

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

December 7, 2012

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 October 30, 2012, and November 26, 2012, makes reference to County Communication 12-217, from the Director of Water Supply, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.06, MAUI COUNTY CODE, RELATING TO DECLARATION OF WATER SHORTAGES".

The purposes of the proposed bill are to (1) authorize the Director of Water Supply, with the approval of the Mayor, to declare water shortages when the water supply becomes inadequate in any area of the County; (2) establish the stages of a water shortage based upon the severity of the shortage; and (3) clarify the Director's authority to control water usage during a water shortage, including the application of water shortage rates.

Your Committee notes that Chapter 14.06, Maui County Code, currently allows the Director of Water Supply to issue a proclamation declaring a drought, after consultation with the Board of Water Supply, whenever a water supply becomes inadequate. The proposed bill authorizes the Director to issue a declaration of water shortage, with the approval of the Mayor, due to drought, mechanical malfunction, human error, natural disaster, and other such events. If the proposed bill is enacted, a water shortage rate schedule may be set forth in the annual budget.

The Department of the Corporation Counsel transmitted a revised proposed bill clarifying notice and publication requirements before a water shortage can be declared.

The Director of Water Supply informed your Committee that the application of water shortage rates is not intended to generate revenue, but to encourage water conservation by imposing higher water rates for high water consumption during a water shortage.

Your Committee considered a motion to exempt properties receiving agricultural water rates. The Mayor and the Director noted that agricultural consumers are the highest users of the County's water supply. The Director further noted that to encourage

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water conservation, agricultural users should have some type of water rate increase for high usage. Your Committee decided that agricultural consumers should not be exempt from a water rate increase.

Your Committee voted 4-1 to recommend passage of the revised proposed bill on first reading and filing of the communication. Members Baisa, Cochran, Hokama, and White voted "aye". Committee Chair Victorino voted "no". Committee Vice-Chair Pontanilla and Committee Member Carroll were 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 nonsubstantive revisions.

Your Water Resources Committee RECOMMENDS the following:

1. That Bill _____ (2012), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.06, MAUI COUNTY CODE, RELATING TO DECLARATION OF WATER SHORTAGES" be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 12-217 be FILED.

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



MICHAEL P. VICTORINO, Chair

ORDINANCE NO. _____

BILL NO. _____ (2012)

A BILL FOR AN ORDINANCE AMENDING
CHAPTER 14.06, MAUI COUNTY CODE, RELATING
TO DECLARATION OF WATER SHORTAGES

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

SECTION 1. Chapter 14.06, Maui County Code, is amended to
read as follows:

"Chapter 14.06

CONTROL OF WATER USAGE DURING [DROUGHTS] WATER SHORTAGE

Sections:

- 14.06.010 Declaration of [drought.] water shortage.
- 14.06.020 Control of water usage.
- 14.06.030 [Violation-Penalty.] Notice and publication of declaration of water shortage.
- 14.06.040 Violation-penalty.

14.06.010 Declaration of [drought.] water shortage.

A. Whenever the water supply becomes inadequate in any area in the County because of a [period of drought,] mechanical malfunction, human error, period of drought, natural disaster, or other such events causing water shortage, the director, [after consultation with the board and] with the approval by the mayor, may issue a [proclamation declaring a drought] declaration of water shortage to exist in such area. The stages and severity of the water shortage declaration are set forth in subsections B and C.

B. [The declaration of drought shall be published in a newspaper of general circulation in the County at least once a month during the period of drought.] A stage 1 water shortage shall exist if the director determines that anticipated water demand in an area is projected to exceed available water supply by up to twenty percent.

C. A stage 2 water shortage shall exist if the director determines that anticipated water demand in an

area is projected to exceed available water supply by more than twenty percent.

14.06.020 Control of water usage. A. After a [drought] water shortage has been declared pursuant to this chapter, the director may restrict the use of water in the area by such appropriate schedules, voluntary and/or mandatory restrictions and other measures as the director may deem proper[.], including but not limited to, the application of water shortage rates as set forth in the annual budget.

B. The schedules, restrictions, and measures may restrict the use of water during certain hours or days of the week and within certain amounts[.

C. The director], may prohibit the use of water for irrigation, lawns, construction, subdivision, or other types of [activity and] activities, and may suspend the installation of any new meter or new water service.

[D. Regular United States mail or a notice in a newspaper of general circulation may be used to inform users of the schedules and measures established by the director.]

14.06.030 [Violation-penalty. A. Subject to the opportunity to appeal to the board pursuant to Chapter 14.11 of this code, the director may remove the water meter of users who violate any of the schedules or measures established pursuant to this chapter, and shall assess the user the sum of \$100.00 for reinstallation of a removed meter.

B. Any person violating the schedules or measures established by the director pursuant to this chapter shall be charged with a violation and, upon conviction thereof, shall be subject to a fine of not more than \$500.00 for each violation.] Notice and publication of declaration of water shortage. A notice of declaration of water shortage shall be published in a newspaper of general circulation in the County at least bi-monthly during the period of any declaration of water shortage. The first notice shall be published at least seven calendar days prior to the beginning date of any water shortage period. The notice shall state the specific duration period of any water shortage period; any schedules, restrictions or other measures established by the director to control water usage during the water shortage period; and the application of water shortage rates for the duration of the water shortage period. To the extent possible, the department shall also notify water consumers in the affected area of the water shortage declaration by regular United States mail, provided, however, that non-receipt of such mailed notice

by any affected water consumer shall not affect nor invalidate the declaration of water shortage.

14.06.040 Violation-penalty. A. Subject to the opportunity to appeal to the board pursuant to Chapter 14.11 of this code, the director may remove the water meter of users who violate any of the schedules or measures established pursuant to this chapter, and shall assess the user the sum of \$100.00 for reinstallation of a removed meter.

B. Any person violating the schedules or measures established by the director pursuant to this chapter shall be charged with a violation and, upon conviction thereof, shall be subject to a fine of not more than \$500.00 for each violation."

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:



EDWARD S. KUSHI, JR.
First Deputy Corporation Counsel

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