

2015-2016 HONOLULU CHARTER COMMISSION
CITY AND COUNTY OF HONOLULU
CHARTER AMENDMENT PROPOSAL FORM

1. Provide a brief description of the:
- Proposed Charter amendment;
 - Purpose of the proposed Charter amendment;
 - Issue or problem to be addressed by the proposal; and
 - How the proposal would address the issue or problem.

Amend the Powers, Duties and Functions, and other relevant provisions, as appropriate, of Article XVII, Public Transit Authority, to remove authority over the operations and maintenance (O&M) of fixed guideway mass transit (rail) from the Honolulu Authority for Rapid Transportation (HART) at the time of system acceptance or passenger operations, whichever occurs first, in whole or in part, including but not limited to the authority of HART to establish fares, fees, and charges for rail, to prepare and adopt annual O&M budgets, to apply for, receive and accept grants and other assistance to meet O&M expenses, to establish O&M policies after rail is operational, in whole or in part, to fix and adjust reasonable rates and charges of the O&M for rail and to submit a line-item appropriation for proposed O&M budget for the ensuing fiscal year.

Propose Charter amendments amending the Powers, Duties and Functions, and other relevant provisions, as appropriate, of Article VI, Executive Branch – Managing Director and Agencies Directly Under the Managing Director, Chapter 17, Department of Transportation Services (DTS), to remove responsibility for public transit from DTS, including but not limited to, removal of the transportation commission’s authority to recommend changes to the public transit fare structure.

Propose Charter amendment creating a municipal public transportation entity to manage and be responsible for the operations and maintenance of an intermodal public transit system including, but not limited to, bus, paratransit and rail, with governance details and timing to be proposed by a Committee of qualified appointees of the Mayor and Council, with a ninth member from OMPO.

2. If applicable, list the Charter provision affected by the proposal.

Article XVII PUBLIC TRANSIT AUTHORITY, Section 17-103, Powers, Duties and Functions; Section 17-104, Powers, Duties and Functions of the Executive Director; Section 17-105, Board of Directors; Section 17-106, Rates, Revenues and Appropriations; Section 17-107, Public Hearings; Section 17-108, Receipt and Disbursement of Funds; Section 17-114, Transit Fund.

Article VI, EXECUTIVE BRANCH – MANAGING DIRECTOR AND AGENCIES DIRECTLY UNDER THE MANAGING DIRECTOR, Chapter 17, DEPARTMENT OF TRANSPORTATION

SERVICES, Section 6-1703, Powers, Duties and Functions; Section 6-1705, Powers Duties and Functions.

3. If the proposal is based on a provision or provisions in the charter or laws of another jurisdiction (e.g., another county, city, or municipality), name the jurisdiction and, if possible, attach a copy of each provision or law.

n/a

4. If the proposal is based on any written materials you have, please attach a copy of each with a citation to its source.

n/a

5. Attach the text of the proposed Charter amendment in Ramseyer format (see instructions below).

“Shall the Revised City Charter be amended to combine all modes of public transit in the City and County of Honolulu, including but not limited to bus, paratransit and fixed guideway mass transit (rail), under one municipal transportation entity responsible for the operations and maintenance of an intermodal public transit system?”

YES _____

NO _____

Adoption of this proposal will create a municipal transportation entity to manage the operations and maintenance of the City’s intermodal public transit system, including but not limited to, bus, paratransit and fixed guideway mass transit (rail), the governance details and timing of which shall be implemented by way of Ordinance.

The text of RESOLUTION NO. _____, is reproduced as follows:

WHEREAS, the City and County of Honolulu has begun work on the Honolulu High-Capacity Transit Corridor Project, the purpose of which is to design and build a fixed guideway mass transit system for the City; and

WHEREAS, the City and County of Honolulu currently operate and maintain a public transit system comprised of fixed route bus and paratransit operations; and

WHEREAS, the Oahu Metropolitan Planning Organization (OMPO) is conducting an Oahu Mass Transit Joint Operational Feasibility Study as part of the Fiscal Years 2016 and 2017 Overall Work Program; and

WHEREAS, the Oahu Mass Transit Joint Operational Feasibility Study will contain a review of peer municipalities and cities nationally and world-wide regarding potential operating and maintenance alternatives for a combined intermodal public transit system, including but not limited to bus, paratransit and fixed guideway mass transit (rail) system; and

