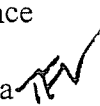


DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
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TELEPHONE: (808) 270-7740

April 16, 2003

MEMO TO: Keith A. Regan, Director
Department of Finance

FROM: Traci Fujita Villarosa 
Deputy Corporation Counsel

SUBJECT: One Day Per Diem For Appointees

You have asked this office for advice concerning one-day (i.e., no overnight stay) per diem for appointed officers of the County of Maui. Chapter 2.48 of the Maui County Code ("MCC") sets forth the provisions governing travel expenses for officers and employees.

1. Are appointed officers entitled to per diem for one day trips?

2.48.030 Per diem allowance--Travel within the state.

A. Officers and employees of the county who travel on official business to another island within the state of Hawaii shall be paid a per diem allowance of \$65 per twenty-four-hour day. Effective July 1, 1990, the per diem rate shall increase to \$75 per twenty-four-hour day. Effective July 1, 1991, the per diem rate shall increase to \$80 per twenty-four-hour day.

B. In the case of official travel time involving a fraction of a day, the allowable claim shall be in terms of quarter-day periods, with the quarter-day periods measured from midnight. In computing the amount of per diem, the quarter-day period shall begin thirty minutes before the scheduled flight departure time and shall end upon the return of the officer or employee to his or her home airport. This allowance and method of calculation shall be applicable to all trips, including one-day trips when an officer or employee leaves and returns the same day; however, in the case of one-day trips, the allowable claim shall not exceed two quarter-day periods.

C. When an officer or an employee engages in personal travel before or after travel on official business, the total per diem allowance shall equal that which would have been allowed had the personal travel not been engaged in. Section 2.48.030, MCC.

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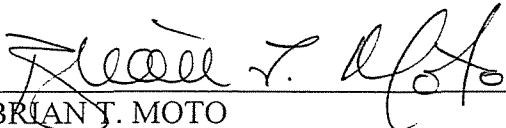
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Section 2.48.030, MCC mandates that all officers and employees of the County who travel on official business to another island within the State of Hawaii shall be paid a per diem allowance of \$80 per twenty-four-hour day. No exception is made for appointed officers. However, this section does limit the per diem for one-day trips to two quarter-day periods or \$40. Therefore, appointed officers of the County are legally entitled to per diem for one-day trips in an amount not to exceed \$40.

We are aware that Mayor Linda Lingle and Mayor James "Kimo" Apana issued memoranda which in effect directed that appointed officers not receive per diem for one-day trips. We cannot identify any substantive legal basis for such directives.

Further, we are also aware that, pursuant to collective bargaining agreements, employees subject to said agreements now receive a meal allowance of twenty dollars in lieu of per diem for one-day trips.¹ However, such collective bargaining agreements do not apply to County employees excluded from collective bargaining, such as deputies corporation counsel.

Approved for Transmittal:



BRIAN T. MOTO

Corporation Counsel

S:\CLERICAL\TLL\FINANCE\MEMOS\One day per diem.wpd

cc: Jack Kulp, Managing Director
Greg King, Department of Finance, Purchasing Division

¹See, e.g., HGEA-AFSCME Unit 3: Non-Supervisory Employees Contract Agreement, July 1, 1999 - June 30, 2003, at 69, Article 44(D)(2); State of Hawaii Organization of Police Officers Agreement, July 1, 1999 - June 30, 2003, at 65, Article 52(D)(3).