



RESOLUTION

INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973, AS AMENDED, RELATING TO THE IMPEACHMENT OF ELECTED OFFICERS.

WHEREAS, Section 11-106, Revised Charter of the City and County of Honolulu 1973, as amended ("RCH"), states that the failure to comply with any of the standards of conduct established in the City Charter or ordinances "... shall be grounds for impeachment of elected officers[.]"; and

WHEREAS, RCH Sections 12-201 through 12-203 provide for the impeachment of the mayor, a councilmember and the prosecuting attorney, respectively, for malfeasance, misfeasance or non-feasance in office; and

WHEREAS, those sections of the RCH provide that the supreme court of the state shall constitute a board of impeachment in any proceeding for the removal of the mayor, a councilmember, and the prosecuting attorney; and

WHEREAS, the Hawaii Constitution, Article VI, Section 1 and appellate opinions interpreting this section provide that the courts shall have original and appellate jurisdiction as provided by law; and

WHEREAS, the 2008 Legislature passed and the Governor signed into law Act 107 (Session Laws of Hawaii 2008), which establishes the jurisdiction of the circuit courts "for the impeachment of county officers who are subject to impeachment"; and

WHEREAS, RCH Sections 12-201 through 203 are in apparent conflict with Act 107 and should be amended to be consistent with state law; now, therefore,

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

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

"Shall the Revised Charter of the City and County of Honolulu 1973 be amended to conform to state law by specifying that the circuit courts of the state have jurisdiction of impeachment proceedings against elected county officers?"

2. That it propose, and it is hereby proposed, that RCH Section 12-201, be amended to read as follows:



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“Section 12-201. Impeachment of the Mayor –

The mayor may be impeached for malfeasance, misfeasance or non-feasance in office. [The supreme court of the State shall constitute a board of impeachment in] The courts of the State of Hawaii shall have jurisdiction as provided by applicable law over any proceeding for the removal of the mayor who may be charged on any of the foregoing grounds. The charges shall be set forth in writing in a petition for impeachment signed by not less than five thousand duly registered voters of the city, and said signatures shall be necessary only for the purpose of filing the petition. The petition having once been filed, hearings shall be held on all such charges. [The board of impeachment may appoint a master and invest the master with power to investigate the charge and report thereon to the board. If the board sustains the charge, the mayor shall be deemed removed from office.]”

3. That it propose, and it is hereby proposed, that RCH Section 12-202, be amended to read as follows:

“Section 12-202. Impeachment of a Councilmember –

Any councilmember may be impeached for malfeasance, misfeasance or non-feasance in office or for interference with the performance of the duties of any officer or employee in any executive agency of the city government. [The supreme court of the state shall constitute a board of impeachment in] The courts of the State of Hawaii shall have jurisdiction as provided by applicable law over any proceeding for the removal of a councilmember who may be charged on any of the foregoing grounds. The charges shall be set forth in writing in a petition for impeachment signed by not less than one thousand duly registered voters of the council district for the removal of a councilmember, and said signatures shall be necessary only for the purpose of filing the petition. The petition having once been filed, hearings shall be held on all such charges. [The board of impeachment may appoint a master and invest the master with the power to investigate the charge and report thereon to the board. If the board sustains the charge, the councilmember shall be deemed removed from office.]”



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4. That it propose, and it is hereby proposed, that RCH Section 12-203, be amended as follows:

“Section 12-203. Impeachment of the Prosecuting Attorney –

The prosecuting attorney may be impeached for malfeasance, misfeasance or non-feasance in office. [The supreme court of the state shall constitute a board of impeachment in] The courts of the State of Hawaii shall have jurisdiction as provided by applicable law over any proceeding for the removal of the prosecuting attorney who may be charged on any of the foregoing grounds. The charges shall be set forth in writing in a petition for impeachment signed by not less than five hundred duly registered voters of the city, and said signatures shall be necessary only for the purpose of filing the petition. The petition having once been filed, hearings shall be held on all such charges. [The board of impeachment may appoint a master and invest the master with the power to investigate the charge and report thereon to the board. If the board sustains the charge, the prosecuting attorney shall be deemed removed from office.]”

5. Charter material to be repealed is bracketed 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, as amended, the revisor of the Charter need not include the brackets, bracketed material or the underscoring. If these Charter provisions are amended by any other Charter amendment approved by the electors at the 2008 general election, the revisor of the Charter, in revising, compiling, or printing the Charter: (1) may designate or redesignate articles, chapters, sections, or parts of sections and rearrange references thereto and (2) 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. The Revisor of the Charter may also change capitalization or the form of numbers and monetary sums for the sake of uniformity.
6. That the City Clerk be and is hereby directed:
- A. To prepare the necessary ballot 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 non-substantive changes to the form of the question presented in order to conform it to the form of



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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 its submission to the electors at the 2008 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 on January 1, 2009.

INTRODUCED BY:

Stephanie Mitchell (br)

DATE OF INTRODUCTION:

MAY 29 2008
Honolulu, Hawaii

Councilmembers

APPROVED this 22nd day of August, 2008

Mufi Hannemann
MUFU HANNEMANN, Mayor
City and County of Honolulu

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 08-135

Introduced: 05/29/08 By: BARBARA MARSHALL(BR)

Committee: EXECUTIVE MATTERS

Title: RESOLUTION INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973, AS AMENDED, RELATING TO THE IMPEACHMENT OF ELECTED OFFICERS.

Links: [RES08-135](#)
[CR-200](#)

COUNCIL	6/4/08	RESOLUTION PASSED FIRST READING AND REFERRED TO EXECUTIVE MATTERS COMMITTEE.
	APO Y	CACHOLA Y DELA CRUZ Y DJOU Y GARCIA Y
	KOBAYASHI Y	MARSHALL Y OKINO Y TAM Y
EXECUTIVE MATTERS	6/25/08	CR-200 – RESOLUTION REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF PUBLIC HEARING.
PUBLISH	7/12/08	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-BULLETIN
COUNCIL/PUBLIC HEARING	7/23/08	CR-200 ADOPTED. RESOLUTION PASSED SECOND READING. PUBLIC HEARING CLOSED AND REFERRED TO EXECUTIVE MATTERS COMMITTEE.
	APO Y	CACHOLA Y DELA CRUZ Y DJOU Y GARCIA Y
	KOBAYASHI Y	MARSHALL Y OKINO Y TAM Y
PUBLISH	7/30/08	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR BULLETIN.
EXECUTIVE MATTERS	7/30/08	CR-229 – RESOLUTION REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
COUNCIL	8/20/08	CR-229 ADOPTED AND RESOLUTION 08-135 PASSED THIRD READING.
	APO Y	CACHOLA Y DELA CRUZ Y DJOU Y GARCIA Y
	KOBAYASHI Y	MARSHALL E 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