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## RESOLUTION

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

WHEREAS, in the 1972 general election, the voters approved the Revised Charter of the City and County of Honolulu 1973 ("Charter") submitted by the 1971-72 Charter Commission ("Commission"), which included a provision (subsequently codified as Charter Section 3-107.7) authorizing the City Council ("Council") to establish an Office of Council Services ("OCS") to assist the Council in the exercise of its legislative powers; and

WHEREAS, in its final report, the Commission cited the Council's authorization to create the OCS as one of the most important changes the Commission was proposing with respect to the legislative branch of City government; and

WHEREAS, in this regard, the OCS was viewed by the Commission as "a necessary adjunct to and . . . supportive of the policy-formulation or legislative role of the city council," and "a tool for decision making -- to assist [the council] in analyzing the city's policies and financial programs for their effectiveness and adequacy and in identifying alternative programs and policies [to address the problems facing the city]"; and

WHEREAS, on March 19, 1973, shortly after the 1973 Charter took effect, the Council implemented its new authority by enacting Ordinance 4116, creating the OCS; and

WHEREAS, under the ordinance, the OCS is charged with providing comprehensive research and reference services for the Council, conducting research for the enactment or consideration of legislation, and advising the Council and its committees; and

WHEREAS, in the 1978 general election, the voters expanded the Charter-established functions of the OCS by authorizing attorneys in the office "to represent [the council] in court litigation where the dispute is with the Executive Branch and where the Corporation Counsel may represent the Mayor or officers of the Executive Branch"; and

WHEREAS, in 1993, the Council enacted Ordinance 93-26, designating the OCS as the Revisor of Ordinances, a role in which the office prepares, with the assistance of a publisher, the codification of ordinances of continuing effect in the Revised Ordinances of Honolulu, as amended; and



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WHEREAS, since 1973 the OCS has provided valuable policy advice and legislative drafting services to the Council and Councilmembers; and

WHEREAS, since shortly after the OCS's inception, it has employed Hawai'i State licensed attorneys to assist the Council and Councilmembers in carrying out their legislative duties by providing legal advice and drafting legislation in such a manner as to conform to federal and Hawai'i State law and to the Charter; and

WHEREAS, although the Corporation Counsel is the chief legal adviser and legal representative of the Council pursuant to Charter Section 5-203, the Corporation Counsel is not the Council's exclusive legal adviser, and the Council and its members have, in the past, requested the advice of the OCS's attorneys for a "second opinion" in the relatively rare instances in which they might question the legal analysis in legal advice provided by the Corporation Counsel; and

WHEREAS, the Office of the City Clerk and the Office of the City Auditor, the two other legislative branch agencies, are recognized by separate chapters in Article III ("Legislative Branch") of the Charter, but the OCS is not, even though the Office of the City Auditor was established in 2002 and the OCS was established in 1973; 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 be amended to update the provisions pertaining to the Office of Council Services ("OCS"), the research and drafting arm of the Council, to reflect its current functions; consolidate various provisions relating to the OCS in a separate Chapter of the Revised Charter like its fellow Legislative Branch agencies, the Office of the City Clerk and Office of the City Auditor; provide for the appointment, salary, and duties of the OCS director; and expressly recognize the authority of the licensed attorneys in the OCS to provide legal advice to the City Council and its members?"



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

**"Section 3-107. Organization of Council; Officers; Rules; Meetings; Employees –**

1. The council shall meet in the council room at the city hall for its organization at twelve o'clock meridian on the second day of January of every odd-numbered year or on the next business day if the second day be a Sunday or a holiday. At the meeting, the council shall elect one of its councilmembers as chair and presiding officer of the council. It shall also elect one of its councilmembers as vice-chair who shall act as the presiding officer in the event of the chair's absence or disability. The council shall appoint a presiding officer pro tempore from its own members in the event of the absence or disability of both the chair and the vice-chair. All councilmembers shall have the right to vote in the council at all times. A majority of the entire membership of the council shall constitute a quorum and, except as otherwise provided, the affirmative vote of a majority of the entire membership shall be necessary to take any action.

2. The council shall adopt rules governing its officers and employees, the organization of committees and the transaction of business.

3. The council shall keep a journal of its proceedings in which the ayes and noes shall be entered as required by this charter or at any other time upon the demand of any member.

4. The council may suspend, without pay for not more than one month, any member for disorderly or contemptuous behavior in its presence, upon an affirmative vote of at least two-thirds of its entire membership. The presiding officer or the council may, by a majority vote, expel any other person who is guilty of disorderly, contemptuous or improper conduct at any meeting.

5. The council may authorize the employment of special counsel to represent it, upon the affirmative vote of at least two-thirds of its entire membership. Any such authorization shall specify the compensation, if any, to be paid such special counsel, and the council shall make an appropriation therefor.

