

**COUNCIL OF THE COUNTY OF MAUI**  
**WATER RESOURCES COMMITTEE**

February 15, 2013

**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 January 30, 2013, makes reference to the following:

1. 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 issue a declaration of water shortage 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 as set forth in the annual budget.

2. Committee Report 12-146, from the Water Resources Committee, recommending passage on first reading of a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.06, MAUI COUNTY CODE, RELATING TO DECLARATION OF WATER SHORTAGES".

The revised proposed bill includes an additional purpose to clarify notice and publication requirements before a water shortage can be declared.

At its meeting of December 7, 2012, the Council referred Committee Report 12-146 to the Council Chair for the 2013-2015 Council term for referral to the appropriate committee. The Council requested that comments from the Board of Water Supply ("BWS") be considered prior to passage of the proposed bill on first reading.

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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 BWS, whenever a water supply becomes inadequate due to lack of rainfall. The revised proposed bill authorizes the Director to issue a declaration of water shortage, with the approval of the Mayor, because of 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.

While the BWS generally supported the proposed bill, it requested that your Committee consider including language to provide relief for hardship cases. For example, under the proposed bill, residences with large families could be affected by higher water rates even if they only utilize water for basic needs.

The Director of Water Supply stated that a separate bill has been proposed to amend the annual budget to initiate water shortage rates only after residential water users consume 15,000 gallons of water or more per month. He further stated that identifying hardship cases would be difficult. He expressed concern about being given discretionary authority to determine hardship cases without guidance from the Council.

Your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading, filing of Committee Report 12-146, and filing of County Communication 12-217. Committee Chair Victorino, Vice-Chair White, and members Baisa, Carroll, Couch, Crivello, and Guzman 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 nonsubstantive revisions.

Your Water Resources Committee RECOMMENDS the following:

1. That Bill \_\_\_\_\_ (2013), 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;
2. That Committee Report 12-146 be FILED; and
3. That County Communication 12-217 be FILED.

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



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MICHAEL P. VICTORINO, Chair

wr:cr:13018aa:kcw

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2013)

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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