

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

November 2, 2001

**Committee
Report No.**

01-207

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on October 16, 2001, makes reference to the following:

1. County Communication No. 00-188, from the Council Chair, enabling direct referrals related to the 2001 Maui County Legislative Package to the prior Council's Governmental Relations and Finance Committee; and
2. County Communication No. 01-148, from the Council Chair, enabling direct referrals related to the Maui County Legislative Package to the Committee of the Whole.

Your Committee notes that County Communication No. 00-188 was referred to the prior Council's Governmental Relations and Finance Committee at the Council meeting of July 7, 2000.

At its meeting of November 15, 2000, the Committee recommended that County Communication No. 00-188 be referred to the Council Chair for the term beginning January 2, 2001, for a recommendation as to referral or other disposition.

At its meeting of January 12, 2001, the Council referred County Communication No. 00-188 to your Committee of the Whole (County Communication No. 01-18).

By correspondence dated January 11, 2001, the Council Chair transmitted the draft 2001 Maui County Legislative Package.

By correspondence dated February 12, 2001, the Council Chair transmitted the final 2001 Maui County Legislative Package.

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By correspondence dated August 23, 2001, Councilmember Michael J. Molina transmitted a draft State bill entitled "A BILL FOR AN ACT RELATING TO ROADWAYS AND ROADWAY LOTS" as a proposal for possible inclusion in the 2002 Maui County Legislative Package. The purpose of the bill is to allow each county to authorize its Council to delegate its responsibility to accept the dedication or surrender of roadways and roadway lots.

By correspondence dated September 17, 2001, Councilmember Robert Carroll, transmitted a draft State bill entitled "A BILL FOR AN ACT RELATING TO STATE AND COUNTY TORT LIABILITY" as a proposal for possible inclusion in the 2002 Maui County Legislative Package. The purpose of the bill is to amend Chapter 663 of the Hawaii Revised Statutes, to immunize the State and counties for injuries occurring at public beaches, except when caused by gross negligence or wanton acts.

By correspondence dated October 3, 2001, Councilmember Charmaine Tavares transmitted the following proposals for possible inclusion in the 2002 Maui County Legislative Package:

1. A copy of House Bill No. 2657 (2000), entitled "A BILL FOR AN ACT RELATING TO TRAFFIC FINES".

The purpose of the bill is to allow the counties to impose and collect additional fines for violations of State traffic laws.

2. A draft State bill entitled "A BILL FOR AN ACT RELATING TO REVENUES FROM LIQUOR LICENSE FEES".

The purpose of the bill is to designate a percentage of revenues from liquor license fees for alcohol-abuse prevention and treatment.

By correspondence dated October 10, 2001, your Committee Chair transmitted the proposed 2002 Hawaii State Association of Counties (HSAC) Legislative Package.

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Your Committee notes that the proposed 2002 HSAC Legislative Package consists of the following proposals:

1. A proposal that provides that the State and counties providing lifeguard services or any lifeguard employed by the State or a county shall not be liable for civil damages resulting from providing lifeguard services at any public beach, including any portion of adjacent land or ocean (SB796, SD1, HD1) (2001 Legislative Session);
2. A proposal that exempts counties from the definition of "government agency" except for the procurement code and health and human services contracts. Allows the comptroller to determine a publication on each island to which the public can go to as one source for notices from a government agency (HB1023, SB1448) (2001 HSAC Legislative Package);
3. A proposal that limits counties' liability for injuries to persons participating in hazardous recreational activities, including those who assist the participant and spectators who reasonably should have known that the activity created a substantial risk of injury, for damages or injury arising out of that activity; and provides for exceptions (HB1024, SB1449) (HB1363 Carryover Bill) (2001 HSAC Legislative Package);
4. A proposal that extends to the counties the limitation of liability currently afforded to private landowners who make their land and water areas available to the public for recreational purposes (County of Kauai);
5. A proposal that enables the respective counties to impose and collect fines for violations of the statewide traffic code, in addition to the fines imposed by the State under Chapter 291C, Hawaii Revised Statutes (County of Maui); and

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6. A proposal that designates a percentage of liquor license fees for the funding of education, prevention, and treatment programs designed to address alcohol abuse (County of Maui).

By correspondence dated October 10, 2001, your Committee Chair transmitted status reports for the 2001 Maui County Legislative Package bills.

At its meeting of October 16, 2001, your Committee recessed to October 17, 2001 with no discussion.

At its reconvened meeting of October 17, 2001, your Committee met with the Corporation Counsel.

There being no public testimony, your Committee proceeded with a brief discussion. Your Committee voted to recommend that the 2002 Maui County Legislative Package mirror the proposed 2002 HSAC Legislative Package with the addition of Councilmember Molina's proposal to allow each county to authorize its Council to delegate its responsibility to accept the dedication or surrender of roadways and roadway lots.

Your Committee of the Whole **RECOMMENDS** the following:

1. That the following proposals be **APPROVED** for recommended inclusion in the 2002 Maui County Legislative Package:
 - a. A proposal that provides that the State and counties providing lifeguard services or any lifeguard employed by the State or a county shall not be liable for civil damages resulting from providing lifeguard services at any public beach, including any portion of adjacent land or ocean (SB796, SD1, HD1) (2001 Legislative Session);

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- b. A proposal that exempts counties from the definition of “government agency” except for the procurement code and health and human services contracts. Allows the comptroller to determine a publication on each island to which the public can go to as one source for notices from a government agency (HB1023, SB1448) (2001 HSAC Legislative Package);
 - c. A proposal that limits counties’ liability for injuries to persons participating in hazardous recreational activities, including those who assist the participant and spectators who reasonably should have known that the activity created a substantial risk of injury, for damages or injury arising out of that activity; and provides for exceptions (HB1024, SB1449) (HB1363 Carryover Bill) (2001 HSAC Legislative Package);
 - d. A proposal that extends to the counties the limitation of liability currently afforded to private landowners who make their land and water areas available to the public for recreational purposes;
 - e. A proposal that enables the respective counties to impose and collect fines for violations of the statewide traffic code, in addition to the fines imposed by the State under Chapter 291C, Hawaii Revised Statutes;
 - f. A proposal that designates a percentage of liquor license fees for the funding of education, prevention, and treatment programs designed to address alcohol abuse; and
 - g. A proposal to allow each county to authorize its Council to delegate its responsibility to accept the dedication or surrender of roadways and roadway lots.
2. That a copy of this committee report be TRANSMITTED to the Mayor of the County of Maui; and

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3. That County Communication No. 00-188 be FILED.

Adoption of this report is respectfully requested.

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DAIN P. KANE Chair

PATRICK S. KAWANO Member

G. RIKI HOKAMA Vice-Chair

MICHAEL J. MOLINA Member

ALAN M. ARAKAWA Member

WAYNE K. NISHIKI Member

ROBERT CARROLL Member

CHARMAINE TAVARES Member

JO ANNE JOHNSON Member