
A BILL FOR AN ACT

RELATING TO THE CHIEF OF POLICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 11-331, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) For purposes of this part, whenever a report is
4 required to be filed with the commission, "filed" means that a
5 report shall be filed with the commission's electronic filing
6 system by the date and time specified for the filing of the
7 report by:

8 (1) The candidate or candidate committee of a candidate
9 who is seeking election to the:

10 (A) Office of governor;

11 (B) Office of lieutenant governor;

12 (C) Office of mayor;

13 (D) Office of prosecuting attorney;

14 (E) County council;

15 (F) Chief of police;

16 [~~(F)~~] (G) Senate;

17 [~~(G)~~] (H) House of representatives; or



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1 [~~(H)~~] (I) Office of Hawaiian affairs; or

2 (2) A noncandidate committee required to be registered
3 with the commission pursuant to section 11-323."

4 SECTION 2. Section 11-423, Hawaii Revised Statutes, is
5 amended by amending subsection (d) to read as follows:

6 "(d) From January 1 of the year of any primary, special,
7 or general election, the aggregate expenditures for each
8 election by a candidate who voluntarily agrees to limit campaign
9 expenditures, inclusive of all expenditures made or authorized
10 by the candidate alone, all treasurers, the candidate committee,
11 and noncandidate committees on the candidate's behalf, shall not
12 exceed the following amounts expressed, respectively multiplied
13 by the number of voters in the last preceding general election
14 registered to vote in each respective voting district:

15 (1) For the office of governor--\$2.50;

16 (2) For the office of lieutenant governor--\$1.40;

17 (3) For the office of mayor--\$2.00;

18 (4) For the offices of state senator, state

19 representative, county council member, ~~[and]~~

20 prosecuting attorney~~[--\$1.40;]~~, and chief of police--

21 \$1.40; and



(5) For all other offices--20 cents."

SECTION 3. Section 11-425, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The maximum amount of public funds available in each election to a candidate for the office of state senator, state representative, county council member, ~~and~~ prosecuting attorney, and chief of police shall not exceed fifteen per cent of the expenditure limit established in section 11-423(d) for each election."

SECTION 4. Section 11-429, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) As a condition of receiving public funds for a primary or general election, a candidate shall not be unopposed in any election for which public funds are sought, shall have filed an affidavit with the commission pursuant to section 11-423 to voluntarily limit the candidate's campaign expenditures, and shall be in receipt of the following sum of qualifying contributions from individual residents of Hawaii:

(1) For the office of governor--qualifying contributions that in the aggregate exceed \$100,000;



- 1 (2) For the office of lieutenant governor--qualifying
2 contributions that in the aggregate exceed \$50,000;
- 3 (3) For the office of mayor for each respective county:
- 4 (A) County of Honolulu--qualifying contributions that
5 in the aggregate exceed \$50,000;
- 6 (B) County of Hawaii--qualifying contributions that
7 in the aggregate exceed \$15,000;
- 8 (C) County of Maui--qualifying contributions that in
9 the aggregate exceed \$10,000; and
- 10 (D) County of Kauai--qualifying contributions that in
11 the aggregate exceed \$5,000;
- 12 (4) For the office of prosecuting attorney for each
13 respective county:
- 14 (A) County of Honolulu--qualifying contributions that
15 in the aggregate exceed \$30,000;
- 16 (B) County of Hawaii--qualifying contributions that
17 in the aggregate exceed \$10,000; and
- 18 (C) County of Kauai--qualifying contributions that in
19 the aggregate exceed \$5,000;
- 20 (5) For the office of chief of police for each respective
21 county:



1 (A) County of Honolulu--qualifying contributions that
2 in the aggregate exceed \$30,000;

3 (B) County of Hawaii--qualifying contributions that
4 in the aggregate exceed \$10,000;

5 (C) County of Maui--qualifying contributions that in
6 the aggregate exceed \$7,500; and

7 (D) County of Kauai--qualifying contributions that in
8 the aggregate exceed \$5,000;

9 [+5+] (6) For the office of county council--for each
10 respective county:

11 (A) County of Honolulu--qualifying contributions that
12 in the aggregate exceed \$5,000;

13 (B) County of Hawaii--qualifying contributions that
14 in the aggregate exceed \$1,500;

15 (C) County of Maui--qualifying contributions that in
16 the aggregate exceed \$5,000; and

17 (D) County of Kauai--qualifying contributions that in
18 the aggregate exceed \$3,000;

19 [+6+] (7) For the office of state senator--qualifying
20 contributions that, in the aggregate exceed \$2,500;



1 [~~(7)~~] (8) For the office of state representative--

2 qualifying contributions that, in the aggregate,

3 exceed \$1,500;

4 [~~(8)~~] (9) For the office of Hawaiian affairs--qualifying

5 contributions that, in the aggregate, exceed \$1,500;

6 and

7 [~~(9)~~] (10) For all other offices, qualifying contributions

8 that, in the aggregate, exceed \$500."

