

NOTICE TO REQUESTER

TO: Ralph Cushnie <request+ee6m2stvge@foi.uipa.org>
(Requester's name)

FROM: Elections Division / Office of the County Clerk / County of Kauai <elections@kauai.gov>
(Agency, and agency contact person's name, telephone number, mailing, & email address)

DATE THAT THE RECORD REQUEST WAS RECEIVED BY AGENCY: 5/20/2024

DATE OF THIS NOTICE: 5/30/2024

GOVERNMENT RECORDS YOU REQUESTED (attach copy of request or provide brief description below):

1. 2022 General Election Certification of Results
- 2.
- 3.
- 4.

THIS NOTICE IS TO INFORM YOU THAT YOUR RECORD REQUEST:

Will be granted in its entirety.

Cannot be granted. Agency is unable to disclose the requested records for the following reason:

- Agency does not maintain the records. (HRS § 92F-3)
Other agency that is believed to maintain records: _____
- Agency needs further clarification or description of the records requested. Please contact the agency and provide the following information: _____
- Request requires agency to create a summary or compilation from records, but requested information is not readily retrievable. (HRS § 92F-11(c))

Will be granted in part and denied in part, OR Is denied in its entirety
Although the agency maintains the requested records, it is not disclosing all or part of them based on the exemptions provided in HRS § 92F-13 and/or § 92F-22 or other laws cited below.
(Describe the portions of records that the agency will not disclose.)

RECORDS OR
INFORMATION WITHHELD

APPLICABLE
STATUTES

AGENCY
JUSTIFICATION

REQUESTER'S RESPONSIBILITIES:

You are required to (1) pay any lawful fees and costs assessed; (2) make any necessary arrangements with the agency to inspect, copy or receive copies as instructed below; and (3) provide the agency any additional information requested.

For questions about this notice or the records being sought, please ask the agency's contact person named at the top of this form. Also, please submit your payment, if any, to the agency at the address listed at the top of this form. **DO NOT SEND YOUR PAYMENT** to the Office of Information Practices (OIP) unless you are requesting records directly from OIP.

If you do not comply with the requirements set forth in this notice within 20 business days after the postmark date of this notice or the date the agency makes the records available, you will be presumed to have abandoned your request and the agency shall have no further duty to process your request. Once the agency begins to process your request, you

may be liable for any fees and costs incurred. If you wish to cancel or modify your request, you must advise the agency upon receipt of this notice.

Please note that the Office of Information Practices (OIP) does not maintain the records of other agencies, and a requester must seek records directly from the agency it believes maintains the records. If the agency denies or fails to respond to your written request for records or if you have other questions regarding compliance with the UIPA, then you may contact OIP at (808) 586-1400, oiip@hawaii.gov, or 250 South Hotel Street, Suite 107, Honolulu, Hawaii, 96813.

METHOD & TIMING OF DISCLOSURE:

Records available for public access in their entireties must be disclosed within a reasonable time, not to exceed 10 business days from the date the request was received, or after receipt of any prepayment required. Records not available in their entireties must be disclosed within 5 business days after this notice or after receipt of any prepayment required. HAR § 2-71-13(c). If incremental disclosure is authorized by HAR § 2-71-15, the first increment must be disclosed within 5 business days of this notice or after receipt of any prepayment required.

Method of Disclosure:

- Inspection at the following location: _____
- As requested, a copy of the record(s) will be provided in the following manner:
 - Available for pick-up at the following location: _____
 - Will be mailed to you.
 - Will be transmitted to you by other means requested: Ralph Cushnie <request+ee6m2stvge@foi.uipa.org>

Timing of Disclosure: All records, or the first increment if applicable, will be made available or provided to you:

- On 5/30, 2024.
- After **prepayment** of 50% of fees and 100% of costs, as estimated below.

For incremental disclosures, each subsequent increment will be disclosed within 20 business days after:

- The prior increment (if one prepayment of fees is required and received), or
- Receipt of each incremental prepayment, if prepayment for each increment is required.

