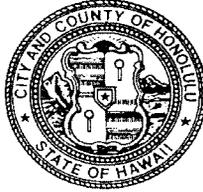


DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

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MUFI HANNEMANN  
MAYOR



NOEL T. ONO  
ACTING DIRECTOR

January 13, 2010

The Honorable Todd K. Apo, Chair  
and Members  
Honolulu City Council  
530 South King Street, Room 202  
Honolulu, Hawaii 96813

Dear Chair Apo and Councilmembers:

Subject: Resolution 09-336, Proposed CD1 – Charter Amendment  
Relating to Conflicts of Interest of City Officers

We believe that Resolution 09-336, proposed CD1, is a well-intended resolution which, unfortunately, may have adverse effects. Therefore, we cannot support the measure at this time.

Under the proposed amendment, officers would be precluded from participating in or making any decisions on City matters for a period of twelve months as long as they had been involved with the matter while previously employed with a private entity. While we recognize the resolution has a procedure for seeking a waiver of the prohibition and limits the prohibition to situations where the officer's independence of judgment may tend to be impaired, we believe the resolution would still work to discourage qualified individuals from applying for key City jobs. For instance, a potential employee may presume that his/her work responsibilities will be severely restricted and, therefore, choose not to apply. At the same time, the term "city matter" is open to broad interpretation and may add to the individual's perception that his/her work will be limited. This could effectively eliminate those with the most recent and relevant experience from even applying or being considered.

In addition, it is our view that this measure is about trust and character. The Mayor, in selecting a department head, considers not just general qualifications for the job, but also considers whether this individual can be trusted to perform his/her duties in the best interest of the public. The resolution would substitute the Ethics Commission's judgment for that of the Mayor, who is directly accountable to the taxpayers.

We also believe the resolution is unnecessary because the concerns expressed in the resolution are already addressed under current laws and procedures. For example, Section 11-102 of the Revised Charter of the City and County of Honolulu 2000 Edition (2003 Supp.)

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("RCH") specifically prohibits officers and employees from engaging in any activity which is incompatible with the proper discharge of such person's official duties or which may tend to impair the independence of judgment in the performance of such duties. That same section further prohibits officers and employees from disclosing confidential information or using such information for personal gain or benefit of anyone. Likewise, RCH Section 11-104 prohibits officials and employees from using their positions to grant special treatment or advantage to any person. The Ethics Commission also has a process and form for City officials to use to report conflicts of interest and it is our understanding the forms are considered public record.

The proposed CD1 version of this resolution would prohibit the City from employing an elected State or federal official during their term of office. We do not agree with the provisions which would treat this group of individuals differently from other prospective employees based solely on their having been elected to office. We note that an elected official hired for a City job would be subject to the same safeguards referenced above and the hiring department would evaluate—on an individual basis—whether or not the duties of the employee's elective office would conflict with the specific City job. The City experienced a recent case of a legislator working for the City. It was reported that the Attorney General's Office and the City's Ethics Commission both found that the legislator's City employment in the specific job for which she was hired was not in conflict with her legislative duties. The resolution appears to express concerns regarding the possible conflict for the individual in their legislative capacity. We believe that issue is better addressed by the respective legislative body and again as noted above, the City already has its own safeguards to protect the City. It should also be noted that this charter provision once restricted the employment of any State or federal employee, but this changed when voters approved an amendment in 1992 to permit the employment of these individuals.

In light of the foregoing, I urge you to hold this resolution and not pass it.

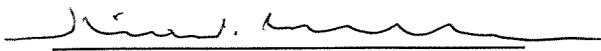
Thank you for the opportunity to testify on this matter.

Yours truly,



Noel T. Ono  
Acting Director

APPROVED:

  
Kirk W. Caldwell, Managing Director