

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

October 19, 2010

Committee
Report No. _____

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

Chair and Members:

Your Water Resources Committee, having met on July 13, 2010, August 17, 2010, September 14, 2010, and September 28, 2010, makes reference to the following:

1. County Communication No. 10-119, from the Chair of the Board of Water Supply ("Board"), transmitting a report entitled "Maui County Water Use and Development Plan, Central District, Final Candidate Strategies Report, Report Review Draft, June 17, 2009" ("WUDP update"), prepared by Carl Freedman, Haiku Design & Analysis; and
2. County Communication No. 10-120, from the Chair of the Board, transmitting the Board's recommendations to the WUDP update, and related documents.

Your Committee notes that the Council passed the Water Use and Development Plan ("WUDP") by Ordinance No. 1948 (1990), pursuant to the requirements set forth in the State Water Code, and the Revised Charter of the County of Maui (1983), as amended. The WUDP, incorporated by reference into Chapter 14.02, Maui County Code ("MCC"), serves as a guide to the Council, the Board, and all other agencies or departments of the County in recommending the use or commitment of the water resources in the County. Ordinance No. 1948 (1990) also established procedures for updating or amending the WUDP.

By correspondence dated September 21, 2010, the Department of the Corporation Counsel transmitted a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTIONS 14.02.020, 14.02.040 AND 14.02.050, MAUI COUNTY CODE, RELATING TO WATER USE AND DEVELOPMENT PLAN UPDATES". The purpose of the proposed bill is to amend Chapter 14.02, MCC, to clarify the procedures for updating the WUDP.

Your Committee notes that Section 14.02.040 requires the Board to transmit a proposed update to the Council, with its findings and recommendations, after holding one

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or more public hearings. Your Committee recommended that Section 14.02.040 be revised to add a new subsection to require the Department of Water Supply (“Department”) to review the recommendations of the Board, to revise the proposed update accordingly, and to transmit the proposed update to the Council within 60 days of receiving the recommendations of the Board.

Your Committee expressed concerns about the deadlines imposed on the Council to pass a proposed update. Under the current law, the Council must pass the proposed update within 180 days from receipt of the update by the Board, or extend the deadline, by Council resolution, for an additional 180 days. Furthermore, if the Council fails to pass the proposed update, the proposed update shall be deemed disapproved. Your Committee recommended that Section 14.02.040 be revised to delete any deadline for the Council to pass a proposed update after the initial 180-day period. Your Committee further recommended to delete the requirement that the proposed update be deemed disapproved if the Council fails to pass a proposed update within 180 days.

Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading. Committee Chair Victorino, Vice-Chair Pontanilla, and members Baisa, Kaho`ohalahala, Mateo, Medeiros, and Molina voted “aye”.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions.

Your Water Resources Committee RECOMMENDS that Bill No. _____ (2010), attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING SECTIONS 14.02.020, 14.02.040 AND 14.02.050, MAUI COUNTY CODE, RELATING TO WATER USE AND DEVELOPMENT PLAN UPDATES”, be PASSED ON FIRST READING and be ORDERED TO PRINT.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



MICHAEL P. VICTORINO, Chair

ORDINANCE NO. _____

BILL NO. _____ (2010)

A BILL FOR AN ORDINANCE AMENDING SECTIONS
14.02.020, 14.02.040 AND 14.02.050, MAUI COUNTY CODE,
RELATING TO WATER USE AND DEVELOPMENT PLAN UPDATES

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 14.02.020, Maui County Code, is amended to read as follows:

“14.02.020 [Adoption] Passage of the plan. The council [adopted] passed the plan by ordinance no. 1948, and any update of the plan pursuant to section 14.02.040 of this chapter, or amendment of the plan, pursuant to section 14.02.050 of this chapter, shall be deemed part of the plan and shall be incorporated into this chapter by reference.”

SECTION 2. Section 14.02.040, Maui County Code, is amended to read as follows:

“14.02.040 Update of the plan. Within five years from the date of any [approved] update of the plan[,] approved by the commission, the department shall prepare a proposed update to the plan. Plan updates shall be transmitted to the board for its review and recommendation, the council for [adoption] passage by ordinance, and the commission for approval and inclusion in the Hawaii water plan in the following manner:

1. The department shall simultaneously transmit proposed updates to the board and the commission for review.

2. The board shall hold one or more public hearings on the proposed update in the affected district, and shall transmit the proposed update, with its findings and recommendations, to the [council] department within one hundred eighty days of the receipt of the update.

3. The department shall review the recommendations of the board, and if deemed necessary by the director, revise the proposed update accordingly. The director shall transmit the proposed update to the council within sixty days of receipt of the recommendations of the board.

[3.]4. The council shall pass the proposed update by ordinance within one hundred eighty days from the receipt of the proposed update [and the findings and recommendations of the board]. The council may, by resolution, extend the time to pass the proposed update [to no more than an additional one hundred eighty days. If the council fails to pass the

proposed update pursuant to the provisions of this section, the proposed update shall be deemed disapproved].

[4.]5. Within ten working days after the effective date of the ordinance, the [council] county clerk shall transmit the ordinance to the commission for final review, acceptance, and incorporation into the Hawaii water plan.”

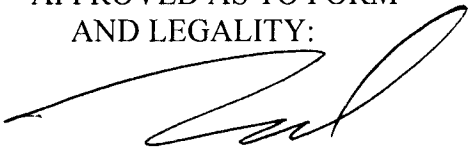
SECTION 3. Section 14.02.050, Maui County Code, is amended by amending subsection A, to read as follows:

“A. Any amendment to the plan proposed by the council, the director, or any agency shall be referred to the board for its review and recommendations. Upon receipt of a proposed amendment, the board, the director, and the council shall follow the procedures set forth in section 14.02.040 of this chapter.”

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 5. This ordinance shall take effect upon its approval and shall apply to any pending plan updates before the council as of the effective date.

APPROVED AS TO FORM
AND LEGALITY:



EDWARD S. KUSHI, JR.
Deputy Corporation Counsel

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