Records will be disclosed in increments because the records are voluminous and the following extenuating circumstances exist:

- Agency must consult with another person to determine whether the record is exempt from disclosure under HRS chapter 92F.
- Request requires extensive agency efforts to search, review, or segregate the records or otherwise prepare the records for inspection or copying.
- Agency requires additional time to respond to the request in order to avoid an unreasonable interference with its other statutory duties and functions.
- A natural disaster or other situation beyond agency's control prevents agency from responding to the request within 10 business days.

ESTIMATED FEES & COSTS AND PAYMENT:

FEES: For personal record requests under Part III of chapter 92F, HRS, the agency may charge you for its costs only, and fee waivers do not apply.

For public record requests under Part II of chapter 92F, HRS, the agency is authorized to charge you fees to search for, review, and segregate your request (even if a record is subsequently found to not exist or will not be disclosed in its entirety). The agency must waive the first \$30 in fees assessed for general requesters, OR in the alternative, the first \$60 in fees when the agency finds that the request is made in the public interest. Only one waiver is provided for each request. See HAR §§ 2-71-19, -31 and -32.

COSTS: For either personal or public record requests, the agency may charge you for the costs of copying and delivering records in response to your request, and other lawful fees and costs.

PREPAYMENT: The agency may require prepayment of 50% of the total estimated fees and 100% of the total estimated costs prior to processing your request. If a prepayment is required, the agency may wait to start any search for or review of the records until the prepayment is received by the agency. Additionally, if you have outstanding fees or costs from previous requests, including abandoned requests, the agency may require prepayment of 100% of the unpaid balance from prior requests before it begins any search or review for the records you are now seeking.

The following is an itemization of what you must pay, based on the estimated fees and costs that the agency will charge you and the applicable waiver amount that will be deducted:

For public record requests only:

Fees: Search	Estimate of time to be spent: _____ hours (\$2.50 for each 15-minute period)	\$
Review & segregation	Estimate of time to be spent: _____ hours (\$5.00 for each 15-minute period)	\$
Fees waived	<input type="checkbox"/> general (\$30), OR <input type="checkbox"/> public interest (\$60) (Only one waiver per request)	<\$ _____>
Other	_____	\$
	(Pursuant to HAR §§ 2-71-19 & 2-71-31)	
Total Estimated Fees:		\$ 0.00

For public or personal record requests:

Costs: Copying	Estimate of # of pages to be copied: _____ (@ \$ _____ per page, pursuant to HRS § 92-21)	\$
Delivery	Postage	\$
Other	_____	\$
Total Estimated Costs:		\$ 0.00

TOTAL ESTIMATED FEES AND COSTS from above: **\$ 0.00**

The estimated fees and costs above are for the first incremental disclosure only. Additional fees and costs, and no further fee waivers, will apply to future incremental disclosures.

PREPAYMENT IS REQUIRED (50% of fees + 100% of costs, as estimated above) **\$**

UNPAID BALANCE FROM PRIOR REQUESTS (100% must be paid before work begins) **\$**

TOTAL AMOUNT DUE AT THIS TIME **\$ 0.00**

Payment may be made by: cash
 personal check payable to _____
 other _____

Submit your payment to the agency at the address listed at the beginning of this form, including the name of the agency's contact person.

**CERTIFICATE OF RESULTS
2022 CHARTER AMENDMENTS
COUNTY OF KAUAI**

I, Jade K. Fountain-Tanigawa, County Clerk of the County of Kaua'i, do hereby certify that the following Charter Amendments were duly adopted by a majority of votes cast on the questions at the General Election held on Tuesday, November 8, 2022, in the County of Kaua'i:

RELATING TO PROSECUTOR VACANCY

“Shall the County Charter be amended to require that future elections for Prosecuting Attorney occur at the same time as the County’s regularly scheduled elections?”

YES 19,551
NO 2,099

Article IXA, Section 9A.05 of The Charter of the County of Kaua'i is amended to read as follows:

Note: Charter material to be repealed is bracketed and stricken. New Charter material is underscored.

