



RESOLUTION

INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973 (2017 EDITION), RELATING TO THE HONOLULU ETHICS COMMISSION.

WHEREAS, Section 11-107 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) ("Charter"), establishes an Ethics Commission ("Commission") composed of seven members appointed by the Mayor and confirmed by the Council to staggered five-year terms; and

WHEREAS, the Commission is attached to the Department of the Corporation Counsel for administrative purposes only; and

WHEREAS, the Commission has the basic duties of rendering advisory opinions, educating City officers and employees on and enforcing the standards of ethical conduct of the City, and registering lobbyists; and

WHEREAS, because the Commission is attached to the Department of the Corporation Counsel for administrative purposes, the Department of the Corporation Counsel/City Administration, may, after the annual executive operating budget ordinance has been enacted, impose restrictions on the Commission's budgeted expenditures; and

WHEREAS, the 2016 Charter Commission proposed, and the electorate ratified, an amendment to the Charter that prohibits the City Administration from withholding funding that has been approved by the Honolulu City Council ("Council") for the operation of the Department of the Prosecuting Attorney; and

WHEREAS, the Council believes that similarly prohibiting the City Administration from withholding funding that has been approved by the Council for the Commission would allow the Commission greater autonomy from the City Administration and further the Commission's ability to carry out the Commission's Charter-prescribed duties efficiently and effectively; now, therefore,



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BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That the following question be placed on the ballot for the 2020 general election:

"Shall the Revised City Charter be amended to allow the Honolulu Ethics Commission to control its own budget after it has been enacted?"
2. That Section 9-106 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) ("Administration and Enforcement of the Budget Ordinances") be amended by amending subsection 2 to read as follows:
 - "2. Administration and enforcement of the executive operating budget ordinance:
 - (a) The enactment of the executive operating budget ordinance or any supplementary appropriation shall constitute an appropriation of the sums specified therein for the purposes and from the funds indicated. Such appropriation shall be considered valid only for the fiscal year for which made, and any part of such appropriation which is not encumbered or expended shall lapse at the end of the fiscal year. Executive agencies authorized to make expenditures under the executive operating budget ordinance may proceed without other authority from the council to incur obligations or make expenditures for proper purposes to the extent that the moneys are available.
 - (b) Immediately following the enactment of the executive operating budget ordinance, the heads of all executive agencies, including the prosecuting attorney[;] and the chair of the ethics commission, shall submit to the director of budget and fiscal services schedules, supported by work programs, showing the expenditures anticipated for each quarter of the fiscal year.
 - (c) The approval of an expenditure schedule by the mayor shall constitute a budgetary allotment which shall, unless a revision thereof is approved by the mayor, be binding upon such agencies. The director of budget and fiscal services



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shall approve or issue no requisition, purchase order, voucher, or warrant that is not in accordance with an allotment.

- (d) ~~[The]~~ Except as provided in paragraph (e), allotments herein provided may be altered at any time by the mayor. The mayor shall direct appropriate revisions in allotments to keep expenditures within the revenues received or anticipated.
- (e) The expenditure ~~[schedule]~~ schedules submitted by the prosecuting attorney and chair of the ethics commission shall constitute ~~[a] budgetary [allotment,]~~ allotments, without the approval by the mayor, which shall, unless a revision thereof is made by the prosecuting attorney[-] or chair of the ethics commission, be binding upon the prosecuting attorney[-] and ethics commission. The director of budget and fiscal services shall approve or issue no requisition, purchase order, voucher, or warrant that is not in accordance with an allotment. The allotments herein provided may not be altered at any time by the mayor. The mayor shall not direct ~~[appropriate]~~ revisions in allotments under this paragraph to keep expenditures within the revenues received or anticipated.
- (f) Any part of an allotment which is not expended or encumbered shall lapse at the end of the allotment period.
- (g) The mayor may transfer an unencumbered appropriation balance or portion thereof within the same department only as prescribed by law. Transfers between departments shall be made only by the council by ordinance upon the recommendation of the mayor.
- (h) The director of budget and fiscal services and the director's surety shall be liable for moneys withdrawn from any operating fund other than in accordance with the executive operating budget ordinance and allotments."