9 SECTION 5. Section 46-1.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§46-1.5 General powers and limitation of the counties.**

12 Subject to general law, each county shall have the following
13 powers and shall be subject to the following liabilities and
14 limitations:

15 (1) Each county shall have the power to frame and adopt a
16 charter for its own self-government that shall
17 establish the county executive, administrative, and
18 legislative structure and organization, including but
19 not limited to the method of appointment or election
20 of officials, their duties, responsibilities, and
21 compensation, and the terms of their office~~(7)~~, except



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that the chief of police of each county shall be
elected in accordance with section 52D-2;

(2) Each county shall have the power to provide for and regulate the marking and lighting of all buildings and other structures that may be obstructions or hazards to aerial navigation, so far as may be necessary or proper for the protection and safeguarding of life, health, and property;

(3) Each county shall have the power to enforce all claims on behalf of the county and approve all lawful claims against the county, but shall be prohibited from entering into, granting, or making in any manner any contract, authorization, allowance payment, or liability contrary to the provisions of any county charter or general law;

(4) Each county shall have the power to make contracts and to do all things necessary and proper to carry into execution all powers vested in the county or any county officer;

(5) Each county shall have the power to:



1 (A) Maintain channels, whether natural or artificial,
2 including their exits to the ocean, in suitable
3 condition to carry off storm waters;

4 (B) Remove from the channels, and from the shores and
5 beaches, any debris that is likely to create an
6 unsanitary condition or become a public nuisance;
7 provided that, to the extent any of the foregoing
8 work is a private responsibility, the
9 responsibility may be enforced by the county in
10 lieu of the work being done at public expense;

11 (C) Construct, acquire by gift, purchase, or by the
12 exercise of eminent domain, reconstruct, improve,
13 better, extend, and maintain projects or
14 undertakings for the control of and protection
15 against floods and flood waters, including the
16 power to drain and rehabilitate lands already
17 flooded;

18 (D) Enact zoning ordinances providing that lands
19 deemed subject to seasonable, periodic, or
20 occasional flooding shall not be used for
21 residence or other purposes in a manner as to



- 1 endanger the health or safety of the occupants
- 2 thereof, as required by the Federal Flood
- 3 Insurance Act of 1956 (chapter 1025, Public Law
- 4 1016); and
- 5 (E) Establish and charge user fees to create and
- 6 maintain any stormwater management system or
- 7 infrastructure;
- 8 (6) Each county shall have the power to exercise the power
- 9 of condemnation by eminent domain when it is in the
- 10 public interest to do so;
- 11 (7) Each county shall have the power to exercise
- 12 regulatory powers over business activity as are
- 13 assigned to them by chapter 445 or other general law;
- 14 (8) Each county shall have the power to fix the fees and
- 15 charges for all official services not otherwise
- 16 provided for;
- 17 (9) Each county shall have the power to provide by
- 18 ordinance assessments for the improvement or
- 19 maintenance of districts within the county;
- 20 (10) Except as otherwise provided, no county shall have the
- 21 power to give or loan credit to, or in aid of, any



person or corporation, directly or indirectly, except
for a public purpose;

(11) Where not within the jurisdiction of the public
utilities commission, each county shall have the power
to regulate by ordinance the operation of motor
vehicle common carriers transporting passengers within
the county and adopt and amend rules the county deems
necessary for the public convenience and necessity;

(12) Each county shall have the power to enact and enforce
ordinances necessary to prevent or summarily remove
public nuisances and to compel the clearing or removal
of any public nuisance, refuse, and uncultivated
undergrowth from streets, sidewalks, public places,
and unoccupied lots. In connection with these powers,
each county may impose and enforce liens upon the
property for the cost to the county of removing and
completing the necessary work where the property
owners fail, after reasonable notice, to comply with
the ordinances. The authority provided by this
paragraph shall not be self-executing, but shall
become fully effective within a county only upon the