WHEREAS, the Oahu Mass Transit Joint Operational Feasibility Study will ultimately make objective recommendations for the integration and combined operation and maintenance of bus, paratransit and fixed guideway mass transit (rail) in the City and County of Honolulu, with full discussion of the pros and cons associated with the various operational and maintenance alternatives; and

WHEREAS, it would be in the best interest of the residents and taxpayers of the City and County of Honolulu to receive information from peer municipalities and cities nationally and world-wide regarding potential operating and maintenance alternatives for a combined intermodal public transit system before deciding, via Committee to be established, on the governance details and timing of the municipal public transportation entity; now, therefore,

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

1. That it propose, and is hereby proposed, that the following question be placed on the 2016 general election ballot:

“Shall the Revised City Charter be amended to combine all modes of public transit in the City and County of Honolulu, including but not limited to bus, paratransit and fixed guideway mass transit (rail), under one municipal transportation entity responsible for the operations and maintenance of an intermodal public transit system?”

2. That it propose and it is hereby proposed, that a new Article be added to the Revised Charter of the City and County of Honolulu 1973, as amended, to read as follows:

ARTICLE _____
MUNICIPAL TRANSPORTATION ENTITY

Section ____-101. Organization —

There shall be a municipal transportation entity established in the City and County of Honolulu responsible for the operations and maintenance of an intermodal public

transit system, including but not limited to bus, paratransit and fixed guideway mass transit (rail).

Section ___-102. Committee Regarding the Establishment of a Municipal Transportation Entity —

1. There shall be a Committee, consisting of nine members, four of whom shall be appointed by the Mayor and four of whom shall be appointed by the City Council, with the ninth member from the Oahu Metropolitan Planning Organization (OMPO) selected by a majority vote of the Mayoral and City Council appointees to the Committee.
2. The members appointed by the Mayor and City Council shall have at least three years of transportation, transit, operations, maintenance and/or finance experience.

Section ___-103. Powers, Duties and Functions of the Committee Regarding the Establishment of a Municipal Transportation Entity—

1. The Committee shall be formed no later than six months after voters approve the establishment of a Municipal Transportation entity and shall cease to exist one year after committee formation.
2. The Committee shall receive the report of the Oahu Mass Transit Joint Operational Feasibility Study, conduct such other fact-finding as appropriate and make recommendations to the Mayor and City Council regarding governance details and general powers of the Municipal Transportation entity including, but not limited to:
 - (a) Recommended form of the entity overseeing intermodal public transit operations and maintenance, i.e., office, agency, authority, department, etc.;
 - (b) Recommended leadership structure of the entity including, but not limited to, executive director, deputy director(s), board of directors, citizens advisory committee, etc. and qualifications and terms thereof;
 - (c) Recommended powers, duties and functions of the entity and leadership structure;
 - (d) Recommended transfer of functions and/or personnel to the entity, including the extent to which any such transfer shall or shall not affect the status, position, compensation, pension or retirement rights and privileges of any civil service employees who engaged in the performance of a function or duty transferred to another office, agency, authority or department pursuant to this measure;
 - (e) Recommended power and authority of the entity over matters including, but not limited to, operations, maintenance, management, supervision, use, and control of all property, as well as the real, personal, and financial assets of the entity;
 - (f) Recommended power and authority of the entity over personnel/labor including, but not limited to, the extent to which the entity is subject to and governed by the rules of the civil service system and the powers and duties vested in the City Department of Human Resources and the Director of the Department of Human Resources;
 - (g) Recommended power and authority of the entity over contracting, leasing and purchasing by the entity;

- (h) Recommended power and authority of the entity to enter into such arrangements and agreements for the joint, coordinated, or common use with any other public entity owning or having jurisdiction over rights-of-way, tracks, structures, roadways, stations, terminals, transit centers, maintenance facilities, and electrical power facilities, if any;
- (i) Recommended power and authority of the entity to make, fix, set and/or propose fares or fare increases for the individual and/or collective components of the intermodal public transit system;
- (j) Recommended power and authority of the entity to make, fix, set and/or propose all other non-fare rates, fees, and charges for services provided by the entity;
- (k) Recommended power and authority of the entity to establish or abandon a transit route and set policies and procedures governing the operation of the public transit system;
- (l) Recommended power and authority of the entity and/it's attorneys to compromise, settle, or dismiss any litigation, legal proceedings, claims, demands or grievances which may be pending for or on behalf of, or against the entity relative to any matter or property under the entity's jurisdiction;
- (m) Recommended power and authority of the entity over funds, including the establishment of a fund to provide a predictable, stable, and adequate level of funding for the entity and its operations and capital improvement program;
- (n) Recommended source of funds, including revenue from the operation of the municipal public transit system, state and federal funds and any other funds necessary for the support of the municipal public transportation entity;
- (o) Recommended budget process for the entity including, but not limited to, the extent to which the entity shall submit its proposed budget for the fiscal year to the Mayor and the City Council for their review, consideration and/or approval;
- (p) Any and all other such recommendations the Committee believes appropriate and necessary for the good order and functioning of the municipal transportation entity.

