



# CHARTER REVIEW COMMISSION

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

**BRONSON BAUTISTA, COMMISSIONER**  
**VIRGINIA KAPALI, COMMISSIONER**  
**REID KAWANE, COMMISSIONER**  
**MARISSA SANDBLOM, COMMISSIONER**

On November 29, 2021, Governor David Y. Ige issued an Emergency Proclamation, which continued the suspension of Hawai'i Revised Statutes (HRS) Chapter 92, relating to Public Agency Meetings and Records (also known as the Sunshine Law) as it pertained to the COVID-19 Response. HRS Chapter 92 was suspended to the extent necessary to enable boards to conduct business in-person or through remote technology without any board members or members of the public physically present in the same location. In addition, on December 29, 2021, Governor Ige issued a proclamation suspending HRS 92-3.7 to suspend the requirement to have at least one meeting location that is open to the public.

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

- Meetings will be publicly noticed pursuant to HRS Chapter 92.
- In-person meetings will be closed to the public to be consistent with social distancing practices.
- Charter Review Commissioners, Department and/or Boards and Commission Staff, parties to agenda items, and resource individuals may appear via the Microsoft Teams remote technology.
- If any major and insurmountable technical difficulties are encountered during the meetings, the Charter Review Commission will continue all matters and reconvene at the next scheduled Charter Review Commission Meeting.
- Minutes of meetings will be completed pursuant to HRS Chapter 92 and posted to the Charter Review Commission's website upon completion and approval.

## **Public Comments and Testimony:**

- **Written testimony:** The Charter Review Commission will accept written testimony for any agenda item herein. Written testimony indicating your 1) name, and if applicable, your 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 members after the meeting is concluded.
- **Oral testimony** will be taken during the public testimony portion of the meeting via Microsoft Teams remote technology platform.
  - 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).
  - It shall be the responsibility of the testifier to join the meeting through the Microsoft Teams link provided on the posted agenda to provide their testimony. In addition, it shall be the responsibility of the testifier to ensure that the Microsoft Teams software is downloaded and operational prior to the meeting.
  - The testifier's audio and video shall be disabled until it is your turn to testify.
  - Per the Charter Review Commission's and Chairs practice, there is three-minute time limit per testifier.
  - Individuals who have not registered to provide testimony will be given an opportunity to speak on an agenda item following the registered speakers.
  - If there are temporary technical glitches during your turn to testify, we may have to move on to the next person due to time constraints; we appreciate your understanding.

## **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.



## CHARTER REVIEW COMMISSION

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### REGULAR MONTHLY MEETING NOTICE AND AGENDA

Monday, February 28, 2022  
3:00 p.m. or shortly thereafter

#### Microsoft Teams Conferencing Information

Click on the link below or enter the url in your network browser to join on your computer or mobile app by VIDEO:  
<https://bit.ly/3LypO23>  
Or

Dial phone number and enter conference ID to call in and join by AUDIO:

Phone: [+1 469-848-0234](tel:+14698480234) United States, Dallas

Phone Conference ID: 764 772 771#

This meeting will be held via Microsoft Teams conferencing only. Members of the public are invited to join this meeting by using the link above or 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 or mail. To avoid excessive noise/feedback, please mute your microphone except to testify.

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

D. MINUTES of the meeting of the Open Session

1. January 24, 2022

E. PUBLIC TESTIMONY

F. COMMUNICATION

G. BUSINESS

CRC 2022-06

Update of the Permitted Interaction Group (PIG). The purpose of the Permitted Interaction Group (PIG) is to provide a written recommendation on how and whether to create districting for our County Council.

- |             |   |
|-------------|---|
| CRC 2020-17 | Discussion and possible action on proposing a Charter amendment relating to Council Districting.  |
| CRC 2021-04 | Discussion and possible action on Charter Initiatives of interest.  |
| CRC 2022-05 | Discussion and possible action on proposed Charter amendment to remove Article XXX relating to the Electric Power Authority.                    |
| CRC 2021-08 | Discussion and possible action on proposal to amend Charter Section 9A.05. Vacancy in Office related to the Office of the Prosecuting Attorney. |

