACTION
	<p><u>Article XXIX of the Charter allowing the Salary Commission authority to establish the maximum salaries of all elected and appointed officials.</u>            Administrator Ching went over the amendments presented (on file) that Deputy County Attorney Hugo noted regarding salary range to salary maximum, and amendment by Vice Chair TenBruggencate regarding a grammatical correction.</p> <p>Deputy County Attorney Tumbaga suggested additional edits to the presented background, The Salary Commission presents its research, reports, and a resolution to the County Council, who can reject all or portions of the resolution by a vote of 5 or more of its members”. Another edit would be to the fourth sentence, which talks about what reports included, “salaries inversions should be singular salary inversions before the parentheses.</p>	<p>Commissioner Sanblom moved to approve the amended ballot language and purpose as edited for CRC 2022-09. Commissioner Kawane seconded.</p> <p>Voice Vote:            5 Ayes, 0 Nays            Motion carried 5:0</p> <p>Commissioner Kawane moved to approve the revised background for CRC 2022-09. Commissioner Trugillo seconded.</p> <p>Voice Vote:            5 Ayes, 0 Nays            Motion carried 5:0</p>
	<p><u>CRC 2022-12 Discussion and possible action on a proposed Charter amendment to remove Charter Section 19.17 Surety Bonds.</u></p> <p>County Attorney Matthew Bracken presented an overview of the proposed Charter amendment to remove Charter Section 19.17 Surety Bonds to the Commission. He explained that the County currently has insurance which covers Civil and Criminal acts of employees the same way that bonds would</p>	



SUBJECT	DISCUSSION	ACTION
	<p>to protect the County. He explained that bonding employees in addition to the insurances would be an added expense for the County as they would need to bond all employees working with funds. He went on to state that the County has not been purchasing bonds, though it is stated in the Charter, and he would like to correct this.</p> <p>The Commission asked questions regarding the County not bonding employees and the County Attorney Bracken stated that in his eight years the County has never bonded employees and he believes that is because of the insurance coverage.</p> <p>They Commission shared concern about coverage for the employees. County Attorney Bracken explained that insurance covers civil acts but not criminal acts by an employee.</p> <p>He went on to share what he and the Director of Finance look at insurance policies needs and costs annually and he suggested inviting the Director to explore more about the policies and cost savings.</p> <p>The County Attorney provided and shared proposed Charter language.</p> <p>Commissioner Sandblom shared that she is not clear that the intent in 19.17 is included in 19.16, the intent of protecting employees.</p> <p>Commissioner Trugillo shared she is uncomfortable with the purpose to reduce cost of government when they are not currently purchasing surety bonds.</p> <p>County Attorney Bracken shared that he does want the County to comply with the law. He stated that across the nation may counties do not purchase surety bonds and people were using this law to remove officials from office.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Commissioner Sanblom stated that she has concerns on the wording that is being proposed.</p> <p>Administrator Ching asked for more discussion on what they would like to see, as well as possible changes to 19.16.</p> <p>Commissioner Trujillo stated that she sees a protection for employees in 19.17, but not in the broad scope of 19.16 so is concerned that that's all that would be left and there will be no requirement to protect employees.</p> <p>County Attorney Bracken stated that there are employee protections anywhere else in the Charter, but are in other documents, for example collective bargaining agreements. Non-union employees have it in other State laws. He also clarified that he does not believe that people can be removed from office by not having bonds, but it came to his attention because people have tried in other counties.</p> <p>Administrator Ching stated that there are a number of things in the Charter that are outdated or doesn't reflect what the County is currently doing, and it is in the purview of the Commission to look at that.</p> <p>Commissioner Sandblom clarified that Council can decide who needs to be bonded and could say that none require it. County Attorney Bracken affirmed but added that there are no resolutions on this.</p> <p>Discussion regarding deleting the second sentence of 19.17 who specifically needs to be bonded rather than deleting the entire section.</p> <p>Commissioner Sandblom suggested having this item on the agenda next month with a redraft of the language and asking the Director of Finance to</p>	<p>Commissioner Sanblom moved to have County Attorney Bracken return with amended ballot language, purpose, and background. Commissioner Trujillo seconded.</p> <p>Voice Vote:</p>

SUBJECT	DISCUSSION	ACTION
	attend to answer some questions.	5 Ayes, 0 Nays Motion carried 5:0
<b>H. Announcements</b>	Next Meeting: June 27, 2022  Commission discussed need for an earlier meeting in June.  Administrator Ching and the Commission congratulated Chair Koga on her Small Business Association award.	Commission scheduled a special meeting for June 20, 2022.
<b>I. Adjournment</b>		Hearing no objections Chair Koga adjourned the meeting at 4:53 p.m.

Submitted by: \_\_\_\_\_  
 Anela Segreti, Administrative Specialist

Reviewed and Approved by: \_\_\_\_\_  
 Lori Koga, Chair

- ( ) Approved as circulated.
- ( ) Approved with amendments. See minutes of \_\_\_\_\_

# OFFICE OF BOARDS & COMMISSIONS

ELLEN CHING, ADMINISTRATOR



DEREK S.K. KAWAKAMI, MAYOR  
MICHAEL A. DAHLIG, MANAGING DIRECTOR

## RE: Prosecutor's Vacancy Charter Amendment proposal, final draft

### 1. Prosecutor's office vacancies:

**Ballot Language:** Shall the County Charter be amended to require that future elections for Prosecuting Attorney occur at the same time as the County's regularly scheduled elections?

**Purpose:** The purpose of this amendment is to amend the County Charter to avoid the high cost of conducting a ~~n independent~~ special election for the sole purpose of filling to fill a vacancy of the Prosecuting Attorney.