6. The presiding officer of any committee of the council or a majority of the committee may expel any person who is guilty of disorderly, contemptuous or improper conduct at any committee meeting.



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~~[7. The council may establish an office of council services and create such positions therein as it deems necessary to assist it in the exercise of its legislative power. The council shall fix the salaries of such positions by ordinance. Funds appropriated for such salaries shall be allotted by, and the persons holding such positions shall be appointed by and serve under the direction of, the presiding officer of the council. Staff shall be appointed in a manner consonant with the merit principles set forth in Section 6-1102 of this charter, but shall not otherwise be subject to the provisions of Chapter 11 of Article VI of this charter, pursuant to Section 6-1104 of this charter.~~

~~The council may authorize attorneys within the office of council services to represent it in court litigation where the dispute is with the Executive Branch and where the corporation counsel may represent the Mayor or officers of the Executive Branch. In the event that attorneys within the office of council services should be authorized to represent the city council, these staff attorneys shall be deemed to have the status of "special counsel."~~

~~8.]~~ 7. The council shall hold regular meetings and shall meet at least once each month. All meetings of the council shall be open to the public, and every vote taken by the council shall be by open ballot. Any councilmember who has a direct personal financial interest in any matter on which a vote is taken may abstain from voting after declaring the conflict of interest. The council shall adopt rules governing abstention from voting. With the exception of consultations with the corporation counsel on claims where premature public disclosure of information would adversely affect the city's interest and consultation with its own counsel or staff, all council committee meetings shall be open to the public.

8. The council may adjourn to any meeting place, provided notice of the time and place of the meeting is published at least three days prior to such meeting in a daily newspaper of general circulation in the city, and notice is also given to all councilmembers at least three days prior to the meeting.

9. The council shall, prior to making its decisions on confirmations, hold public hearings on the appointees of the mayor."



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3. That Article III of the Revised Charter of the City and County of Honolulu 1973 (Amended 2017 Edition), as amended, be amended to add a new Chapter 6 to read as follows:

**"CHAPTER 6.  
OFFICE OF COUNCIL SERVICES**

**Section 3-601. Office Established --**

There shall be an office of council services consisting of a director, deputy or assistant director, and necessary staff.

**Section 3-602. Purposes --**

The purposes of the office of council services shall be:

1. To conduct research, including legal research, as may be necessary for the formulation, consideration, adoption, and enactment of legislation;
2. To serve as professional staff to the council and its committees to assist them in compliance with all procedural requirements applicable to the legislative process established by law or council rule;
3. To draft legislative measures requested by the council, council committees, and councilmembers;
4. To provide advice, including legal advice, to the council, council committees, and councilmembers on all legislative matters brought before them, including proposals for legislation submitted by councilmembers, the executive branch, other legislative branch agencies, or the public;
5. To serve as special counsel to the council consistent with Section 3-605;
6. To serve as the revisor of ordinances, preparing, at least twice annually, an ordinance supplement:

(a) The printed version of which shall be provided to all councilmembers and be available for purchase to the public; and



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(b) The electronic version of which shall be available online,

prior to the end of the third month following the end of the calendar year and end of the fiscal year; and

7. To perform such other duties as may be assigned to the office by the council or its presiding officer.

**Section 3-603. Director of Council Services; Appointment, Tenure, Removal, Compensation, Vacancy --**

1. The council shall appoint and fix the salary of the director of the office of council services. Either the director or the director's deputy or assistant director shall be an attorney licensed to practice law the State of Hawaii and in good standing before the Supreme Court of the State of Hawaii. The director shall serve for a term of six years, and thereafter until a successor is appointed. The council, by a two-thirds vote of its entire membership, may remove or suspend the director from office, but only for cause.

2. If the office of the director becomes vacant, the deputy or assistant director will become the acting director until a successor is duly appointed.

**Section 3-604. Authority and Duties of the Director of Council Services --**

1. The director shall have the same powers with respect to the staff of the office of council services as department heads of the executive branch have with respect to personnel in their departments, unless otherwise expressly limited by charter or ordinance. The director may appoint the necessary staff for which appropriations have been made by the council. Staff shall be appointed in a manner consistent with the merit principles set forth in Section 6-1102 of this Charter, but shall not, pursuant to Section 6-1104 of this charter, otherwise be subject to the provisions of Article VI, Chapter 11, of this charter.

2. The director may administer oaths and, in the name of the council, subpoena witnesses and compel the production of books, papers, documents, records, and any government record, as that term is defined in HRS Section 92F-3, or any successor statute, in furtherance of the council's investigative power established in Section 3-120.