**H. ANNOUNCEMENTS**

Next Meeting: March 28,2022

**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: Hugo Cabrera, Deputy County Attorney

COUNTY OF KAUAI  
 Minutes of Meeting  
 SPECIAL MEETING SESSION

Board/Commission:		<b>CHARTER REVIEW COMMISSION</b>	Meeting Date	<b>JANUARY 24, 2022</b>
Location	Teleconference		Start of Meeting: 3:04 p.m.	End of Meeting: 3:43 p.m.
Present	Chair Lori Koga, Vice Chair Jan TenBruggencate. Commissioners: Bronson Bautista, Virginia Kapali, Reid Kawane, Marissa Sandblom. Also: Hugo Cabrera, Deputy County Attorney. Boards & Commissions Office Staff: Administrator Ellen Ching, Administrative Specialist Anela Segreti.			
Excused				
Absent				
<b>SUBJECT</b>	<b>DISCUSSION</b>		<b>ACTION</b>	
<b>Call To Order</b>			Chair Lori Koga, called the meeting to order at 3:04 p.m.	
<b>Roll Call</b>			Roll Call: Commissioner Bautista-present & alone Commissioner Kapali- present & alone Commissioner Sandblom- present & alone Commissioner TenBruggencate-here, not alone (in dental waiting room) not able to hear or participate Vice Chair Koga- present & alone Chair Kawane - present & alone Quorum: 6 commissioners present	
<b>Agenda</b>			Vice Chair TenBruggencate moved to approve the agenda. Commissioner Kawane seconded.  Voice Vote: 6 Ayes, 0 Nays Motion carried 6:0	

SUBJECT	DISCUSSION	ACTION
<b>Minutes</b>	<p><u>Open Session Minutes of December 20, 2021</u></p> <p>Commissioner Kawane pointed out two errors on page 6. First paragraph “Kaua’I “should be “Kaua’i” and fourth paragraph “youu” should be “you”.</p> <p><u>Special Meeting Minutes of January 10, 2022</u></p>	<p>Vice Chair TenBruggencate moved to approve the minutes of December 20, 2021.</p> <p>Vice Chair TenBruggencate withdrew his motion and moved to approve the minutes of December 20, 2021 as edited. Commissioner Kawane seconded.</p> <p>Voice Vote: 6 Ayes, 0 Nays Motion carried 6:0</p> <p>Vice Chair TenBruggencate moved to approve the minutes of January 10, 2022. Commissioner Kapali seconded.</p> <p>Voice Vote: 6 Ayes, 0 Nays Motion carried 6:0</p>
<b>Public Testimony</b>	<p><u>None</u></p> <p>Bert Lyon and Sabrina Bodon observed but did not offer testimony.</p>	
<b>Communication</b>	<p><u>None</u></p>	

SUBJECT	DISCUSSION	ACTION
<p><b>Business</b></p>	<p><u>CRC 2020-17 Discussion and possible action on proposing a Charter amendment relating to Council Districting.</u></p> <p>Administrator Ching reported that the Permitted Interaction Group (PIG) met once and are scheduled to meet again this Wednesday.</p> <p>Chair Koga entertained a motion to defer.</p>	<p>Commissioner Kawane moved to defer CRC 2020-17 to next meeting when PIG will have their findings. Commissioner Bautista seconded.</p> <p>Voice Vote:          6 Ayes, 0 Nays          Motion carried 6:0</p>
	<p><u>CRC 2021-04 Discussion and possible action on Charter Initiatives of interest.</u></p> <p>Chair stated there are two to discuss. One regarding Electric Power and Salary Commission.</p> <p>Chair Koga started the discussion with the proposed amendment regarding electric power. Electric Power.</p> <p>Vice Chair TenBruggencate recused himself from this discussion as it may be a possible conflict because he sits on the board of KIUC (Kauai Island Utility Cooperative).</p> <p style="text-align: center;"><i>Vice Chair TenBruggencae left the meeting at 3:11pm</i></p> <p>Administrator Ching gave background on the Charter amendment which was approved in the 2002 General Election in response to the proposed sale of Kauai Electric Company to KIUC. They wanted to ensure that electricity</p>	