Section 9A.05. Vacancy in Office. A vacancy in the office of prosecuting attorney shall be filled in the following manner:

A. ~~[If the unexpired term is less than eighteen months, the first deputy shall act as prosecuting attorney.]~~ If the vacancy occurs more than three days prior to the closing date for filing of nomination papers for the mid-term election, the position will be filled with a special primary election and special general election held in conjunction with the mid-term election. The first deputy prosecutor shall serve until the winner of that election is seated as prosecutor. If the position of first deputy is vacant or if the first deputy is unable to ~~[se-act]~~ serve, the mayor with the approval of the county council shall within 30 days of the vacancy or as soon thereafter as possible, [fill the vacancy by appointment of a person with requisite qualifications within thirty days after the occurrence of the vacancy] appoint a qualified prosecuting attorney to serve until a new elected prosecutor is seated. (Amended 2020)

B. ~~[If the unexpired term is for eighteen months or more, or in the event the person elected as prosecutor dies before taking office or is unable to qualify, then the vacancy shall be filled by a special primary election and a special general election, patterned after the primary and general election laws of the state, insofar as applicable. The special primary election shall be called by the council and held within forty-five days after the occurrence of the vacancy. The special general election shall be held thirty days after the special primary election. Pending a special election, the first deputy shall act as prosecuting attorney.]~~ If the vacancy occurs later than three days prior

to the closing date for filing of nomination papers for the mid-term election, the first deputy prosecutor shall serve for the remainder of the term. If the first deputy position is vacant or if the first deputy is unable to serve, then the mayor, with the approval of the county council, shall, within 30 days of the vacancy or as soon thereafter as possible, appoint a qualified prosecuting attorney to serve until a new elected prosecutor is seated. (Amended 1972)

RELATING TO ELECTRIC POWER AUTHORITY

“Shall the Charter be amended to remove Article 30 which allows the County Council to create an electric power corporation?”

YES 10,785
NO 9,211

Article XXX, of The Charter of the County of Kaua‘i is amended to read as follows:

Note: Charter material to be repealed is bracketed and stricken. New Charter material is underscored.

[ARTICLE XXX

~~ELECTRIC POWER AUTHORITY~~

Section 30.01. ~~Electric Power Authority.~~ ~~The council may establish by ordinance an electric power authority corporation for the county, which shall be a body corporate, and shall be responsible for the planning, development, production, purchase, transmission, and distribution of all electricity related services by the county.~~

~~If established by ordinance, all provisions of this article XXX shall be included in the ordinance and no ordinances shall be enacted and no administrative rules shall be adopted, which either expressly or by implication conflict with the provisions of this article.~~

~~Sections 30.02 through 30.06 of this article shall be effective thirty calendar days from and after the enactment of an ordinance establishing an electric power authority for the County of Kaua‘i.~~

~~If established by ordinance, the authority shall operate as a separate unit of county government, except as otherwise provided in this charter. The authority shall be free from the jurisdiction, direction, and control of other county officers and of the council.~~

~~Notwithstanding any provision in the charter to the contrary, the council may by ordinance enact any further provisions it deems necessary to implement this article including, but not limited to, provisions concerning the power authority's powers, duties, and liabilities, its organization and governing structure, the manner in which officers and employees are elected, appointed, or employed, and the manner in which rates are set and the authority's revenues are utilized.~~

~~**Section 30.02. Board of Directors of the Electric Power Authority.** There shall be a board of directors of the electric power authority, which shall have exclusive jurisdiction, control, and policy making responsibility over the authority and all of its operations and facilities.~~

~~The board shall have and may exercise all rights, powers, duties, privileges, and immunities possessed by the county, which are or may be secured by law including, but not limited to, all powers and duties possessed by the county to construct, acquire, expand, and operate the utility, and to do any and all acts or things that are necessary, convenient, or desirable in order to operate, maintain, enlarge, extend, preserve, and promote an orderly, economic, and business-like administration of the utility.~~

~~The board shall adopt articles of incorporation and by laws consistent with all provisions of this article. Such articles and by laws may be amended from time to time by the board; however, any such amendments shall be consistent with all provisions of this article. Such articles and by laws shall also include provisions as are customary to set forth both the corporation's purpose and nature and the procedural matters necessary for its governance.~~

~~The board shall operate as a separate unit of county government, except as otherwise provided in this charter. Both the board and the authority shall be free from the jurisdiction, direction, and control of other county officers and of the council.~~

~~The board may sue or be sued in its own name. All liability for damage claims arising from the operations of the board and the authority shall be the responsibility of and be liquidated by the board from the appropriate funds of the authority.~~

