



The League of Women Voters of Hawaii County

County of Hawaii General Election 2010 Charter Amendments **PROS AND CONS**

The 2009-2010 County of Hawai'i Charter Commission is proposing the following 19 Charter Amendments for the November 2nd General Election. The BALLOT QUESTION for each amendment appears first, followed by the CHARTER COMMISSION SUMMARY, followed by PROS AND CONS written by the Hawai'i County League of Women Voters.

WHAT YOUR VOTE MEANS: A "YES" vote means you are IN FAVOR of the amendment and the County Charter will be changed as proposed. A "NO" vote means you are against the amendment and the County Charter will not be changed as proposed.

#1. RELATING TO THE ESTABLISHMENT OF AN OPEN SPACE FUND: Shall the Charter of the County of Hawai'i be amended by (1) establishing a public access, open space and natural resources preservation fund to set aside a minimum of one percent of real property tax revenues; (2) allowing additional revenue from grants and private contributions, voluntary contributions specified on the real property tax bill, proceeds from the sale of general obligation bonds, other council appropriations, and any other source of revenue; (3) specifying that this fund shall be used solely to purchase or otherwise acquire lands or property entitlements in the county for public outdoor recreation and education, and to pay the principal, interest and premium due on bonds issued for this fund; (4) requiring any balance remaining in the fund at the end of the fiscal year shall not lapse; and (5) authorizing the county council to establish by ordinance procedures for the administration and expenditure of moneys in this fund?

Charter Commission Summary: *In 2006, Hawai'i County voters approved an ordinance to place 2% of the county property tax revenues into the public access, open space, and natural resources preservation fund. Ordinances can be changed by the county council with a majority vote. This proposal would put an open space preservation fund in the Charter, which cannot be changed except by a charter amendment. It further requires a MINIMUM of 1% of property tax revenue be directed into an open space fund. The figure can be changed by ordinance, but it cannot fall below 1%. There is no conflict between this proposal and the current ordinance. This proposal authorizes the use of additional monies such as grants, donations, and the county borrowings. It limits the use of money in the fund to the purchase*

and acquisition of lands and property, and property entitlements for outdoor recreation and education, including access to beaches and mountains; preservation of historic or culturally important land areas and sites; protection of natural resources, significant habitat or ecosystems, including buffer zones; preservation of forests, beaches, coastal areas, natural beauty and agricultural lands; and protection of watershed lands to preserve water quality and water supply.

SUPPORTERS SAY:

- Provides funding to preserve important lands and watersheds.
- Voters approved funding of open space preservation (the “2% land fund initiative” in 2006). Approving this amendment would not replace the 2% initiative, but goes further. It requires that at least 1% of property taxes be set aside each year; this can only be changed through another vote by the people and not just a majority vote of the county council.
- Attracts private donations because donors will have confidence that the account will be funded.

OPPONENTS SAY:

- This does not belong in the Charter. Mandatory funding and earmarks restrict the mayor and council in dealing with budgetary challenges.
- Does not provide funds for maintenance of land.
- Allows the council to issue debt to finance land purchases and funding of the account.

#2. RELATING TO RECALL: Shall the Charter of the County of Hawai`i be amended to (1) change the number of signatures required to recall an official elected at-large or by voters of the entire county to twenty-five percent of the total valid votes cast for the office subject to the recall petition in the last election; (2) change the number of signatures required to recall a district council member to twenty-five percent of the total valid votes cast for the district office subject to the recall petition in the last election; (3) require signers of a recall petition to also provide the month and day of their birth and the last four digits of their social security number; (4) provide more time for the gathering of signatures; and (5) give the county clerk five more days to verify a supplemental petition?

Charter Commission Summary: *The public can vote to remove an elected official from office (recall). To put a recall to a vote, a recall petition must have a minimum number of valid signatures. This proposal would lower the number of signatures required on a recall petition. This proposal would also require petition signers to give the last four digits of their social security number and the day and month of their birth in addition to their residence address and their signature. In addition, the amendment will provide more time for the gathering of signatures and give the county clerk five more days to verify a supplemental petition.*

SUPPORTERS SAY:

- Holds elected officials more accountable to the people. It will be easier to gather signatures (a lower number because the percentage will be based on number of “votes

cast” for the office in the last election instead of all “registered voters” in Hawai`i County; and more time to collect signatures) to put a recall on the ballot.