Section ___-104. Implementation of the Municipal Transportation Entity —

Upon receiving the recommendations of the Committee regarding the establishment of a municipal transportation entity, the City Council shall stand up the entity via Ordinance no later than one year prior to the anticipated operation of the fixed guideway mass transit (rail) system.

ARTICLE XVII - PUBLIC TRANSIT AUTHORITY

Section 17-103. Powers, Duties, and Functions –

1. The public transit authority shall have authority to develop, [operate, maintain] and/or expand the city fixed guideway system as provided in this article.
2. To perform its duties and functions, the transit authority shall have the following general powers:
 - (a) To make and execute contracts, project labor agreements and other instruments requiring execution by the authority on such terms as the authority may deem necessary and convenient or desirable with any person

or entity in the execution and performance of its powers, duties and functions.

- (b) To acquire by eminent domain, purchase, lease or otherwise, in the name of the city, all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the fixed guideway system; provided, however that prior to commencing such action, the authority shall submit to the council, in writing, a list of the parcels and areas to be acquired. The authority shall have the right to proceed with such condemnation action so long as the council does not adopt a resolution objecting to the condemnation within 45 days of such notification. Alternatively, after receipt of the notice from the authority, the council may approve, upon a single reading of a resolution, such acquisition by eminent domain.
- (c) To recommend to the council the sale, exchange or transfer of real property or any interest therein which is under the control of the authority. The council shall take no action to dispose of such property without the written approval of the authority, and all proceeds from the disposition shall be deposited into funds of the authority or fixed guideway system.
- (d) To direct the planning, design, and construction of the fixed guideway system [and operate and maintain the system thereafter].
- (e) To establish all [fares,] fees[,] and charges for the development and/or expansion of the fixed guideway system.
- (f) To maintain proper accounts in such manner as to show the true and complete financial status of the authority and the results of management and operation thereof.
- (g) To prepare annual operating [and capital] budgets for the authority and capital budgets for the fixed guideway system[and the authority].
- (h) To make and alter policies for its organization and internal administration.
- (i) To create or abolish positions within the authority and establish a pay plan for those persons holding positions in the position classification plan in accordance with Section 6-1109 of this charter.
- (j) To make temporary transfers of positions between subdivisions of the authority.
- (k) To adopt rules in accordance with state law, when necessary, to effectuate its functions and duties.
- (l) To enter into agreements with any public agency or private entity as it deems proper, including agreements for the joint use or operation of transit facilities with agencies of the city.
- (m) To have full and complete control of all real and personal property used or useful in connection with the development and/or expansion of the fixed guideway system, including all materials, supplies, and equipment.
- (n) To promote, create and assist transit oriented development projects near fixed guideway system stations that promote transit ridership, and are consistent with the intent of the adopted community plans and zoning.
- (o) To apply for and receive and accept grants of property, money and services and other assistance offered or made available to it by any person, government or entity, which it may use to meet capital [or operating] expenses and for any other use within the scope of its powers, and to negotiate for the same upon such terms and conditions as the authority may determine to be necessary, convenient or desirable.

- (p) In addition to the general powers under this subsection, other general or specific powers may be conferred upon the authority by ordinance, so long as the powers are consistent with this article of the charter.
3. The public transit authority shall have no authority, power, duty, or function with respect to the intermodal operation of public transit systems, including but not limited to bus, paratransit and fixed guideway systems.