1 enactment or adoption by the county of appropriate and
2 particular laws, ordinances, or rules defining "public
3 nuisances" with respect to each county's respective
4 circumstances. The counties shall provide the
5 property owner with the opportunity to contest the
6 summary action and to recover the owner's property;

7 (13) Each county shall have the power to enact ordinances
8 deemed necessary to protect health, life, and
9 property, and to preserve the order and security of
10 the county and its inhabitants on any subject or
11 matter not inconsistent with, or tending to defeat,
12 the intent of any state statute where the statute does
13 not disclose an express or implied intent that the
14 statute shall be exclusive or uniform throughout the
15 State;

16 (14) Each county shall have the power to:

17 (A) Make and enforce within the limits of the county
18 all necessary ordinances covering all:

- 19 (i) Local police matters;
20 (ii) Matters of sanitation;
21 (iii) Matters of inspection of buildings;



(iv) Matters of condemnation of unsafe structures, plumbing, sewers, dairies, milk, fish, and morgues; and

(v) Matters of the collection and disposition of rubbish and garbage;

(B) Provide exemptions for homeless facilities and any other program for the homeless authorized by part XVII of chapter 346, for all matters under this paragraph;

(C) Appoint county physicians and sanitary and other inspectors as necessary to carry into effect ordinances made under this paragraph, who shall have the same power as given by law to agents of the department of health, subject only to limitations placed on them by the terms and conditions of their appointments; and

(D) Fix a penalty for the violation of any ordinance, which penalty may be a misdemeanor, petty misdemeanor, or violation as defined by general law;



- 1 (15) Each county shall have the power to provide public
- 2 pounds; to regulate the impounding of stray animals
- 3 and fowl, and their disposition; and to provide for
- 4 the appointment, powers, duties, and fees of animal
- 5 control officers;
- 6 (16) Each county shall have the power to purchase and
- 7 otherwise acquire, lease, and hold real and personal
- 8 property within the defined boundaries of the county
- 9 and to dispose of the real and personal property as
- 10 the interests of the inhabitants of the county may
- 11 require, except that:
- 12 (A) Any property held for school purposes may not be
- 13 disposed of without the consent of the
- 14 superintendent of education;
- 15 (B) No property bordering the ocean shall be sold or
- 16 otherwise disposed of; and
- 17 (C) All proceeds from the sale of park lands shall be
- 18 expended only for the acquisition of property for
- 19 park or recreational purposes;
- 20 (17) Each county shall have the power to provide by charter
- 21 for the prosecution of all offenses and to prosecute



1 for offenses against the laws of the State under the
2 authority of the attorney general of the State;

3 (18) Each county shall have the power to make
4 appropriations in amounts deemed appropriate from any
5 moneys in the treasury, for the purpose of:

6 (A) Community promotion and public celebrations;

7 (B) The entertainment of distinguished persons as may
8 from time to time visit the county;

9 (C) The entertainment of other distinguished persons,
10 as well as, public officials when deemed to be in
11 the best interest of the community; and

12 (D) The rendering of civic tribute to individuals
13 who, by virtue of their accomplishments and
14 community service, merit civic commendations,
15 recognition, or remembrance;

16 (19) Each county shall have the power to:

17 (A) Construct, purchase, take on lease, lease,
18 sublease, or in any other manner acquire, manage,
19 maintain, or dispose of buildings for county
20 purposes, sewers, sewer systems, pumping
21 stations, waterworks, including reservoirs,



1 wells, pipelines, and other conduits for
2 distributing water to the public, lighting
3 plants, and apparatus and appliances for lighting
4 streets and public buildings, and manage,
5 regulate, and control the same;

6 (B) Regulate and control the location and quality of
7 all appliances necessary to the furnishing of
8 water, heat, light, power, telephone, and
9 telecommunications service to the county;

10 (C) Acquire, regulate, and control any and all
11 appliances for the sprinkling and cleaning of the
12 streets and the public ways, and for flushing the
13 sewers; and

14 (D) Open, close, construct, or maintain county
15 highways or charge toll on county highways;
16 provided that all revenues received from a toll
17 charge shall be used for the construction or
18 maintenance of county highways;

19 (20) Each county shall have the power to regulate the
20 renting, subletting, and rental conditions of property
21 for places of abode by ordinance;



