



RESOLUTION

INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973, AS AMENDED, RELATING TO CIVIL PENALTIES FOR VIOLATIONS OF THE CITY'S STANDARDS OF CONDUCT BY CITY OFFICERS AND EMPLOYEES.

WHEREAS, Section 11-107, Revised Charter of the City and County of Honolulu 1973, as amended ("RCH" or "City Charter"), establishes a city Ethics Commission ("Commission") consisting of seven members; and

WHEREAS, Section 11-107, RCH, provides that the Commission "shall recommend appropriate disciplinary action against officers and employees found to have violated the standards of conduct established by [Article XI] of the charter or by ordinance"; and

WHEREAS, the standards of conduct established by Article XI, RCH and Chapter 3, Article 8 of the Revised Ordinances of Honolulu ("ROH"), relate to conflicts of interest, disclosure of interests, fair and equal treatment, and post-employment restrictions on officers and employees of the city; and

WHEREAS, Sections 11-106 and 11-107, RCH, currently provide that any violation of the standards of conduct shall be grounds for impeachment of elected city officers and removal from office or from employment of all other officers and employees, and that upon the Commission's recommendation, an employee's appointing authority may place on probation, demote, suspend or discharge an employee found to have violated the ethical standards of conduct; and

WHEREAS, Sections 11-106 and 11-107, RCH, authorizes the Commission to impose civil fines established by ordinance against elected city officers who have been found to have violated the ethical standards of conduct but does not permit civil fines to be imposed against appointed officers or employees who violate ethical standards; and

WHEREAS, the council recently enacted Ordinance 07-43 that establishes civil fines to be imposed by the Commission against elected officers for unethical conduct; and

WHEREAS, the council finds that appointed officers and employees with significant discretionary or fiscal power are exposed to opportunities to abuse their position, and therefore, should be subject to the same penalties as elected officers; and



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WHEREAS, the state legislature enacted Act 207 in 2006 that authorizes the state ethics commission to impose an administrative fine against any person, including state legislators and all other state employees, who violate the provisions of the state ethics code; and

WHEREAS, imposing civil fines for violations of the ethical standards of conduct of the city would be an appropriate means of enforcing ethical standards against appointed officers and employees with significant discretionary or fiscal power; and

WHEREAS, the council intends that any ordinance enacted pursuant to the Charter amendment should make the officers and exempt employees described in RCH Section 6-1103(a)-(d) and 6-1104(a)-(c) subject to civil fines for unethical conduct, but exempt employees in clerical positions or employees within a bargaining unit as described in Section 89-6, Hawaii Revised Statutes, shall not be subject to civil fines; now, therefore,

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

1. That it proposes, and it is hereby proposed, that the following question be placed on the 2008 general election ballot:

“Shall the Revised City Charter be amended to authorize the city Ethics Commission to impose civil fines established by ordinance for violations of the standards of conduct committed by appointed officers and employees of the city who have significant discretionary or fiscal power?”

2. That Section 11-106 of the Revised Charter of the City and County of Honolulu 1973, as amended, be amended to read as follows:

“Section 11-106. Penalties and Disciplinary Action for Violations --

The failure to comply with or any violation of the standards of conduct established by this article of the charter or by ordinance shall be grounds for impeachment of elected officers and for the removal from office or from employment of all other officers and employees. The appointing authority may, upon the recommendation of the ethics commission, reprimand, put on probation, demote, suspend or discharge an employee found to have violated the standards of conduct established by this article of the charter or by ordinance. The ethics commission may also impose civil fines established by ordinance for violations of the standards of conduct committed by elected and appointed officers and



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employees of the city with significant discretionary or fiscal power as determined by ordinance.”

3. That Section 11-107, Revised Charter of the City and County of Honolulu 1973, as amended, 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, 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 salary of the executive director shall be fixed by ordinance.

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. [Advisory] 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 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



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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 paragraphs 2 and 3 of this “BE IT RESOLVED” clause, charter material to be repealed is bracketed and new charter material is underscored. When revising, compiling or printing the affected charter provision for inclusion in the Revised Charter of the City and County of Honolulu 1973, as amended, the revisor of the charter need not include the brackets, the bracketed material or the underscoring.
5. That 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 for presentation to the electors at the 2008 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 publication meeting all legal requirements at least 45 days prior to their submission to the electors at the general election.



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- 6. That upon approval of the charter amendment question posed in this resolution by a majority of electors voting thereon, as duly certified, the charter amendments proposed in paragraphs 2 and 3 of this "BE IT RESOLVED" clause shall take effect.

INTRODUCED BY:

Charles Djou

DATE OF INTRODUCTION:

November 30, 2007
Honolulu, Hawaii

Councilmembers

APPROVED this 7th day of August, 2008.

Mufi Hannemann
MUFU HANNEMANN, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
C E R T I F I C A T E

RESOLUTION 07-384, CD1

Introduced: 11/30/07 By: CHARLES DJOU

Committee: EXECUTIVE MATTERS

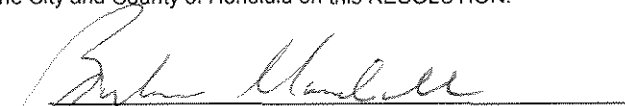
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Links: [RES07-384](#)
[RES07-384, CD1](#)
[CR-44\(2008\)](#)

COUNCIL	12/12/07	RESOLUTION PASSED FIRST READING AND WAS REFERRED TO THE COMMITTEE ON EXECUTIVE MATTERS.				
	APO Y	CACHOLA Y	DELA CRUZ Y	DJOU Y	GARCIA Y	
	KOBAYASHI Y	MARSHALL Y	OKINO Y	TAM Y		
EXECUTIVE MATTERS	2/6/08	CR-44 (2008) – RESOLUTION REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.				
PUBLISH	2/9/08	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR BULLETIN.				
COUNCIL/PUBLIC HEARING	2/20/08	CR-44 (2008) ADOPTED. RESOLUTION 07-384 PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO EXECUTIVE MATTERS COMMITTEE.				
	APO Y	CACHOLA A	DELA CRUZ Y	DJOU Y	GARCIA E	
	KOBAYASHI Y	MARSHALL Y	OKINO Y	TAM N		
PUBLISH	2/27/08	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR BULLETIN.				
EXECUTIVE MATTERS	5/14/08	RESOLUTION DEFERRED IN COMMITTEE.				
EXECUTIVE MATTERS	6/24/08	CR-199 (2008) – RESOLUTION 07-384 REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED IN CD1 FORM.				
COUNCIL	7/23/08	CR-199 (2008) ADOPTED AND RESOLUTION AS AMENDED (RES07-384, CD1) PASSED THIRD READING.				
	APO Y	CACHOLA Y	DELA CRUZ Y	DJOU Y	GARCIA Y	
	KOBAYASHI Y	MARSHALL Y	OKINO Y	TAM Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


DENISE C. DE COSTA, CITY CLERK


BARBARA MARSHALL, CHAIR AND PRESIDING OFFICER