OPPONENTS SAY:

- A lower threshold for signatures means more frivolous and costly recall elections. Many terms are for two years; it could take 7 months to hold a special recall election.
- With the threat of recall, elected officials become hostage to deep-pocketed special interests who can pay people to gather signatures.

#3. RELATING TO CHARTER AMENDMENT PETITIONS: Shall the Charter of the County of Hawai`i be amended to (1) change the number of signatures required for a charter amendment petition to 20% of the total ballots cast in the last general election; (2) require signers of a charter amendment petition to also provide the month and day of their birth and the last four digits of their social security number; and (3) give the county clerk additional time to verify such a petition?

Charter Commission Summary: *The public can request a change (amendment) to the Charter by petition. If enough registered voters ask (petition) for the change, the proposed amendment will be put to a vote in the next general election. This proposal would lower the number of signatures required to put an amendment to a vote. This amendment would also require petition signers to give the last four digits of their social security number and the day and month of their birth, along with residence address and signature. Furthermore, the county will have more time -- 30 days instead of 20 -- to verify signatures.*

SUPPORTERS SAY:

- A Charter Commission meets once every ten years. In the interim, citizens can propose charter amendments, but the current process is extremely difficult. This lowers the number of signatures to qualify an amendment for the ballot, thereby making government more responsive to the people.

OPPONENTS SAY:

- The change is not needed. Citizens can already work through the council to propose charter amendments.

#4. RELATING TO CIVIL SERVICE LAWS: Shall the Charter of the County of Hawaii be amended to (1) remove various references to civil service laws; (2) delete section 7-1.5, relating to position classification plan; compensation, in its entirety; (3) delete section 7-2.5, relating to dismissal, suspension, demotion, or grievance, in its entirety; (4) add a new subsection to section 13-3 relating to civil service and exemptions; and (5) delete section 13-9, relating to non-civil service status and classification, in its entirety?

Charter Commission Summary: *State law is controlling when it comes to civil service laws. To avoid confusion and conflicts, this amendment removes any mention of civil service law*

from the Charter.

SUPPORTERS SAY:

- State laws trump civil service laws; deleting references in the County Charter avoids confusion.

OPPONENTS SAY:

[No arguments against the proposal were submitted at the hearings.]

#5. RELATING TO THE REAPPORTIONMENT COMMISSION: Shall the Charter of the County of Hawai`i be amended by (1) renaming the reapportionment commission to the redistricting commission; (2) requiring the commission members be appointed by July 1 of the year prior to a redistricting year; (3) requiring the commission to file a report with the redistricting plan to explain the commission’s reasoning for the plan and how the plan complies with redistricting criteria; and (4) requiring the commission to hold at least one public hearing in each council district prior to completing a draft of the plan; (5) requiring the commission to hold at least one public hearing in both east Hawaii and west Hawaii after completing a draft of the plan; and (6) requiring the commission to adhere to the redistricting criteria in the Charter?

Charter Commission Summary: *This proposal would change the name from “reapportionment commission” to “redistricting commission.” “Reapportionment” more generally refers to determining how many seats in Congress will be granted to a state. The new name would more accurately reflect the commission’s responsibility, which is to redraw political district lines based on population changes. Following the 2011 Redistricting Commission, commission members would be appointed by July of the year before the redistricting year instead of in January of the redistricting year. This proposal requires public hearings both before and after finishing the draft plan. The present Charter presents criteria for drawing district lines as guidelines. This proposal makes those criteria mandatory. They are: (1) No district shall be drawn to unduly favor or penalize a person or political faction; (2) Insofar as possible, districts should be contiguous and compact; (3) District lines shall, where possible, follow permanent and easily recognizable features; (4) Districts shall have approximately equal resident populations as required by applicable constitutional provisions.*

SUPPORTERS SAY:

- The redistricting criteria were placed in the Charter to insure proper representation among districts. By making the redistricting criteria mandatory, balance is achieved.
- With mandatory public hearings and a written report explaining the plan, this makes government more open and accountable.
- An earlier appointment allows the Commission more time to complete its work.

OPPONENTS SAY:

- Current district criteria were adopted as “guidelines.” By making these mandatory, the Commission loses flexibility in times of change.
- Making the Commissioners’ terms longer might discourage volunteers as well as incur more county costs for commissioner expenses and support staff.