~~**Section 30.03. Organization of the Board.**~~

~~A. Number of directors. The board shall consist of seven directors, one of whom shall be the chief executive officer of the authority, and six of whom shall be elected at large. All seven directors shall be voting members of the board. Charter section 7.05K shall not apply to this article.~~

~~B. Election and tenure of directors.~~

~~1. Directors elected at large. Directors elected at large shall be elected at the next regularly scheduled general election after the enactment of the ordinance creating the authority.~~

~~2. Subject to the provision in paragraph D of this section that the terms of the first directors who have no licensing or education and experience qualification requirements shall be two years, all directors shall serve terms of four years, unless they die, resign, or are removed from office pursuant to paragraph D of this section. The terms of all elected directors shall begin at twelve o'clock meridian on the first working day of December following their election.~~

~~3. Term limits of directors. No elected director shall serve as director for more than two consecutive full terms.~~

~~C. Vacancies. Vacancies shall be filled by the board for the unexpired term. No vacancy on the board shall impair the right of the remaining directors to exercise all the powers of the board.~~

~~D. Qualifications. All persons seeking positions as elected directors shall, upon filing for their candidacies, be citizens of the United States and registered voters in the county. In addition, three of the six elected directors shall possess the following additional qualifications upon filing for their candidacies.~~

~~Three of the six elected directors must either:~~

~~(1) Have been licensed by any state in the United States for a minimum of five years in engineering, accountancy, or law; or~~

~~(2) Have an undergraduate or graduate degree in business management or business administration from a university or college within the United States accredited by the Middle States Association of Colleges and Schools, North Central Association of Colleges and Schools, New England Association of Schools and Colleges, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or the Western Association of Schools and Colleges and have worked in the field of business management or business administration for a minimum of five years.~~

~~All persons seeking positions as elected directors shall specify in their nomination papers whether they are seeking to be elected for one of the three director positions which have licensing or education and experience qualification requirements, or the director position which has no such qualification requirements.~~

~~All persons seeking director positions which have licensing or education and experience qualification requirements shall execute an affidavit stating that the applicant has satisfied the qualification requirements for those positions. The person~~

~~shall swear to the truth of the allegations by self-subscribing oath in the affidavit. The county clerk shall prescribe the form of the affidavit. If the clerk so desires or believes it to be expedient, the clerk may demand that the person furnish substantiating evidence to the allegations in the person's affidavit. If the clerk determines that any person has not satisfied the licensing or education and experience requirements of this paragraph D, the person shall be deemed unqualified for the position sought.~~

~~With respect to any director elected to fill a position having licensing or education and experience requirements, the following rule shall apply. If, at any time, it is learned that any such director has not satisfied these requirements, the board shall immediately remove the director from office. Any vacancies arising from such a removal shall be filled by the board for the unexpired term; provided that all persons appointed by the board as a result of such a removal shall satisfy, at the time of their appointment, the qualification requirements for such elected directors.~~

~~For the director positions which have no licensing or education and experience qualification requirements, the three candidates receiving the highest number of votes shall be elected to those three positions. The terms of the first directors who have no licensing or education and experience qualification requirements shall be two years.~~

~~For the three director positions which have licensing or education and experience qualification requirements, the three candidates receiving the highest number of votes shall be elected to those three positions.~~

~~The qualification requirements of this paragraph D shall not apply to the chief executive officer of the authority.~~

~~No director may hold any county office, be an officer or employee of the county government, or have been an officer or employee of county government within twelve months of the date that the director's term of office is effective. No director may conduct any business whatsoever with the authority.~~

~~A director convicted of the commission of a felony shall be removed from office when convicted of the felony.~~

~~E. Officers. The board by majority vote shall elect from among its members a chair who shall preside over the meetings of the board, and a vice chair who shall act for the chair during absences, and may elect from among its members one or more vice presidents, a secretary and a treasurer, and assistant secretaries and treasurers. The board shall prescribe and may amend the duties of all such officers.~~

~~Election of officers shall be held at the first regular meeting at which all members are present following the appointment or election of a new director for a full term, but not later than the second meeting following the appointment or election.~~

~~F. Meetings. The board shall take no action except by the affirmative vote of at least four directors, who shall constitute a quorum.~~

