



**RESOLUTION**

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

WHEREAS, Section 6-1606 of the Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition), as amended ("Charter"), sets forth the powers, duties, and functions of the Police Commission ("Commission") of the City and County of Honolulu ("City"); and

WHEREAS, Charter Section 6-1603 establishes the position of the City's Chief of Police ("Chief") and the qualifications therefor; and

WHEREAS, Charter Section 6-1604 sets forth the powers, duties, and functions of the Chief; and

WHEREAS, Charter Section 6-1601 does not presently explicitly recognize the independence of the Commission from the Chief and the Honolulu Police Department ("HPD"); and

WHEREAS, Charter Section 6-1606 provides that, except for purposes of inquiry, "neither the commission nor its members shall interfere in any way with the administrative affairs of the [police] department"; and

WHEREAS, Charter Section 6-1606(b) grants the Commission the limited ability to "review the annual budget prepared by the chief of police and . . . make recommendations thereon to the mayor"; and

WHEREAS, the Council believes that, in order for the Commission to exercise effective oversight of the HPD and its Chief, the Commission should have the authority to approve, approve with modifications, or disapprove the "five-year plan" for HPD (and any updates thereto) as submitted by the Chief, instead of simply reviewing and making recommendations thereon; and



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WHEREAS, Charter Sections 6-1603.1 and 6-1603.2 authorize the Commission to appoint the Chief to serve at the pleasure of the Commission for a term of five years; provided that the Commission may remove or suspend the Chief at any time for any reason, prior to the expiration of the five-year term; and

WHEREAS, current nonexclusive enumeration of potential grounds for removal or suspension of the Chief should be expanded to include falsification of any element of his or her application for appointment, or conviction for certain crimes; and

WHEREAS, the Charter is currently silent as to whether the Chief can be suspended by the Commission, with or without pay, or subject to less extreme discipline than discharge or suspension, such as censure, and the Council believes that the Commission should be provided clarity on this issue and the authority to impose such lesser discipline when appropriate; and

WHEREAS, the Council believes that a stronger Commission is in the best interest of the public, and that providing it with greater authority will enable more effective oversight, ensure accountability, improve HPD and public safety as a whole, and align with the Commission's mission statement, which includes a stated mission to "enhance the public confidence, trust and support in the integrity, fairness and respect of the police department, its officers and employees"; now, therefore,

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

1. That the following question be placed on the 2022 general election ballot:

"Shall the Revised City Charter provisions related to the Police Commission be amended to:

- a. Expand the Commission's authority to remove or suspend the Chief of Police by authorizing the Commission to suspend, with or without pay, or censure the Chief, and to add to the nonexclusive list of specified reasons for removal or discipline: (i) the Chief's conviction of any crime that includes an element of assault, domestic abuse, sexual misconduct, corruption, dishonesty, or falsification; and (ii) falsification of any element of the Chief's application for appointment;



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- b. Authorize the Commission to approve, approve with modifications, or reject and require resubmission of, the Police Chief's five-year plan of goals and objectives for the Police Department, or any amendments to that plan;
  - c. Specify that the Commission's authority to make recommendations to the Mayor on the annual budget prepared by the Chief of Police includes recommendations on appropriations for implementation of modern policing programs and practices to protect police officer and public safety and health;
  - d. Specify that the Commission is attached to the Police Department for administrative purposes only, and operates independently from the Chief of Police; and
  - e. Delete the provision prohibiting the Commission or its members from interfering in any way with the administrative affairs of the Police Department?"
2. That Section 6-1601 of the Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition), as amended, be amended to read as follows:

**"Section 6-1601. Organization –**

There shall be a police department<sub>1</sub> which shall consist of a chief of police, a police commission<sub>1</sub> and the necessary staff. The chief of police shall be the administrative head of the police department. The police commission shall operate independently from the chief of police and be a part of the police department for administrative purposes only."

3. That Section 6-1603 of the Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition), as amended, be amended to read as follows:

**"Section 6-1603. Chief of Police –**

1. The chief of police shall be appointed by the police commission for a term of five years. The chief shall serve at the pleasure of the police commission and shall not attain any property interest in the position of chief of police. The police commission may remove<sub>1</sub> [or] suspend [the chief of police] with or without pay, or censure the chief of police at any time prior to the expiration of the five year appointment. The chief shall have had a minimum of five years of training and experience in law enforcement work, at least three



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years of which shall have been in a responsible administrative capacity. The chief shall not serve beyond the expiration of a term unless appointed again by the police commission. If desiring to do so, the police commission may appoint an incumbent chief to a new term without first engaging in an applicant solicitation and selection process.