#6. RELATING TO PRESERVATION OF NATURAL AND CULTURAL

RESOURCES: Shall the Charter of the County of Hawai'i be amended by adding a new section to Article XIII to recognize that the county shall conserve and protect Hawai'i's natural beauty and all natural and cultural resources and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the county?

Charter Commission Summary: *This proposal, which is based on a state constitutional provision, would put in the Charter an obligation on the county government to take into consideration the conservation and protection of Hawai'i's natural beauty and its natural and cultural resources when making decisions. The state provision does not include cultural resources, wahi pana, surf spots, historic sites and historic structures. The proposal recognizes the county's public trust responsibility for all publicly owned natural resources and explicitly adds cultural resources as public trust resources.*

SUPPORTERS SAY:

- Affirms and expands the county's commitment to protect the natural beauty, culture and *aina* of Hawai'i County.

OPPONENTS SAY:

- Vague and difficult to define. May restrict the rights of landowners.

#7. RELATING TO GRAMMAR, SPELLING, AND FORMATTING OF THE CHARTER:

Shall the Charter of the County of Hawai'i be amended by correcting various grammatical, spelling, and formatting errors throughout the Charter?

Charter Commission Summary: *This proposal would correct spelling, grammar, and formatting mistakes in the Charter.*

SUPPORTERS SAY:

- Allows minor and typographical errors to be corrected without a charter amendment, an expensive and time-consuming process.

OPPONENTS SAY:

- Does not identify who decides what are "various errors" or the impacts of the changes.

#8. RELATING TO THE DEPARTMENT OF WATER SUPPLY: Shall the Charter of the County of Hawai'i be amended to (1) rename the head of the department of water supply to manager-chief engineer; and (2) correct the title of the director of public works?

Charter Commission Summary: *There are two parts to this proposal. (1) The water department head must be a registered engineer. Changing the title from “manager” to “manager-chief engineer” would reflect this requirement. (2) Currently Article VIII (Department of Water Supply) mistakenly calls the director of public works the “chief engineer.” This proposal would correct the error.*

SUPPORTERS SAY:

- Renaming the DWS head to “manager chief engineer” more accurately reflects the qualifications for the position.
- The title of the Department of Public Works head is not consistent with the title used in other places within the Charter.

OPPONENTS SAY:

[No arguments against the proposal were submitted at the hearings.]

#9. RELATING TO DATA SYSTEMS: Shall the Charter of the County of Hawai‘i be amended to (1) rename the data systems department to the department of information technology; and (2) move the department from Article V, under the mayor and staff agencies, to Article VI, under the managing director?

Charter Commission Summary: *This proposal changes the name “Department of Data Systems” to “Department of Information Technology.” The new name would give a better idea of the department’s main jobs, which are operating the county’s information systems and giving technical support and advice. The department’s duties stay the same. Because the department is supervised by the managing director, not by the mayor, it would be moved to Article VI, which identifies the departments that fall under the managing director.*

SUPPORTERS SAY:

- Corrects jurisdictional errors; the duties and scope of the department is unchanged.
- The new department name more accurately reflects the department’s function.

OPPONENTS SAY:

[No arguments against the proposal were submitted at the hearings.]

#10. RELATING TO THE FIRE DEPARTMENT: Shall the Charter of the County of Hawai‘i be amended to move the fire department from Article VI, under the managing director, to Article VII, under the direction of the fire commission?

Charter Commission Summary: *In 2000, the fire commission was created. At that time, the sections describing the fire department were not moved to the article in the Charter covering departments serving under a board or commission. This proposal corrects the placement. The fire department’s operations and management will not change.*

SUPPORTERS SAY:

- Corrects an error placing the Fire Dept. in the wrong Article of the Charter; the duties, management and scope of the department are unchanged.

OPPONENTS SAY:

[No arguments against the proposal were submitted at the hearings.]

#11. RELATING TO THE DUTIES OF THE DIRECTOR OF ENVIRONMENTAL MANAGEMENT: Shall the Charter of the County of Hawai'i be amended to allow the mayor to prescribe other duties as directed for the director of environmental management?