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3. That Section 11-107 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) be amended to read as follows:

"Section 11-107. Ethics Commission --

There shall be ~~[within the department of the corporation counsel for administrative purposes only]~~ an ethics commission which shall consist of seven members. The commission shall be governed by ~~[the provisions of]~~ Section 13-103 ~~[of this charter]~~. In accordance with the prohibition in Article XIV of the Constitution of the State of Hawaii, the members of the ethics commission shall be prohibited from taking an active part in political management or in political campaigns.

The commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties. Such staff and consultants may include attorneys who may advise the commission independently of the department of the corporation counsel. All staff positions shall be exempt from ~~[the provisions of]~~ Chapter 11 of Article VI ~~[of this charter]~~, but such staff positions, except the position of executive director and staff attorneys, shall be included in the position classification plan. The executive director shall be an attorney qualified to practice law in the State of Hawaii. The salaries of the executive director and any staff attorneys of the ethics commission shall be set by the ethics commission. The salary of the executive director shall not exceed the salary of the first deputy corporation counsel and the salaries of any other staff attorney shall not exceed the salary of the executive director.

The chair of the commission shall establish an expenditure schedule for appropriations made for the commission in the executive operating budget ordinance. For all other administrative purposes, the commission shall be within the department of the corporation counsel.

The commission is authorized to hold hearings and to conduct investigations concerning the application of this article ~~[of the charter]~~ and shall have the powers provided in Section 13-114 ~~[of this charter]~~.

The commission may, on its own initiative, render advisory opinions with respect to this article ~~[of the charter]~~. An advisory opinion shall be rendered pursuant to a written request of any elected or appointed officer or employee concerned and may be rendered pursuant to the request of any person. The commission shall publish its advisory opinions with such



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deletions as may be necessary to prevent disclosure of the identity of the persons involved.

The commission may impose civil fines established by ordinance against elected and appointed officers and employees of the city with significant discretionary or fiscal power as determined by ordinance, found by the commission to have violated the standards of conduct established by this article [~~of the charter~~] or by ordinance. The commission shall recommend appropriate disciplinary action against officers and employees found to have violated the standards of conduct established by this article [~~of the charter~~] or by ordinance. The appointing authority shall promptly notify the commission of the action taken on the recommendation."

4. That in Sections 2 and 3, Charter material to be repealed is bracketed and stricken and new Charter material is underscored. When revising, compiling, or printing these Charter provisions for inclusion in the Revised Charter of the City and County of Honolulu 1973, the Revisor of the Charter need not include the brackets, the bracketed material, or the underscoring.
5. That if these Charter provisions are amended by any other Charter amendment(s) approved by the voters at the 2020 general election, the Revisor of the Charter, in revising, compiling, or printing the Revised Charter:
 - a. May designate or redesignate articles, chapters, sections or parts of sections, and rearrange references thereto;
 - b. Shall, except as otherwise expressly provided in this resolution or in the other resolution(s) amending these Charter provisions, give effect, to the extent possible, to all of the amendments approved; and
 - c. Change capitalization or the form of numbers and monetary sums for the sake of uniformity.
6. That upon adoption of this resolution by the Council, the City Clerk be and is hereby directed:
 - a. To prepare the necessary ballots with the question contained in this resolution and with spaces for "yes" and "no" votes on the question



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for presentation to the electors at the 2020 general election. The City Clerk may make technical and nonsubstantive changes to the form of the question presented in order to conform it to the form of other Charter amendment questions presented to the electors at the same election; and

b. To publish the above-proposed Charter amendments at length in a daily newspaper of general circulation in the City and County of Honolulu at least 45 days prior to their submission to the electors at the 2020 general election.

7. That upon approval of the Charter amendment question posed in this resolution by a majority of the electors voting thereon, as duly certified, the Charter amendments proposed in this resolution shall take effect July 1, 2021.

INTRODUCED BY:

Tony Watts

DATE OF INTRODUCTION:

DEC 13 2019

Honolulu, Hawaii

Councilmembers