SUBJECT	DISCUSSION	ACTION
	<p>would continue in case it did not go through. In 2018 the proposed amendment was on the ballot and did not pass. This would be a housekeeping amendment as KIUC has now been in operation for several years.</p> <p>Chair Koga asked if it did not pass because people did not understand it.</p> <p>Administrator Ching stated that she would simplify the ballot question, do you want the County to run the Electric Company, yes or no.</p> <p>Commissioner Kapali suggested that this goes back on the ballot this year with the Office of the County Attorney to come up with a question.</p> <p>Administrator Ching explained that the committee would draft, the question, purpose, and background for review by the Commission. The County Attorney would review the Ramseyer version for form and legality. She welcomed suggestions from the Commissioners.</p> <p>Chair Koga started the discussion regarding the memo from the Salary Commission.</p> <p style="text-align: center;"><i>Vice Chair TenBruggencate rejoined the meeting at 3:22pm</i></p> <p>Administrator Ching clarified that they are looking at two issues. One the use of digital signatures. She asked Deputy County Attorney Cabrera if he had anything on that issue.</p>	<p>Commissioner Kapali moved to include the proposed amendment regarding the Electric Power Amendment for the ballot with a complete review by the Administrator and resources to develop a draft as a ballot question. Commissioner Sandblom seconded.</p> <p>Voice Vote:          6 Ayes, 0 Nays          Motion carried 6:0</p>

SUBJECT	DISCUSSION	ACTION
	<p>Deputy County Attorney Cabrera stated that he would need to look into it.</p> <p>Administrator Ching stated that the second one was proposed in the past on several ballots, 1988, 2006, 2012, 2018, for the Salary Commission be able to pass a resolution on regarding salaries of Department Heads, deputies, etc. She understands that in other counties the salary commission may approve salary resolutions. This commission would like to set and approve a salary resolution with a maximum salary. This would give them more flexibility and be time sensitive to set maximum salaries based on conditions at the time. She clarified that what was sent is what is currently in the Charter. The Salary Commission will do more work if the Commission wants to proceed. The portion that they will be amending will be approval by Council. She explained that they will do a more detailed proposal to the Commission.</p> <p>Vice Chair TenBruggencate stated that Kaua'i County has more than any other county has significant citizen involvement with more Commissions that hire their department heads. He is in support of the Salary Commission being the authority.</p> <p>Commissioner Sandblom stated that there was concern about citizens having an impact on County budget, but it was clear that it was a maximum and that the County did not have to offer the maximum. She also remembers that the digital signature was also okay, but she would like to hear Deputy County Attorney Cabrera's take on it.</p> <p>Administrator Ching clarified that the Commission is looking at setting a max and so there is flexibility. She also stated that maximum salaries were not given out by the Mayor until one year of satisfactory performance, even though it was passed. Commissions also gave raises after performance evaluations; some gave raises after the evaluation others did pay retro-active to July. She went on that Kauai has the most department heads hired by commissions.</p>	



SUBJECT	DISCUSSION	ACTION
	<p>Chair Koga asked if it is the same ballot amendment that was placed on the ballots in 1988, 2006, 2012, 2018 and did not pass.</p> <p>Administrator Ching answered that the commission tries to simplify the question, and in 2018 it read, “shall Article 29, Salary Commission sections 29.01 and 29.03 be amended to give the salary commission authority to establish the maximum salaries of all elected and appointed officials and to add the Director of Human Resources and Director of Finance as ex-officio non-voting members of the commission.” She thinks that the question got complicated because it was trying to provide authority to the salary commission and composition of the salary commission. She went on in 2012 there were 8 ballot questions and having too many ballot questions is problematic. She went on that the question read, “should the Salary Commission establish maximum salaries for officers which shall include the prosecuting attorney and all deputies and allow for elected officials, officers to accept salaries lower than the minimum.” She feels that it’s three questions as one and people get confused.</p> <p>Chair Koga asked if there would also be educational material.</p> <p>Administrator Ching said yes if the Commission approves it and that it would come at the end, because it’s in next years budget. It is mandated that it would be published 30 days before the election. The public information campaign would need to have commission vote on and if approved in budget she could move on.</p> <p>Administrator Ching noted that there will be a timeline that all proposed amendments will need to be sent to the County Clerk for the ballot, and she is looking at the end of May, very beginning of June, but that she and staff need to meet with the County Clerk to schedule.</p>	<p>Vice Chair TenBruggencate moved to invite the Salary Commission to send their proposal on both amendments that they would like to be considered. Commissioner Kapali seconded.</p> <p>Voice Vote:          6 Ayes, 0 Nays          Motion carried 6:0</p>