Charter Commission Summary: *The Charter defines the director of environmental management's job as managing solid waste, wastewater and recycling. Currently, the county council may assign additional duties by ordinance. This proposal would allow the mayor to assign additional duties as well.*

SUPPORTERS SAY:

- The council can assign additional duties. This allows the mayor the same authority.

OPPONENTS SAY:

- The council assigns additional duties through the passing of an ordinance, which requires public hearings and a majority council vote. The mayor would not be subject to these same requirements, which bypasses public scrutiny and sunshine laws.

#12. RELATING TO THE QUALIFICATIONS OF THE DIRECTOR OF ENVIRONMENTAL MANAGEMENT: Shall the Charter of the County of Hawai'i be amended to require the director of the department of environmental management to possess an engineering degree or a degree in a related field?

Charter Commission Summary: *The director of environmental management now must have five years of administrative experience in a related field. This proposal would also require an engineering degree or a degree in a related field.*

SUPPORTERS SAY:

- Environmental management is complex. The director should have appropriate technical skills and knowledge in addition to administrative experience.

OPPONENTS SAY:

- The proposal is unclear as to who determines the "related field." Adding more qualifications will make it harder to fill the job.

#13. RELATING TO THE DUTIES OF THE PROSECUTING ATTORNEY: Shall the Charter of the County of Hawai'i be amended by adding new subsections to Article IX,

section 9-3 to permit the prosecuting attorney to (1) research, evaluate, and make recommendations regarding crime, crime prevention, and the criminal justice system to the governor, the legislature, the judiciary, the county council, the mayor, the Hawai'i police department, and other criminal justice agencies, or the general public; (2) provide crime prevention training programs for law enforcement agencies, citizens, businesses, and civic groups; (3) develop public education programs to provide the general public information that will assist citizens to prevent crime and to avoid being victims of crime; and (4) receive and expend financial grants, donations and other funds as permitted by law for crime research, prevention, and education?

Charter Commission Summary: *The prosecuting attorney prosecutes county and state criminal cases. This proposal expands the duties of the prosecuting attorney to include public education on crime prevention and research. It also allows the prosecuting attorney's office to accept donations and grants to fund these educational projects.*

SUPPORTERS SAY:

- The prosecuting attorney will be allowed to provide important education on crime prevention and research.
- This permits outside funding and donations for these projects, saving county dollars.

OPPONENTS SAY:

- It increases the prosecuting attorney's workload.
- It may increase county expenses, such as staffing, despite outside funding.
- Private donations could be used to influence cases pursued by the prosecuting attorney, who is an elected official. Such "donations" bypass campaign contribution limits and reporting requirements, at the same time giving tax deductions to lobbyists, corporations and wealthy individuals.

#14. RELATING TO TERMS OF MERIT APPEALS BOARD MEMBERSHIP: Shall the Charter of the County of Hawai'i be amended to systematically stagger the terms of the membership of the merit appeals board upon the expiration of the member's term set to expire on December 31, 2010 so that no more than a single board member's term will expire in any given year?

Charter Commission Summary: *This proposal creates staggered terms for the five members of the merit appeals board. The appointment process will not change. The proposed change is that every year, only one member's term will expire. The proposal describes the steps to achieve the change. The new process would meet current Charter requirements under "Boards and Commissions."*

SUPPORTERS SAY:

- This proposal brings the merit appeals board into compliance with the Charter, which requires staggered terms.

OPPONENTS SAY:

[No arguments against the proposal were submitted at the hearings.]

#15. RELATING TO REMOVAL OF DIRECTORS SERVING UNDER COMMISSIONS: Shall the Charter of the County of Hawai'i be amended to (1) require the merit appeals board, liquor commission, and water board to issue a statement of reasons for the removal of their respective department heads; and (2) allow the director of human resources, director of liquor control, fire chief, and manager of the department of water supply an opportunity to respond to the statement of reasons for removal at a hearing of the board or commission prior to a vote to remove the respective department head?

Charter Commission Summary: At present, certain directors who serve under boards or commissions can be removed without stated reasons or a hearing. This proposal would add more steps to the process of removal. A public statement of the reasons for removal must be made, and the affected director must be allowed the opportunity to respond at a commission hearing. The directors affected by this proposed amendment will be the directors of human resources, liquor control, water supply and the fire chief. Currently the chief of police is already afforded these protections, and this proposal would make the other provisions consistent with the police practice.