Section 17-104. Powers, Duties and Functions of the Executive Director –

The executive director shall:

- (a) Administer all affairs of the authority, including the rules, regulations and standards adopted by the board.
- (b) Have at least five years of fixed guideway system experience or five years of transit and transportation experience.
- (c) Sign all necessary contracts for the authority, unless otherwise provided by this article.
- (d) Recommend to the board the creation or abolishment of positions.
- (e) Enforce the collection of [fares,] tolls, rentals, rates, charges and other fees associated with the development and/or expansion of the fixed guideway system.
- (f) Prepare payrolls and pension rolls.
- (g) Maintain proper accounts in such manner as to show the true and complete financial status of the authority and the results of management and operation thereof.
- (h) Prepare annual [operating and] capital budgets.
- (i) Prepare and maintain a six-year capital program.
- (j) Prescribe rules and regulations as are necessary for the organization and internal management of the authority.
- (k) Recommend rules and regulations for adoption by the board.
- (l) Request, and accept appropriations from the city, and request and accept grants, loans and gifts from other persons and entities.
- (m) Administer programs promoting appropriate developments near transit stations, including compilation of city incentive programs.
- (n) Review development projects having significant impact on the development, expansion and/or future operation of the fixed guideway system.
- (o) Plan, administer and coordinate capital programs and projects of the fixed guideway system that are proposed to be funded, wholly or partially, under federal or state law and required to be transmitted to the Oahu metropolitan planning organization.
- (p) Attend all meetings of the board unless excused.
- (q) Have no authority, power, duty, or function with respect to the intermodal operation of public transit systems, including but not limited to bus, paratransit and fixed guideway systems.
- (r) ([q] r) In addition to the general powers under this section, other general or specific powers may be conferred upon the executive director by ordinance, so long as the powers are consistent with this article of the charter.

Section 17-105. Board of Directors –

1. The board shall:

- (a) Be the policy making body of the authority;

- (b) Be responsible for establishing policies for the development[, operation, and maintenance] and/or expansion of the [public transit] fixed guideway system; [and]
- (c) Perform other duties and functions assigned to it or to the authority by ordinance in accordance with Section 17-103.3(j)[.]; and
- (d) Have no authority, power, duty, or function with respect to the intermodal operation of public transit systems, including but not limited to bus, paratransit and fixed guideway systems.

The board shall consist of ten members, nine voting members and one non-voting member. All members shall serve part-time. The board shall be governed by the provisions of Section 13-103 of this charter, except that subsections (b) and (e) shall not apply and as otherwise provided herein.

2. Appointed members. There shall be seven appointed members. The mayor shall appoint three members. The council shall appoint three members. The six appointed and two ex officio voting members shall appoint, by majority vote, a ninth member. The initial appointments of the seven appointed members shall be as follows: One member from each mayoral or council appointment shall be designated to serve a five-, four-, and three year term. The ninth member appointed by the voting members shall serve a two-year term.
3. Ex officio members. The state director of transportation and the city director of transportation services shall be ex officio voting members of the board. The director of the department of planning and permitting shall be the ex officio non-voting member of the board. The ex officio members of the board shall not be subject to any term limit.

Section 17-106. Rates, Revenues and Appropriations –

For other than the operation and maintenance of the fixed guideway system, [T]the board shall fix and adjust reasonable rates and charges for the fixed guideway system so that the revenues derived therefrom, in conjunction with revenues received from the general excise and use tax surcharge, from the federal government, and from the revenue-generating properties of the authority, shall be sufficient or as nearly sufficient as possible, to support the development and/or expansion of the fixed guideway system and the authority. For other than the operation and maintenance of the fixed guideway system, [T]the authority shall submit a line-item appropriation request for each of its proposed operating and capital budgets for the ensuing fiscal year to the council through the office of the mayor by December 1st of each year. The office of the mayor shall submit the authority's line-item appropriation requests without alteration or amendment. The council shall, with or without amendments, approve the authority's appropriation requests.

Section 17-107. Public Hearings –

For other than the operation and maintenance of the fixed guideway system, [T]the board shall hold public hearings prior to fixing and adjusting rates and adopting a proposed budget.

Section 17-108. Receipt and Disbursement of Funds –

For other than the operation and maintenance of the fixed guideway system, [T]the authority shall make its own collections, but all receipts shall be paid daily into the city treasury and maintained in a fund separate and apart from any other funds of the city.

All moneys expended by the authority shall be disbursed with the written approval of the authority according to the procedures prescribed by the director of budget and fiscal services.

The authority shall have management and control over the moneys made available to the authority in the special transit fund established to receive the county surcharge on state tax. The authority shall have the authority to receive and expend federal funds authorized for the planning [,] and construction [, and operation and maintenance] of fixed guideway system projects.