SUBJECT	DISCUSSION	ACTION
<b>Announcements</b>	Next Meeting: February 28, 2022	
<b>Adjournment</b>		Hearing no objections Chair Koga adjourned the meeting at 3:43pm

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

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

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

CRC 2021-05

CRC-2017-04:

## **Proposed Charter Amendment to Remove Article XXX relating to the Electric Power Authority**

### **Ballot Question:**

Shall the Charter be amended by repealing Article XXX, which empowers the Council to create an electric power authority by ordinance?

### **Purpose:**

The purpose of this amendment is to remove the article empowering the Council to establish an electric power authority by ordinance, since the Kaua'i Island Utility Cooperative has competently managed and operated Kaua'i's electrical power system, and delivered electrical power to Kaua'i in an economically viable manner, for more than a decade and a half.

### **Background:**

Article XXX was approved by the voters in the 2002 general election. The County Council proposed Article XXX as a Charter amendment in response to the proposed sale of Kaua'i Electric Company to the Kaua'i Island Utility Cooperative (KIUC). Article XXX empowered the County to intercede in the event that the sale of Kaua'i Electric to KIUC collapsed, or if KIUC had problems in providing electrical services. In September of 2003, the Hawai'i Public Utilities Commission (PUC) approved the sale of Kaua'i Electric to KIUC. Since 2002, KIUC, Hawai'i's only member owned electrical cooperative, has managed and operated the electrical power system on Kaua'i.

## **~~{ARTICLE XXX ELECTRIC POWER AUTHORITY}~~**

~~{Section 30.01. Electric Power Authority. The council may establish by ordinance an electric power authority corporation for the county, which shall be a body corporate, and shall be responsible for the planning, development, production, purchase, transmission, and distribution of all electricity-related services by the county.~~

~~If established by ordinance, all provisions of this article XXX shall be included in the ordinance and no ordinances shall be enacted and no administrative rules shall be adopted, which either expressly or by implication conflict with the provisions of this article.~~

~~Sections 30.02 through 30.06 of this article shall be effective thirty calendar days from and after the enactment of an ordinance establishing an electric power authority for the County of Kaua'i.~~

~~If established by ordinance, the authority shall operate as a separate unit of county government, except as otherwise provided in this charter. The authority shall be free from the jurisdiction, direction, and control of other county officers and of the council.~~

~~Notwithstanding any provision in the charter to the contrary, the council may by ordinance enact any further provisions it deems necessary to implement this article including, but not limited to, provisions concerning the power authority's powers, duties, and liabilities, its organization and governing structure, the manner in which officers and employees are elected, appointed, or employed, and the manner in which rates are set and the authority's revenues are utilized.~~

**~~Section 30.02. Board of Directors of the Electric Power Authority.~~** There shall be a board of directors of the electric power authority, which shall have exclusive jurisdiction, control, and policy-making responsibility over the authority and all of its operations and facilities.

~~The board shall have and may exercise all rights, powers, duties, privileges, and immunities possessed by the county, which are or may be secured by law including, but not limited to, all powers and duties possessed by the county to construct, acquire, expand, and operate the utility, and to do any and all acts or things that are necessary, convenient, or desirable in order to operate, maintain, enlarge, extend, preserve, and promote an orderly, economic, and business-like administration of the utility.~~

~~The board shall adopt articles of incorporation and by-laws consistent with all provisions of this article. Such articles and by-laws may be amended from time to time by the board; however, any such amendments shall be consistent with all provisions of this article. Such articles and by-laws shall also include provisions as are customary to set forth both the corporation's purpose and nature and the procedural matters necessary for its governance.~~

~~The board shall operate as a separate unit of county government, except as otherwise provided in this charter. Both the board and the authority shall be free from the jurisdiction, direction, and control of other county officers and of the council.~~

~~The board may sue or be used in its own name. All liability from damage claims arising from the operations of the board and the authority shall be the responsibility of and be liquidated by the board from the appropriate funds of the authority.~~

