

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE 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 Budget and Finance Committee, having met on January 29, 2013, makes reference to County Communication 12-260, from the Budget Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.005, MAUI COUNTY CODE, RELATING TO DEFINITIONS".

The purpose of the proposed bill is to amend the definition of "property" and "real property" to include "any and all wind energy conversion property that is used to convert wind energy to a form of usable energy."

A representative from the Department of Finance informed your Committee that for the last six years, the Tax Appeals Court has questioned whether equipment used on wind farms is subject to real property tax. The representative stated that the proposed bill clarifies that equipment used in the conversion of wind energy to electricity shall be considered real property and, therefore, shall be subject to real property assessment and taxation.

Your Committee expressed its appreciation for the Administration's submittal of the proposed bill, and acknowledged the difficulties that the County has experienced in collecting real property taxes from wind farms. Your Committee noted that while the proposed bill does not give consideration to other alternative energy generation technologies that may be operational in Maui County in the future, it provides a clear definition of wind energy generation equipment that would be considered real property. Your Committee recommended that the matter relating to alternative energy production be referred to your Economic Development, Energy, Agriculture, and Recreation Committee for further review.

Your Committee revised the proposed bill so that the ordinance shall take effect for assessment years beginning on or after January 1, 2014.

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Your Committee voted 9-0 to recommend passage of the revised proposed bill on first reading; referral of the matter relating to alternative energy production to the Economic Development, Energy, Agriculture, and Recreation Committee; and filing of the communication. Committee Chair White, Vice-Chair Hokama, and members, Baisa, Carroll, Cochran, Couch, Crivello, Guzman, and Victorino 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 revision.

Your Budget and Finance Committee RECOMMENDS the following:

1. That Bill _____ (2013), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.005, MAUI COUNTY CODE, RELATING TO DEFINITIONS", be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That the matter relating to alternative energy production be REFERRED to the Economic Development, Energy, Agriculture, and Recreation Committee; and
3. That County Communication 12-260 be FILED.

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



MIKE WHITE, Chair

ORDINANCE NO. _____

BILL NO. _____ (2013)

A BILL FOR AN ORDINANCE AMENDING SECTION 3.48.005,
MAUI COUNTY CODE, RELATING TO DEFINITIONS

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

SECTION 1. Section 3.48.005, Maui County Code, is amended to read as follows:

"3.48.005 Definitions. Wherever used in this chapter, the following definitions shall apply:

[A.] "Director" means the director of finance of the County or [his] an authorized subordinate.

[B.] "Property" or "real property" means and includes all land and appurtenances thereof and the buildings, structures, fences, and improvements erected on or affixed to the same[,]; and any fixture which is erected on or affixed to such land, [building] buildings, structures, fences, and improvements, including all machinery and other mechanical or other allied equipment and the foundations thereof [, whose use thereof is necessary to the utility of such land, buildings, structures, fences, and improvements, or whose removal therefrom cannot be accomplished without substantial damage to such land, buildings, structures, fences, and improvements, excluding, however, any growing crops.]:

1. Whose use thereof increases the value to, or is necessary to the utility of such land, buildings, structures, fences, and improvements; or

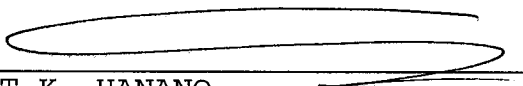
2. Whose removal therefrom cannot be accomplished without substantial damage to such land, buildings, structures, fences, and improvements, excluding, however, any growing crops; or

3. Any and all wind energy conversion property that is used to convert wind energy to a form of usable energy, including, but not limited to, a wind charger, windmill, wind turbine, tower and electrical equipment, pad mount transformers, power lines, and substation, and other such components."

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 for assessment years beginning on or after January 1, 2014.

APPROVED AS TO FORM
AND LEGALITY:



SCOTT K. HANANO
Deputy Corporation Counsel
County of Maui

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