Section 17-114. Transit Fund –

For other than the operation and maintenance of the fixed guideway system, [T]there shall be established a special fund into which shall be transferred the county surcharge on state tax and all revenues generated by the fixed guideway system, including interest earned on the deposits and all other receipts dedicated for the fixed guideway system. All moneys collected from the county surcharge on state excise and use tax and received by the city shall be promptly deposited into the special fund. Expenditures from the special fund shall be for the operating [or capital] costs of the authority or capital costs of the fixed guideway system and for expenses in complying with the Americans with Disabilities Act of 1990 as it may be amended.

CHAPTER 17 - DEPARTMENT OF TRANSPORTATION SERVICES

Section 6-1703. Powers, Duties and Functions –

1. The director of transportation services shall:
 - (a) Plan, operate and maintain transportation systems, including bikeways, except for activities relating to the city's [fixed guideway mass transit system] public transit systems, including but not limited to bus, paratransit and fixed guideway systems,* to meet public transportation needs, in accordance with the general plan and development plans, and advise on the design and construction thereof.
 - (b) Locate, select, install and maintain traffic control facilities and devices.
 - (c) Provide educational programs to promote traffic safety.
 - (d) Establish a steel wheel on steel rail transit system, provided that nothing in this subsection shall preclude the director from utilizing technologies other than steel wheel on steel rail technology to complement or extend the rail transit system.
 - (e) Promulgate rules and regulations pursuant to standards established by law.
2. The director of transportation services shall have no independent power, duty, or function with respect to transportation systems, facilities, or programs which are under the jurisdiction of the public transit authority established under Article 17 of the Revised City Charter, except as to his or her position as an ex officio voting member of the board.

*Revision note: Text inserted based upon Resolution No. 09-252, CD1, to address citation error.

Section 6-1705. Powers, Duties and Functions –

1. The transportation commission shall:
 - (a) Adopt rules for the conduct of its business.

- (b) Evaluate at least annually the performance of the director of transportation services and, if appropriate, make recommendations to address the results of the evaluation.
 - (c) Review and make recommendations on rules concerning the administration and operation of the department of transportation services.
 - (d) Review and make recommendations on the annual budget prepared by the director of transportation services.
 - (e) Receive, review, and make recommendations on complaints regarding the systems, programs, and facilities under the department of transportation services.
 - (f) [(f) Recommend changes to the public transit fare structure when deemed necessary and appropriate.]
 - (g) [(g) f] Review and make recommendations concerning the performance of public transit and other transportation system contractors under the jurisdiction of the department of transportation services.
 - (h) [(h) g] Submit an annual report to the mayor and council. The commission shall make the recommendations authorized under this subsection to the director of transportation services, mayor, and council.
2. Except for purposes of inquiry, neither the transportation commission nor its members shall interfere in any way with the administrative affairs of the department of transportation services

Ramseyer format:

- **AMENDING AN EXISTING CHARTER PROVISION:** Indicate by underscoring, any language being proposed to be added to the Charter and indicate by [bracketing], any language being proposed to be deleted from the Charter.
 - **REPLACING AN EXISTING CHARTER PROVISION:** [Bracket] the article, chapter, or section of the Charter proposed to be deleted, and underscore the text of any provision proposed to replace the deleted material.
 - **ADDING A NEW CHARTER PROVISION:** Provide the text of the new provision and, if possible, indicate where in the Charter the new material should be added.
6. If this proposal is being submitted by an organization, please indicate the organization. If it is being submitted by an individual, please indicate the individual's first and last name.*

City and County of Honolulu, Office of the Managing Director

7. Please include the address, phone number, and email of the organization or individual from Item 6 above, if you would like to be contacted.*

Roy K. Amemiya, Jr.
Managing Director
City and County of Honolulu
530 South King Street
Honolulu, Hawaii 96813
(808) 768-4275

*Responses to Items 6 and 7 are optional; however, providing responses to these items will help the Commission's deliberations, especially when additional information or research is required. Please be aware that these document will be part of the public record and available to the public.

All proposals must be submitted by **October 31, 2015**.

You may submit your proposal by:

- Filling the form online and uploading documents, if any; or
- Submitting your completed form and any attachments by mail or email:

✓ Mail to:
2015-2016 Charter Commission
City and County of Honolulu
530 South King Street, Room 501
Honolulu, Hawaii 96813

✓ Email to:

cclcharter@honolulu.gov

Thank you for participating in the 2015-2016 Honolulu Charter Commission process!