- 1 (21) Unless otherwise provided by law, each county shall
- 2 have the power to establish by ordinance the order of
- 3 succession of county officials in the event of a
- 4 military or civil disaster;
- 5 (22) Each county shall have the power to sue and be sued in
- 6 its corporate name;
- 7 (23) Each county shall have the power to:
- 8 (A) Establish and maintain waterworks and sewer
- 9 works;
- 10 (B) Implement a sewer monitoring program that
- 11 includes the inspection of sewer laterals that
- 12 connect to county sewers, when those laterals are
- 13 located on public or private property, after
- 14 providing a property owner not less than ten
- 15 calendar days' written notice, to detect leaks
- 16 from laterals, infiltration, and inflow, any
- 17 other law to the contrary notwithstanding;
- 18 (C) Compel an owner of private property upon which is
- 19 located any sewer lateral that connects to a
- 20 county sewer to inspect that lateral for leaks,



- 1 infiltration, and inflow and to perform repairs
- 2 as necessary;
- 3 (D) Collect rates for water supplied to consumers and
- 4 for the use of sewers;
- 5 (E) Install water meters whenever deemed expedient;
- 6 provided that owners of premises having vested
- 7 water rights under existing laws appurtenant to
- 8 the premises shall not be charged for the
- 9 installation or use of the water meters on the
- 10 premises; and
- 11 (F) Take over from the State existing waterworks
- 12 systems, including water rights, pipelines, and
- 13 other appurtenances belonging thereto, and sewer
- 14 systems, and to enlarge, develop, and improve the
- 15 same;
- 16 (G) For purposes of subparagraphs (B) and (C):
- 17 (i) "Infiltration" means groundwater, rainwater,
- 18 and saltwater that enters the county sewer
- 19 system through cracked, broken, or defective
- 20 sewer laterals; and



(ii) "Inflow" means non-sewage entering the county sewer system via inappropriate or illegal connections;

(24) (A) Each county may impose civil fines, in addition to criminal penalties, for any violation of county ordinances or rules after reasonable notice and requests to correct or cease the violation have been made upon the violator. Any administratively imposed civil fine shall not be collected until after an opportunity for a hearing under chapter 91. Any appeal shall be filed within thirty days from the date of the final written decision. These proceedings shall not be a prerequisite for any civil fine or injunctive relief ordered by the circuit court;

(B) Each county by ordinance may provide for the addition of any unpaid civil fines, ordered by any court of competent jurisdiction, to any taxes, fees, or charges, with the exception of fees or charges for water for residential use and sewer charges, collected by the county. Each



1 county by ordinance may also provide for the
2 addition of any unpaid administratively imposed
3 civil fines, which remain due after all judicial
4 review rights under section 91-14 are exhausted,
5 to any taxes, fees, or charges, with the
6 exception of water for residential use and sewer
7 charges, collected by the county. The ordinance
8 shall specify the administrative procedures for
9 the addition of the unpaid civil fines to the
10 eligible taxes, fees, or charges and may require
11 hearings or other proceedings. After addition of
12 the unpaid civil fines to the taxes, fees, or
13 charges, the unpaid civil fines shall not become
14 a part of any taxes, fees, or charges. The
15 county by ordinance may condition the issuance or
16 renewal of a license, approval, or permit for
17 which a fee or charge is assessed, except for
18 water for residential use and sewer charges, on
19 payment of the unpaid civil fines. Upon
20 recordation of a notice of unpaid civil fines in
21 the bureau of conveyances, the amount of the



1 civil fines, including any increase in the amount
2 of the fine which the county may assess, shall
3 constitute a lien upon all real property or
4 rights to real property belonging to any person
5 liable for the unpaid civil fines. The lien in
6 favor of the county shall be subordinate to any
7 lien in favor of any person recorded or
8 registered prior to the recordation of the notice
9 of unpaid civil fines and senior to any lien
10 recorded or registered after the recordation of
11 the notice. The lien shall continue until the
12 unpaid civil fines are paid in full or until a
13 certificate of release or partial release of the
14 lien, prepared by the county at the owner's
15 expense, is recorded. The notice of unpaid civil
16 fines shall state the amount of the fine as of
17 the date of the notice and maximum permissible
18 daily increase of the fine. The county shall not
19 be required to include a social security number,
20 state general excise taxpayer identification
21 number, or federal employer identification number



1 on the notice. Recordation of the notice in the
2 bureau of conveyances shall be deemed, at such
3 time, for all purposes and without any further
4 action, to procure a lien on land registered in
5 land court under chapter 501. After the unpaid
6 civil fines are added to the taxes, fees, or
7 charges as specified by county ordinance, the
8 unpaid civil fines shall be deemed immediately
9 due, owing, and delinquent and may be collected
10 in any lawful manner. The procedure for
11 collection of unpaid civil fines authorized in
12 this paragraph shall be in addition to any other
13 procedures for collection available to the State
14 and county by law or rules of the courts;