~~The board shall meet at least once each month at such times as the board may prescribe.~~

~~Except where meetings closed to the public are permitted under applicable law, all board meetings shall be open to the public. Agendas shall be posted pursuant to applicable law.~~

~~G. Errors and omissions. The authority shall hold harmless and indemnify its director, chief executive officer, agents, and employees to the full extent permitted by law, including, but not limited to, all liabilities, expenses, and losses incurred by its directors, chief executive officer, agents, and employees in connection with acts of error or omissions, other than willful violations of laws, committed within the scope of their duties, and shall defend, at the authority's expense, all related claims and suits.~~

~~Section 30.04. Organization of the Authority.~~

~~A. Divisions. The authority shall keep separate funds and accounts as required by the uniform systems of accounts for gas, electricity, water, communications, and other utilities, as promulgated by the Hawai'i Public Utilities Commission or the Federal Energy Regulatory Commission.~~

~~B. Policy. The board shall establish an annual budget and written policies governing utility operations to cover such areas as employees' duties, customer rates, service rules and termination procedures, expenditures of funds, long range planning, and other appropriate activities.~~

~~C. Chief executive officer. The board shall appoint and the authority shall employ a president and chief executive officer of the authority who shall be qualified by training and experience for the overall management of the utility. The chief executive officer shall serve according to the terms of an employment contract to be executed between the officer and the board, and shall have such authority as delegated by the board. The salary of the chief executive officer shall be fixed by the board.~~

~~The chief executive officer shall, subject to board approval, (1) determine the number of employees necessary for the operation of the utility, and (2) fix their duties and compensation. The chief executive officer shall have control of all actual construction and repairs, the immediate management of operation of the utility, and the enforcement and execution of all rules and regulations, programs, plans, and decisions made or adopted by the board. The chief executive officer shall maintain suitable permanent records regarding actions taken. The chief executive officer shall prepare plans and specifications, take bids, and let contracts, subject to the approval~~

~~of the board. The chief executive officer shall prepare and submit to the board periodic reports on the utility's compliance with local, state, federal laws in the areas of safety, environmental matters, and civil rights.~~

~~D. Other employees. There shall be such other officers and employees of the authority as may be provided by the board. The officers and employees shall be appointed and removed by the chief executive officer subject to the provisions of applicable local, state, and federal laws or binding contracts entered into with employees and the authority, or both.~~

~~E. Surety bonds. The board may require surety bonds for any of the officers and employees of the authority in such amounts as the board deems necessary. The premiums for the bonds shall be paid by the authority in the same manner as any other operating expense.~~

~~Section 30.05. Powers and Duties of the Board.~~

~~A. Real estate and contracts. The board, in the efficient and economical operation of the authority, may, as state law permits: (1) sell its products and services to the public and private corporations and to other consumers; (2) construct and operate plants and operate distribution system, transmission lines, and other facilities; (3) purchase real estate and franchises; and (4) enter into all contracts, leases, and agreements in furtherance thereof.~~

~~B. Joint operations with others. The board may enter into contracts and agreements with any public or private corporation or any individual, both inside and outside the boundaries of the county and state: (1) for the joint use of property belonging either to the authority or to the other contracting party or jointly to both parties; and (2) for the joint acquisition of real and personal property, rights and franchises, and the joint financing, construction, and operation of plants, buildings, transmission lines, and other facilities.~~

~~C. Eminent domain. The board may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain in like manner as the county, and to the same extent as the county, when the board determines that public necessity or convenience requires such action.~~

~~D. Use of thoroughfares for utility installations. The board may use the ground over, under, or along any road, railway, highway, street, sidewalk, thoroughfare, alley, or waterway in the operations of the authority but shall in all cases and subject to the applicable general regulations of the county and state cause the surface of the public way to be restored to its usual condition.~~

~~E. Rates. The board shall fix rates and other charges to be assessed against each customer class for electrical services rendered by the authority. Rates and other~~

charges for each customer class shall be based on the cost of the service provided and be just, reasonable, compensatory, and without undue preference or discrimination.