2. Before the expiration of a term to which appointed, the chief may be removed, [øf] suspended with or without pay, or censured by the police commission for any reason. Such reasons may include, but are not limited to:

- (a) The chief has committed any act, while engaged in the performance of his or her duties, that constitutes a reckless disregard for the safety of the public or another law enforcement officer[;] .
- (b) The chief has caused a material fact to be misrepresented for any improper or unlawful purpose[;] .
- (c) The chief is unable to perform his or her duties with reasonable competence or reasonable safety because of a mental condition, including alcohol or substance abuse.
- (d) The chief has acted in a manner for [øf] the furthering of his or her self-interest or in a manner inconsistent with the interest of the public or the chief's governing body.
- (e) The chief is convicted of having committed any crime that includes an element of assault, domestic abuse, sexual misconduct, corruption, dishonesty, or falsification.
- (f) The chief has falsified any element of his or her application for appointment.

As prerequisites to removal or suspension, the chief shall be given a written statement of the reasons for removal or suspension and an opportunity for a hearing before the police commission."

4. That Section 6-1604 of the Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition), as amended, be amended to read as follows:



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**"Section 6-1604. Powers, Duties, and Functions of Chief of Police –**

The chief of police shall:

- (a) Be responsible for the preservation of the public peace; the protection of the rights of persons and property; the prevention of crime; the detection and arrest of offenders against the law and the enforcement and prevention of violations of all ~~[laws of the state]~~ State laws and city ordinances, and all rules and regulations made in accordance therewith.
- (b) Train, equip, maintain, and supervise the force of police officers.
- (c) Serve process and notices both in civil and criminal proceedings.
- (d) Promulgate rules and regulations necessary for the organization and internal administration of the department.
- (e) Prepare and, when deemed necessary, update a five-year plan of goals and objectives for the police department. The chief shall submit the plan and each update to the commission for review and ~~[recommendations.]~~ approval.
- (f) Appoint the deputy chiefs of police. A deputy chief shall have the right of reinstatement to a previously occupied civil service position in the police department when:
  - (1) ~~[the]~~ The deputy chief had held a permanent appointment to the position immediately before appointment to the office of deputy chief; and
  - (2) ~~[the]~~ The deputy chief's tenure in the office has not been terminated for cause.

If exercising the right to reinstatement, the deputy chief shall be reinstated, without necessity of examination, to the former civil service position immediately following termination of tenure as deputy chief.

- (g) Perform such other duties as may be required by this charter or by law."



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5. That Section 6-1606 of the Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition), as amended, be amended to read as follows:

**"Section 6-1606. Powers, Duties, and Functions of Police Commission –**

The police commission shall:

- (a) Adopt such rules as it may consider necessary for the conduct of its business and review rules and regulations for the administration of the department.
- (b) Review the annual budget prepared by the chief of police and may make recommendations thereon to the mayor[-], including recommendations on appropriations for implementation of modern policing programs and practices to protect police officer and public safety and health, such as violence prevention, violence interruption, mediation, restorative and transformational justice programs, and economic- or health-based initiatives.
- (c) Submit an annual report to the mayor and the city council.
- (d) Receive, consider, and investigate charges brought by the public against the conduct of the department or any of its members and submit a written report of its findings to the chief of police. If the chief of police disagrees with the findings of the police commission, the chief shall submit the reasons in writing to the police commission. A summary of the charges filed and their disposition shall be included in the annual report of the commission.
- (e) The police commission may issue subpoenas and require the attendance of witnesses and the production of evidence pertinent to the investigation and administer oaths to such witnesses to the extent permissible by law and pursuant to Section 13-114.
- (f) [~~Review and, if deemed necessary, make recommendations on~~] Approve, approve with modifications, or reject and require resubmission of the five-year plan and any update of goals and objectives for the police department which is submitted by the chief of police. [The commission shall not have the power to approve, modify, or reject the plan or any update.]



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- (g) Compare, at least annually, the actual achievements of the police department against the goals and objectives in the five-year plan or latest update thereto submitted by the chief[-] that was approved or modified by the Commission.
- (h) Evaluate at least annually the performance of duties by the chief of police.

~~[Except for purposes of inquiry or as otherwise provided in this charter, neither the commission nor its members shall interfere in any way with the administrative affairs of the department.]"~~

- 6. That in Sections 2, 3, 4, and 5, 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 material that has been bracketed and stricken, or the underscoring.
- 7. That if these Charter provisions are amended by any other Charter amendment approved by the voters at the 2022 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

The Revisor of the Charter also may change capitalization or the form of numbers and monetary sums for the sake of uniformity.

- 8. 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 for presentation to the voters at the 2022 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 voters at the same election; and



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- 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 voters at the 2022 general election.
  
- 9. That upon approval of the Charter amendment question posed in this resolution by a majority of the voters voting thereon, as duly certified, the Charter amendments proposed in this resolution shall take effect on January 1, 2023.

INTRODUCED BY:

*Tony Wata*

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DATE OF INTRODUCTION:

**FEB 17 2022**

Honolulu, Hawaii

Councilmembers

**FILED**  
**FFR 17 2024**  
 PURSUANT TO ROH Sec. 1-2.5