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**Section 3-605. Staff Attorneys --**

1. The director may appoint to the staff of the office of council services attorneys who shall be licensed to practice law in Hawaii and in good standing before the Supreme Court of the State of Hawaii. Any legal advice provided by the staff attorneys to any councilmember or to the council shall remain confidential to the maximum extent provided by law and the rules of the Supreme Court of the State of Hawaii, unless confidentiality is waived by the councilmember or the council, as applicable.
2. The council may, by the affirmative vote of two-thirds of its entire membership, appoint staff attorneys in the office to serve as special counsel to represent the council in court litigation where the dispute is with the executive branch and the corporation counsel may represent the executive branch officers or agencies."
4. Article XVI, Revised Charter of Honolulu 1973 (amended 2017 Edition), as amended, is amended by adding a new section to read as follows:

**"Section 16- . Transition Provisions Relating to the Office of Council Services --**

1. The director and all other officers and employees holding positions on December 31, 2022, with the office of council services established under section 3-107.7 of this charter shall be transferred to the office of council services established under section 3-601 of this charter on January 1, 2023. The director and all other officers and employees shall suffer no loss of vacation allowance, sick leave, service credits, retirement benefits, or other rights and privileges because of the transfer. The director's appointment will remain subject to Resolution 17-63. Nothing in this subsection, however, shall be construed as preventing future changes in status of the director or other officers or employees pursuant to this charter or law.
2. All lawful obligations and liabilities owed by or to the office of council services established under section 3-107.7 of this charter and existing on December 31, 2022, shall, unless fulfilled or lawfully terminated on December 31, 2022, remain in effect as obligations and liabilities owed by or to the office of council services established under section 3-601 of this charter after December 31, 2022.



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3. All records, property, and equipment held on December 31, 2022, by the office of council services established under section 3-107.7 of this charter shall be transferred to and assumed by the office of council services established under section 3-601 of this charter on January 1, 2023.

4. All appropriations in the legislative budget for fiscal year 2023 for the office of council services remaining unexpended and unencumbered as of December 31, 2022, shall be available after January 1, 2023, for expenditure by the office of council services established under section 3-601 of this charter."

5. That in Sections 2 and 4 of this resolution, Charter material to be repealed is bracketed and stricken, and new Charter material is underscored. When revising, compiling, or printing this 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 material that has been bracketed and stricken, or the underscoring.
6. That if these Charter provisions are amended by any other Charter amendment(s) approved by the electors in the 2022 general election, the Revisor of the Charter, in revising, compiling, or printing the Charter:
- a. May designate or redesignate articles, chapters, sections, or parts of sections and rearrange references thereto; and
  - 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.

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

7. That upon adoption of this resolution the City Clerk 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 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 electors at the same election; and





**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

No. 22-99, FD1

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**RESOLUTION**

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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 electors at the 2022 general election.



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- 8. 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 this resolution shall take effect on January 1, 2023.

INTRODUCED BY:

Andria Tupola

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DATE OF INTRODUCTION:

April 22, 2022  
Honolulu, Hawaii

\_\_\_\_\_ Councilmember

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

RESOLUTION 22-99, FD1

Introduced: 04/22/22 By: ANDRIA TUPOLA Committee: EXECUTIVE MATTERS AND LEGAL AFFAIRS (EMLA)

Title: INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973 (AMENDED 2017 EDITION), AS AMENDED, RELATING TO THE OFFICE OF COUNCIL SERVICES.

Voting Legend: \* = Aye w/Reservations

04/22/22	INTRO	Introduced.
05/04/22	CCL	Passed first reading.  9 AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI, TULBA, TUPOLA, WATERS
05/20/22	PUBLISH	Public hearing notice published in the Honolulu Star-Advertiser.
05/24/22	EMLA	Reported out for passage on second reading and scheduling of a public hearing.  CR-140  7 AYES: CORDERO, ELEFANTE*, KIA'ĀINA, SAY, TULBA, TUPOLA, WATERS  2 EXCUSED: FUKUNAGA, TSUNEYOSHI
06/01/22	CCL/PH	Committee report adopted. Resolution passed second reading and public hearing closed.  8 AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TULBA, TUPOLA, WATERS  1 ABSENT: TSUNEYOSHI
06/08/22	PUBLISH	Second reading notice published in the Honolulu Star-Advertiser.
06/21/22	EMLA	Reported out for passage on third reading.  CR-178  6 AYES: CORDERO, ELEFANTE, KIA'ĀINA, TSUNEYOSHI, TULBA, TUPOLA  2 NOES: SAY, WATERS  1 EXCUSED: FUKUNAGA
07/06/22	CCL	Amended to FD1.  OCS2022-0571/6/30/2022 2:49 PM  9 AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI, TULBA, TUPOLA, WATERS
07/06/22	CCL	Committee report adopted and Resolution passed third reading.  9 AYES: CORDERO, ELEFANTE, FUKUNAGA, KIA'ĀINA, SAY, TSUNEYOSHI, TULBA, TUPOLA, WATERS

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.

  
GLEN I. TAKAHASHI, CITY CLERK

  
TOMMY WATERS, CHAIR AND PRESIDING OFFICER