~~The board may require reasonable deposits as security for the payment of charges for utility services, and may provide for the return of the deposits when satisfactory consumer credit has been established.~~

~~F. Authorization for expenditures. No money shall be drawn from the funds of the authority nor shall any obligation for the expenditure of money be incurred except in conformity with authorization by the board. No claim against the authority shall be paid unless evidenced by a voucher approved by the chief executive officer, or by some other employee to be designated by the chief executive officer.~~

~~G. Use of utility funds. All utility revenues shall be directed to the provision of utility services and not applied to the general fund of the county, unless the transfer of revenues constitutes a payment in lieu of taxes. Except for those taxes that are assessed pursuant to county, state, or federal law, no other taxes or fees, or both, shall be assessed against the authority. Nothing in this section G shall prohibit the authority from entering into such business arrangements or contracts, or both, with the county as the board may deem advisable.~~

~~H. Bond issues and other indebtedness. Subject to applicable state laws, the board may authorize the issuance and sale of revenue bonds or other types of indebtedness necessary to finance the acquisition, construction, improvement, and extension of the utility facilities owned by the county or authority, including facilities owned or operated jointly with others. Use of general obligation bonds may entail approval by the county council.~~

~~I. Short term indebtedness. The board may borrow money for periods not to exceed three years and may issue negotiable notes, payable from the revenues of the authority, as evidence of the indebtedness. The action of the board may be by resolutions that may be adopted at the same meetings at which the resolutions are introduced and shall take effect immediately upon adoption.~~

~~J. Investment of surplus funds. The board may invest surplus funds of the authority in securities that are deemed safe and as may be authorized by specific action of the board.~~

~~K. Delegation of powers. The board shall retain powers relating to budget approval, rate setting, and long term indebtedness; however, it may from time to time delegate in writing other powers to officers or employees responsible to it, as may be necessary.~~

~~Section 30.06. General Provisions.~~

~~A. Disposition of power authority. The county council shall have no authority to cease to operate, or to sell, lease, abandon, or in any other way dispose of the electric power authority under this article, without first holding a public hearing during which a certified public accountant shall present a report to the county council concerning the revenue that has been earned by the electric power authority throughout the county's ownership, and an analysis of the revenues to be lost by the county through the proposed sale of the electric power authority.~~

~~There shall be two council votes at least six calendar months apart to call a referendum election concerning a sale of the authority. The county shall hold a referendum election which must be passed by a majority of the voters, voting at the election, to approve a sale. The referendum election shall be held at the next regularly scheduled general election.~~

~~B. Existing obligations. Contracts and obligations relating to the electric power authority which were incurred prior to the effective date of sections 30.02 through 30.06 shall not be impaired, and shall be binding upon the board insofar as they apply to the authority.~~

~~C. Repeal of prior county charter provisions and ordinances. All county charter provisions and ordinances and parts of county charter provisions and ordinances inconsistent with any provision of this article are hereby repealed; however, all county charter provisions and parts of county charter provisions that are not inconsistent with any provision of this article including, but not limited to, article XX of the charter, shall apply to this article.~~

~~D. Severability of provisions. If any provision of this article, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the sections, subsections, and parts thereof of this article are severable. (Amended 2002)]~~

RELATING TO SALARY COMMISSION

“Shall the Charter be amended to give the Salary Commission the authority to establish the maximum salary for elected and appointed officials?”

YES 12,520
NO 8,011

Article XXIX, Section 29.03 of The Charter of the County of Kaua'i is amended to read as follows:

Note: Charter material to be repealed is bracketed and stricken. New Charter material is underscored.

Section 29.03. Resolution. The commission’s salary findings shall be adopted by resolution of the commission and forwarded to the mayor and the council on or before March 15 of any calendar year. [~~The resolution shall take effect without the mayor’s and council’s concurrence sixty days after its adoption by the commission unless rejected by a vote of not less than five members of the council. The council may reject either the entire resolution or any portion of it.~~] The resolution shall take effect on July 1 of the same calendar year. The respective appointing authority may set the salary of an appointee at a figure lower than the maximum figure established by the salary commission for the position, provided that elected officers may voluntarily accept a salary lower than the maximum figure established by the salary commission for their position, or forego accepting a salary. (Amended 1988, 2006, 2012)

Līhu‘e, Hawai‘i
January 10, 2023

/s/ JADE K. FOUNTAIN-TANIGAWA
County Clerk, County of Kaua‘i