**~~Section 30.03. Organization of the Board.~~**

~~A. Number of directors. The board shall consist of seven directors, one of whom shall be the chief executive officer of the authority, and six of whom shall be elected at large. All seven directors shall be voting members of the board. Charter section 7.05K shall not apply to this article.~~

~~B. Election and tenure of directors.~~

~~1. Directors elected at large. Directors elected at large shall be elected at the next regularly scheduled general election after the enactment of the ordinance creating the authority.~~

~~2. Subject to the provision in paragraph D of this section that the terms of the first directors who have no licensing or education and experience qualification requirements shall be two years, all directors shall serve terms of four years, unless they die, resign, or are removed from office pursuant to paragraph D of this section. The terms of all elected directors shall begin at twelve o'clock meridian on the first working day of December following their election.~~

~~3. Term limits of directors. No elected director shall serve as director for more than two consecutive full terms.~~

~~C. Vacancies. Vacancies shall be filled by the board for the unexpired term. No vacancy on the board shall impair the right of the remaining directors to exercise all the powers of the board.~~

~~D. Qualifications. All persons seeking positions as elected directors shall, upon filing for their candidacies, be citizens of the United States and registered voters in the county. In addition, three of~~

~~the six elected directors shall possess the following additional qualifications upon filing for their candidacies:~~

~~Three of the six elected directors must either:~~

~~(1) Have been licensed by any state in the United States for a minimum of five years in engineering, accountancy, or law; or~~

~~(2) Have an undergraduate or graduate degree in business management or business administration from a university or college within the United States accredited by the Middle States Association of Colleges and Schools, North Central Association of Colleges and Schools, New England Association of Schools and Colleges, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or the Western Association of Schools and Colleges and have worked in the field of business management or business administration for a minimum of five years.~~

~~All persons seeking positions as elected directors shall specify in their nomination papers whether they are seeking to be elected for one of the three director positions which have licensing or education and experience qualification requirements, or the director position which has no such qualification requirements.~~

~~All persons seeking director positions which have licensing or education and experience qualification requirements shall execute an affidavit stating that the applicant has satisfied the qualification requirements for those positions. The person shall swear to the truth of the allegations by self-subscribing oath in the affidavit. The county clerk shall prescribe the form of the affidavit. If the clerk so desires or believes it to expedient, the clerk may demand that the person furnish substantiating evidence to the allegations in the person's affidavit. If the clerk determines that any person has not satisfied the licensing or education and experience requirements of this paragraph D, the person shall be deemed unqualified for the position sought.~~

~~With respect to any director elected to fill a position having licensing or education and experience requirements, the following rule shall apply. If, at any time, it is learned that any such director has not satisfied these requirements, the board shall immediately remove the director from office. Any vacancies arising from such a removal shall be filled by the board for the unexpired term; provided that all persons appointed by the board as a result of such a removal shall satisfy, at the time of their appointment, the qualification requirements for such elected directors.~~

~~For the director positions which have no licensing or education and experience qualification requirements, the three candidates receiving the highest number of votes shall be elected to those three positions. The terms of the first directors who have no licensing or education and experience qualification requirements shall be two years.~~

~~For the three director positions which have licensing or education and experience qualification requirements, the three candidates receiving the highest number of votes shall be elected to those three positions.~~

~~The qualification requirements of this paragraph D shall not apply to the chief executive officer of the authority.~~

~~No director may hold any county office, be an officer or employee of the county government, or have been an officer or employee of the county government within twelve months of the date that the director's term of office is effective. No director may conduct any business whatsoever with the authority.~~

~~A director convicted of the commission of a felony shall be removed from office when convicted of the felony.~~

~~E. Officers. The board by majority vote shall elect from among its members a chair who shall preside over the meetings of the board, and a vice chair who shall act for the chair during absences, and may elect from among its members one or more vice presidents, a secretary and a treasurer, and assistant secretaries and treasurers. The board shall prescribe and may amend the duties of all such officers.~~

~~Election of officers shall be held at the first regular meeting at which all members are present following the appointment or election of a new director for a full term, but not later than the second meeting following the appointment or election.~~

~~F. Meetings. The board shall take no action except by the affirmative vote of at least four directors, who shall constitute a quorum.~~