SUPPORTERS SAY:

- Any employee, including department heads, should have an opportunity to respond to reasons for termination. Since 2008, the voters agreed that the police chief should have these protections; this amendment extends the protections to other appointed department heads.

OPPONENTS SAY:

- If this passes, terminating these appointees means more paperwork, more delays, more cost, and more exposure to lawsuits.
- The amendment erodes the authority of the boards and commissions.

#16. RELATING TO APPOINTMENT OF CHARTER COMMISSION MEMBERS: Shall the Charter of the County of Hawai'i be amended by requiring the members of the charter commission be appointed by July 1 of the year prior to a charter review year?

Charter Commission Summary: A charter commission is appointed every ten years to review the Charter. Presently, members are appointed by January 15 of the charter review year and hold office until amendments are approved or rejected by a vote of the people. This proposal would require the commission to be appointed earlier – by July 1 of the year prior to a charter review year to give them additional time to complete their work.

SUPPORTERS SAY:

- Currently, charter commissions meet every 10 years. Appointing the commission members earlier (July 15 of the year before, instead of January 1 of the same year as the primary election) allows the commission members more time to do their work.

OPPONENTS SAY:

- Making the commissioners' terms longer might discourage volunteers as well as incur more county costs for member expenses and support staff.

#17. RELATING TO MEMBERSHIP ON BOARDS AND COMMISSIONS: Shall the Charter of the County of Hawai'i be amended by (1) providing that members of boards and commissions who do not receive compensation from their employers during the time they are serving on boards and commissions may be reimbursed by the county for actual work hours lost at the straight time rate of pay of such members in their regular employment; and (2) lowering such reimbursement to two times the state minimum wage hour rate?

***Charter Commission Summary:** Currently, most members of the county's boards and commissions in Hawai'i County serve on a volunteer basis. The Charter provides for the county to pay members if their employers do not pay them for actual work hours lost. Although most members do not request hourly reimbursement, the current Charter says they "shall" be reimbursed. Under this proposal, the county "may," but is not required, to pay. It lowers the rate of such compensation from five times the minimum wage to two times the minimum wage.*

SUPPORTERS SAY:

- Reduces county expenses by lowering the maximum compensation (from 5 times the minimum wage to 2 times the minimum wage).
- Gives the county more flexibility by eliminating the mandatory reimbursement.

OPPONENTS SAY:

- A lower reimbursement amount discourages more highly paid, highly qualified people from serving on boards and commissions.

#18. RELATING TO ELECTRONIC POSTING OF SPECIAL MEETING NOTICES: Shall the Charter of the County of Hawai'i be amended to require, when possible, electronic posting of special meeting notices of the council, boards, and commissions?

***Charter Commission Summary:** Notice of a special meeting must be posted 24 hours in advance. This proposal adds that an announcement of a special meeting be linked on the appropriate council, board or commission webpage. The proposal does not change the required posting of a special meeting, but does recommend the electronic posting, if possible.*

SUPPORTERS SAY:

- This amendment expands the methods of notifying the public about upcoming special meetings to include the appropriate county webpage. Special meetings should have the same notice requirements as regular meetings.
- This recognizes that sometimes power is out and electronic notice (via radio, TV or internet) just doesn't work in time.

- Adequate notice allows interested citizens to attend meetings. Many citizens rely on electronic communication.

OPPONENTS SAY:

- Government should be transparent. The words “when possible” create a loophole that would inhibit use of electronic communication.

#19. RELATING TO PUBLICATION OF NOTICES VIA AN ELECTRONIC

MEDIUM: Shall the Charter of the County of Hawai‘i be amended by requiring notices published in the newspaper to also be distributed via an electronic medium, such as the Internet?

Charter Commission Summary: *This proposal would require notice via an electronic medium such as the internet whenever newspaper notification is required.*

SUPPORTERS SAY:

- This amendment brings the county into the 21st century. Many citizens rely on electronic communication such as the internet.

OPPONENTS SAY:

[No arguments against the proposal were submitted at the hearings.]

General Election ★ Tuesday, November 2, 2010
polls open 7 a.m. to 6 p.m.
October 4 Last day to register to vote
October 26 Last day to request an absentee ballot
October 19 – 30 Period for absentee voting-in-person

For full text of the proposed Charter Amendments, go to
www.co.hawaii.hi.us and click on 2009-2010 Charter Commission.