

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

March 18, 2011

**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 February 15, 2011, makes reference to County Communication No. 11-58, from Councilmember Michael P. Victorino, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 14.12.030, MAUI COUNTY CODE, RELATING TO EXEMPTIONS FROM THE COUNTY'S WATER AVAILABILITY POLICY".

The purpose of the proposed bill is to amend Section 14.12.030, Maui County Code ("MCC"), to establish additional exemptions to the County's Water Availability Policy.

Chapter 14.12, MCC, is known as the County's "Water Availability Policy". In 2007, the Council acknowledged and affirmed that water is a natural and cultural resource that must be protected, preserved, and managed as a public trust. The Water Availability Policy requires verification of a long term, reliable supply of water before subdivisions are approved. The proposed bill creates certain exemptions to this policy.

Your Committee discussed four proposed exemptions to the Water Availability Policy with the intent to encourage infill development, residential workforce housing, affordable housing, and public or quasi-public development projects, all within the service area of the central or west Maui water system. The Acting Director of Water Supply noted that all exemptions to the Water Availability Policy will ultimately decrease the amount of water available to the County.

Your Committee agreed to reduce the maximum number of residential dwelling units required for infill development projects to qualify for an exemption from 20 units to 10 units. This reduction in the number of units exempted will assist in the County's efforts to ensure adequate water availability.

Your Committee also agreed to revise the proposed bill to (1) clarify that exempt residential workforce housing projects must be developed by a qualified housing provider; (2) clarify that all projects exempted by the proposed bill are within the service

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area of the Department of Water Supply's central or west Maui water system; and (3) clarify that "public or quasi-public" is defined in Section 19.04.040, MCC. Each of these revisions was intended to narrow the scope of allowable exemptions to the Water Availability Policy.

Your Committee voted 5-1 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Victorino, Vice-Chair Pontanilla, and members Baisa, Hokama, and White voted "aye". Committee member Cochran voted "no". Committee member Carroll was excused.

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 the following:

1. That Bill No. _____ (2011), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 14.12.030, MAUI COUNTY CODE, RELATING TO EXEMPTIONS FROM THE COUNTY'S WATER AVAILABILITY POLICY"; and
2. That County Communication No. 11-58 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



MICHAEL P. VICTORINO, Chair

wr:cr:11005aa:mjg

ORDINANCE NO. _____

BILL NO. _____ (2011)

A BILL FOR AN ORDINANCE AMENDING SECTION 14.12.030, MAUI COUNTY CODE, RELATING TO EXEMPTIONS FROM THE COUNTY'S WATER AVAILABILITY POLICY

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

SECTION 1. Section 14.12.030, Maui County Code, is amended to read as follows:

“14.12.030 Exemptions. This chapter shall not apply to: A. Building permits as described in chapter 18.28 of this code, or other ministerial construction permits that do not require new or additional water services;

B. Subdivisions that do not require water service, such as, but not limited to, family subdivisions as defined in section 18.20.280 of this code, consolidations and concurrent re-subdivisions that do not create additional developable lots, road widening lots, utility lots, or easements for access or utility purposes; [or]

C. Subdivisions that will not be regulated as a public water system pursuant to department of health rules[;], provided[,] that[,] this exemption shall not apply to any subsequent subdivision of any of the resulting parcels[.];

D. Infill development that for the purposes of this chapter is defined as development of ten residential dwelling units or less on contiguous vacant parcels within areas that are already developed, consistent with applicable zoning designations and the general plan, and is within the service area of the department's central or west Maui water system;

E. Residential workforce housing units developed by a qualified housing provider pursuant to chapter 2.96 of this code, and are within the service area of the department's central or west Maui water system;

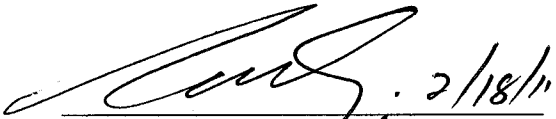
F. Residential development projects with one hundred percent affordable housing units and are within the service area of the department's central or west Maui water system; or

G. Public or quasi-public development projects as defined in section 19.04.040 of this code, and related subdivisions, and are within the service area of the department's central or west Maui water system .”

SECTION 2. 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 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read "E. Kushi, Jr.", followed by the date "2/18/11". The signature is written over a horizontal line.

EDWARD S. KUSHI, JR.
First Deputy Corporation Counsel
County of Maui
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