~~The board shall meet at least once each month at such times as the board may prescribe.~~

~~Except where meetings closed to the public are permitted under applicable law, all board meetings shall be open to the public. Agendas shall be posted pursuant to applicable law.~~

~~G. Errors and omissions. The authority shall hold harmless and indemnify its director, chief executive officer, agents, and employees to the full extent permitted by law, including but not limited to, all liabilities, expenses, and losses incurred by its directors, chief executive officer, agents, and employees in connection with acts of error or omissions, other than willful violations of laws, committed within the scope of their duties, and shall defend, at the authority's expense, all related claims and suits.~~

### **Section 30.04. Organization of the Authority.**

~~A. Divisions. The authority shall keep separate funds and accounts as required by the uniform systems of accounts for gas, electricity, water, communications, and other utilities, as promulgated by the Hawai'i Public Utilities Commission or the Federal Energy Regulatory Commission.~~

~~B. Policy. The board shall establish an annual budget and written policies governing utility operations to cover such areas as employees' duties, customer rates, service rules and termination procedures, expenditure of funds, long-range planning, and other appropriate activities.~~

~~C. Chief executive officer. The board shall appoint and the authority shall employ a president and chief executive officer of the authority who shall be qualified by training and experience for the overall management of the utility. The chief executive officer shall serve according to the terms of an employment contract to be executed between the officer and the board, and shall have such authority as delegated by the board. The salary of the chief executive officer shall be fixed by the board.~~

~~The chief executive officer shall, subject to board approval, (1) determine the number of employees necessary for the operation of the utility, and (2) fix their duties and compensation. The chief executive officer shall have control of all actual construction and repairs, the immediate management of operation of the utility, and the enforcement and execution of all rules and regulations, programs, plans, and decisions made or adopted by the board. The chief executive officer shall maintain suitable permanent records regarding actions taken. The chief executive officer shall prepare plans and specifications, take bids, and let contracts, subject to the approval of the board. The chief executive officer shall prepare and submit to the board periodic reports on the utility's compliance with local, state, federal laws in the areas of safety, environmental matters, and civil rights.~~

~~D. Other employees. There shall be such other officers and employees of the authority as may be provided by the board. The officers and employees shall be appointed and removed by the chief executive officer subject to the provisions of applicable local, state, and federal laws or binding contracts entered into with employees and the authority, or both.~~

~~E. Surety bonds. The board may require surety bonds for any of the officers and employees of the authority in such amounts as the board deems necessary. The premiums for the bonds shall be paid by the authority in the same manner as any other operating expense.~~

### **Section 30.05. Powers and Duties of the Board.**

~~A. Real estate and contracts. The board, in the efficient and economical operation of the authority, may, as state law permits: (1) sell its products and services to the public and private corporations and to other consumers; (2) construct and operate plants and operate distribution system, transmission lines, and other facilities; (3) purchase real estate and franchises; and (4) enter into all contracts, leases, and agreements in furtherance thereof.~~

~~B. Joint operations with others. The board may enter into contracts and agreements with any public or private corporation or any individual, both inside and outside the boundaries of the county and state: (1) for the joint use of property belonging either to the authority or to the other contracting party or jointly to both parties; and (2) for the joint acquisition of real and personal property, rights and franchises, and the joint financing, construction, and operation of plants, buildings, transmission lines, and other facilities.~~

~~C. Eminent domain. The board may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain in like manner as the county, and to the same extent as the county, when the board determines that public necessity or convenience requires such action.~~

~~D. Use of thoroughfares for utility installations. The board may use the ground over, under, or along any road, railway, highway, street, sidewalk, thoroughfare, alley, or waterway in the operations of the authority but shall in all cases and subject to the applicable general regulations of the county and state cause the surface of the public way to be restored to its usual condition.~~

~~E. Rates. The board shall fix rates and other charges to be assessed against each customer class for electrical services rendered by the authority. Rates and other charges for each customer class shall be based on the cost of the service provided and be just, reasonable, compensatory, and without undue preference or discrimination.~~

~~The board may require reasonable deposits as security for the payment of charges for utility services, and may provide for the return of the deposits when satisfactory consumer credit has been established.~~