15 (C) Each county may impose civil fines upon any
16 person who places graffiti on any real or
17 personal property owned, managed, or maintained
18 by the county. The fine may be up to \$1,000 or
19 may be equal to the actual cost of having the
20 damaged property repaired or replaced. The
21 parent or guardian having custody of a minor who



1 places graffiti on any real or personal property
2 owned, managed, or maintained by the county shall
3 be jointly and severally liable with the minor
4 for any civil fines imposed hereunder. Any such
5 fine may be administratively imposed after an
6 opportunity for a hearing under chapter 91, but
7 such a proceeding shall not be a prerequisite for
8 any civil fine ordered by any court. As used in
9 this subparagraph, "graffiti" means any
10 unauthorized drawing, inscription, figure, or
11 mark of any type intentionally created by paint,
12 ink, chalk, dye, or similar substances;

13 (D) At the completion of an appeal in which the
14 county's enforcement action is affirmed and upon
15 correction of the violation if requested by the
16 violator, the case shall be reviewed by the
17 county agency that imposed the civil fines to
18 determine the appropriateness of the amount of
19 the civil fines that accrued while the appeal
20 proceedings were pending. In its review of the



1 amount of the accrued fines, the county agency
2 may consider:

- 3 (i) The nature and egregiousness of the
- 4 violation;
- 5 (ii) The duration of the violation;
- 6 (iii) The number of recurring and other similar
- 7 violations;
- 8 (iv) Any effort taken by the violator to correct
- 9 the violation;
- 10 (v) The degree of involvement in causing or
- 11 continuing the violation;
- 12 (vi) Reasons for any delay in the completion of
- 13 the appeal; and
- 14 (vii) Other extenuating circumstances.

15 The civil fine that is imposed by administrative
16 order after this review is completed and the
17 violation is corrected shall be subject to
18 judicial review, notwithstanding any provisions
19 for administrative review in county charters;

20 (E) After completion of a review of the amount of
21 accrued civil fine by the county agency that



1 imposed the fine, the amount of the civil fine
2 determined appropriate, including both the
3 initial civil fine and any accrued daily civil
4 fine, shall immediately become due and
5 collectible following reasonable notice to the
6 violation. If no review of the accrued civil fine
7 is requested, the amount of the civil fine, not
8 to exceed the total accrual of civil fine prior
9 to correcting the violation, shall immediately
10 become due and collectible following reasonable
11 notice to the violator, at the completion of all
12 appeal proceedings; and

13 (F) If no county agency exists to conduct appeal
14 proceedings for a particular civil fine action
15 taken by the county, then one shall be
16 established by ordinance before the county shall
17 impose the civil fine;

18 (25) Any law to the contrary notwithstanding, any county
19 mayor, by executive order, may exempt donors, provider
20 agencies, homeless facilities, and any other program
21 for the homeless under part XVII of chapter 346 from



1 real property taxes, water and sewer development fees,
2 rates collected for water supplied to consumers and
3 for use of sewers, and any other county taxes,
4 charges, or fees; provided that any county may enact
5 ordinances to regulate and grant the exemptions
6 granted by this paragraph;

7 (26) Any county may establish a captive insurance company
8 pursuant to article 19, chapter 431; and

9 (27) Each county shall have the power to enact and enforce
10 ordinances regulating towing operations."

11 SECTION 6. Section 52D-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§52D-2 Chief of police.** A chief of police shall be
14 ~~[appointed and may be removed as prescribed by the charter of]~~
15 elected by each county[-] for a regular term of office of four
16 years, without term limits, as prescribed by the charter of each
17 county. The chief of police shall annually make a report to the
18 police commission on the state of affairs and condition of the
19 police department."



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1 SECTION 7. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 8. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 9. This Act shall take effect upon its approval;
7 provided that individuals serving as chiefs of police of their
8 respective county on the effective date of this Act shall be
9 allowed to complete their respective terms.

10
INTRODUCED BY:



JAN 22 2021



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Report Title:

Chief of Police; Elected; County Charters; Candidate Filing;
Partial Public Financing

Description:

Makes the office of the chief of police an elected office for each county, with four-year terms and no term limits. Provides for candidate filing requirement with the elections commission and partial public financing limitations and requirements.

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