**Background:** The recent resignation of the Prosecuting Attorney triggered a ~~n independent~~ special election for the sole purpose of electing a Prosecuting Attorney, pursuant to the Charter. The cost to the County of the election was approximately \$500,000.00. This amendment would allow the first deputy prosecutor to serve as Prosecuting Attorney until the seat is filled in a regularly scheduled election. The special election to fill a vacancy of the Prosecuting Attorney would be held concurrently with the County's elections if the vacancy occurs more than three days before the filing deadline for the elections. If the vacancy occurs later, the special election will occur concurrently with the County's next scheduled election and the first deputy would serve until the County Prosecutor is seated. In the event a first deputy is unable to serve, the Prosecuting Attorney will be appointed by the mayor with approval of the county council.

CRC 2021-08

# OFFICE OF BOARDS & COMMISSIONS

ELLEN CHING, ADMINISTRATOR



DEREK S.K. KAWAKAMI, MAYOR  
MICHAEL A. DAHLIG, MANAGING DIRECTOR

## 1. Electric Power Authority:

**Ballot Language:** Shall the Charter be amended to remove Article 30 which allows the County Council to create an electric power corporation?

**Purpose:** The purpose of this amendment is to remove ~~provisions in the Charter~~ Charter provisions that allow the Council to create an electric power corporation like ~~the KIUC~~ Kauai Island Utility Cooperative (KIUC). This would ~~and to~~ avoid any duplication of services and limit the unnecessary growth of government.

**Background:** In 2002, voters approved an amendment that added Article 30 to the County's Charter in response to the proposed sale of the Kauai Electric Company to the Kauai Island Utility Cooperative (KIUC). If the sale of Kauai Electric to KIUC failed, or if KIUC was not able to provide adequate electrical services, Article 30 allowed the County Council to establish an electric power authority corporation. In September 2003, however, the Hawaii Public Utilities Commission approved the sale of Kauai Electric to KIUC. KIUC has since adequately managed and operated Kauai's electrical power system and has become a national leader in renewable energy.

CRC 2022-05

# OFFICE OF BOARDS & COMMISSIONS

ELLEN CHING, ADMINISTRATOR



DEREK S.K. KAWAKAMI, MAYOR  
MICHAEL A. DAHLIG, MANAGING DIRECTOR

RE: Salary Commission's Charter Amendment proposal, final draft

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## Background

### 1. Salary Commission

**Ballot Language:** Shall the Charter be amended to give the Salary Commission the authority to establish the maximum salary ~~range~~ for elected and appointed officials?

**Purpose:** To efficiently establish salaries that attract and retain the "best and the brightest." All counties in the State of Hawaii except for Kaua'i have given their Salary Commissions the authority to establish the maximum salaries of elected and appointed officials, which includes department heads and deputies.

**Background:** Kauai's Salary Commission currently conducts extensive research and analysis on salaries of department heads and deputies, but is not authorized to independently make changes to salary caps. The Salary Commission presents its research, ~~and~~ reports, and a resolution to the County Council, who can reject all or portions of the resolution by a vote of five or more members ~~for a vote to approve changes to salaries by resolution~~. The Salary Commission's reports include an analysis of the salaries of all elected and appointed officials in the neighboring counties and the State, the consumer price index, Kauai County's economic status and outlook, vacancies, and salary inversions (where a lower ranking position has a higher salary than a higher ranking position). Salary inversions have been a common and chronic problem in the County, as have vacancies, recruitment, and retention. This amendment will empower the Salary Commission to use its expertise to timely address these issues with a long-term strategy within the context of the current economic conditions.

CRC 2022-09

# OFFICE OF BOARDS & COMMISSIONS

ELLEN CHING, ADMINISTRATOR



DEREK S.K. KAWAKAMI, MAYOR  
MICHAEL A. DAHLIG, MANAGING DIRECTOR

RE: Section 19.17. Surety Bonds Charter Amendment proposal, final draft

Ballot Language: Shall the Charter be amended by removing the portion of section 19.17 that requires surety bonds for certain officers and employees?

Purpose: To provide the county with flexibility in purchasing insurance or surety bonds by eliminating a provision that requires the purchase of surety bonds.

Background: Surety bonds for public officials generally provide a financial guarantee against loss, specifically that the official duties of an office will be faithfully and legally performed during a specific term. Insurance can provide similar coverage. The County currently purchases errors and omissions insurance for public officials and an employee crime policy. The public official insurance protects against fraud and other wrongful acts of officers and employees, such as an actual or alleged omission, misstatement, misleading statement, neglect, or breach of duty. The employee crime insurance protects against theft, forgery, computer fraud, burglary, and fraudulent money transfers committed by an officer or employee. The County bundles these policies in with several other forms of insurance including general liability, property coverage, automobile liability coverage, employee benefits liability, law enforcement liability, lifeguard liability, workers compensation, cyber coverage, aircraft coverage, and commercial excess liability. The bundled policies are then procured annually by the Director of Finance. The removal of the specific language would allow the county to purchase surety bonds, insurance, or both. Council would continue to have the authority to determine if surety bonds are required for specific officers or employees. This would allow the county to select the policies that provide the best coverage and better manage overall costs.

**Section 19.17. Surety Bonds.** Except as otherwise provided, the council shall determine which officers and employees, if any, are ~~shall be~~ required to furnish surety bonds and ~~shall~~ determine the kind and amount of each individual or blanket bond. ~~[All officers concerned with the receipt, collection, custody, or disbursement of public funds shall be bonded.]~~ The director of finance shall procure all such surety bonds from companies licensed to do business in the state. All such bonds shall be in favor of and the premiums thereon shall be paid by the county.

CRC 2022-12