~~F. Authorization for expenditures. No money shall be drawn from the funds of the authority nor shall any obligation for the expenditure of money be incurred except in conformity with authorization by the board. No claim against the authority shall be paid unless evidenced by a voucher approved by the chief executive officer, or by some other employee to be designated by the chief executive officer.~~

~~G. Use of utility funds. All utility revenues shall be directed to the provision of utility services and not applied to the general fund of the county, unless the transfer of revenues constitutes a payment in lieu of taxes. Except for those taxes that are assessed pursuant to county, state, or federal law, no other taxes or fees, or both, shall be assessed against the authority. Nothing in this section G shall~~

~~prohibit the authority from entering into such business arrangements or contracts, or both, with the county as the board may deem advisable.~~

~~H. Bond issues and other indebtedness. Subject to applicable state laws, the board may authorize the issuance and sale of revenue bonds or other types of indebtedness necessary to finance the acquisition, construction, improvement, and extension of the utility facilities owned by the county or authority, including facilities owned or operated jointly with others. Use of general obligation bonds may entail approval by the county council.~~

~~I. Short-term indebtedness. The board may borrow money for periods not to exceed three years and may issue negotiable notes, payable from the revenues of the authority, as evidence of the indebtedness. The action of the board may be by resolutions that may be adopted at the same meetings at which the resolutions are introduced and shall take effect immediately upon adoption.~~

~~J. Investment of surplus funds. The board may invest surplus funds of the authority in securities that are deemed safe and as may be authorized by specific action of the board.~~

~~K. Delegation of powers. The board shall retain powers relating to budget approval, rate setting, and long-term indebtedness; however, it may from time to time delegate in writing other powers to officers or employees responsible to it, as may be necessary.~~

#### **Section 30.06. General Provisions.**

~~A. Disposition of power authority. The county council shall have no authority to cease to operate, or to sell, lease, abandon, or in any other way dispose of the electric power authority under this article, without first holding a public hearing during which a certified public accountant shall present a report to the county council concerning the revenue that has been earned by the electric power authority throughout the county's ownership, and an analysis of the revenues to be lost by the county through the proposed sale of the electric power authority.~~

~~There shall be two council votes at least six calendar months apart to call a referendum election concerning a sale of the authority. The county shall hold a referendum election which must be passed by a majority of the voters, voting at the election, to approve a sale. The referendum election shall be held at the next regularly scheduled general election.~~

~~B. Existing obligations. Contracts and obligations relating to the electric power authority which were incurred prior to the effective date of sections 30.02 through 30.06 shall not be impaired, and shall be binding upon the board insofar as they apply to the authority.~~

~~C. Repeal of prior county charter provisions and ordinances. All county charter provisions and ordinances and parts of county charter provisions and ordinances inconsistent with any provision of this article are hereby repealed; however, all county charter provisions and parts of county charter provisions that are not inconsistent with any provision of this article including, but not limited to, article XX of the charter, shall apply to this article.~~

~~D. Severability of provisions. If any provision of this article, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the sections, subsections, and parts thereof of this article are severable. (Amended 2002)]~~



## CRC 2021-08

Proposal to amend Charter Section 9A.05 for review:

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 eighteen months, the first deputy shall act as prosecuting attorney.]~~ If the vacancy occurs more than three days prior to the closing date for filing of nomination papers for the mid-term election, the position will be filled with a special primary election and special general election held in conjunction with the mid-term election. The first deputy prosecutor shall serve until the winner of that election is seated as prosecutor. If the position of first deputy is vacant or if the first deputy is unable to ~~[so act]~~ serve, the mayor with the approval of the county council shall within 30 days of the vacancy or as soon thereafter as possible, [fill the vacancy by appointment of a person with requisite qualifications within thirty days after the occurrence of the vacancy] appoint a qualified prosecuting attorney to serve until a new elected prosecutor is seated. (Amended 2020)

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.]~~ If the vacancy occurs later than three days prior to the closing date for filing of nomination papers for the mid-term election, the first deputy prosecutor shall serve for the remainder of the term. If the first deputy position is vacant or if the first deputy is unable to serve, then the mayor, with the approval of the county council shall within 30 days of the vacancy or as soon thereafter as possible, appoint a qualified prosecuting attorney to serve until a new elected prosecutor is seated. (Amended 1972)

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