

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

July 22, 2011

Committee
Report No. _____

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

Chair and Members:

Your Planning Committee, having met on June 27, 2011, makes reference to County Communication No. 09-247, from the Planning Director, transmitting comments and recommendations from the Lanai, Maui, and Molokai Planning Commissions on a draft bill entitled, "A BILL FOR AN ORDINANCE TO ESTABLISH SOLAR ENERGY FACILITIES AS PERMITTED USES IN THE AGRICULTURAL ZONING DISTRICT". The draft bill was referred to the planning commissions by Resolution No. 08-95, which was adopted by the Council on November 7, 2008.

The purpose of the draft bill is to permit solar energy facilities in the agricultural zoning district.

Your Committee notes that it previously reported on this matter through Committee Report No. 11-30. In that report, your Committee recommended that a proposed bill entitled "A BILL FOR AN ORDINANCE TO ESTABLISH SOLAR ENERGY FACILITIES AS PERMITTED USES IN THE AGRICULTURAL ZONING DISTRICT" be passed on first reading and be ordered to print. At its meeting of April 1, 2011, the Council passed the proposed bill on first reading (Bill No. 17 (2011)). At its meeting of April 15, 2011, the Council passed Bill No. 17 (2011) on second and final reading (Ordinance No. 3824 (2011)).

Your Committee further notes that Ordinance No. 3824 (2011) permits solar energy facilities in agricultural zoning districts, subject to the restrictions of Chapter 205, Hawaii Revised Statutes, provided that such facilities are less than 15 acres, occupy no more than 35 percent of the lot, and are compatible with existing agricultural uses. Solar energy facilities on lands classified as overall productivity rating class "D" or "E" do not need to be compatible with existing agricultural uses.

Your Committee notes that the University of Hawaii's Land Study Bureau ("Bureau") prepared an inventory and evaluation of the State's land resources during the 1960s and 1970s. The Bureau categorized all lands in the State, except those lands in the urban district, into units of land type. Lands in agricultural zoning districts were

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categorized by the master productivity rating of a parcel's soil as "A", "B", "C", "D", "E" ("E" being the least productive).

Your Committee further notes that the 2011 State Legislature passed Senate Bill No. 631, SD1, HD2, CD1, relating to renewable energy. The purpose of the bill is to add as permitted uses solar energy facilities on lands with overall productivity rating class "B" and "C", provided the facility shall not occupy more than 10 per cent of the lot, or 20 acres of land, whichever is less. (The bill was signed by the Governor on July 11, 2011 as Act 217 (Governor's Message No. 1321)).

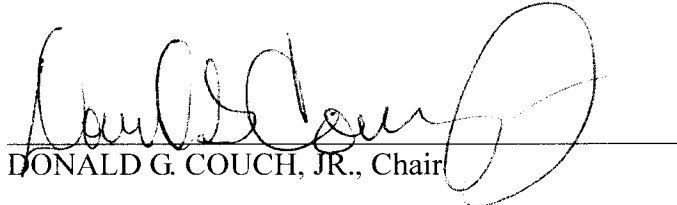
Your Committee discussed the differences between Ordinance No. 3824 (2011) and the State bill relating to renewable energy.

A Deputy Corporation Counsel explained that while the counties must abide by State law, they may enact laws that are more restrictive than State law. Your Committee was satisfied that no amendments to County law were necessary.

Your Committee voted 5-0 to recommend the filing of the communication. Committee Chair Couch, and members Cochran, Mateo, Victorino, and White voted "aye". Committee Vice-Chair Baisa and member Pontanilla were excused.

Your Planning Committee RECOMMENDS that County Communication No. 09-247 be FILED.

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



DONALD G. COUCH, JR., Chair