

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

April 4, 2008

**Committee
Report No.**

08-57

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

Chair and Members:

Your Water Resources Committee, having met on July 2, 2007, July 23, 2007, July 30, 2007, August 13, 2007, September 6, 2007, September 17, 2007, October 15, 2007, January 7, 2008, and March 10, 2008, makes reference to the following:

1. County Communication No. 05-46, from Councilmember Michelle Anderson, relating to the rules and governing policies of the Department of Water Supply; and
2. County Communication No. 06-228, from the Director of Water Supply, transmitting the 2005 Groundwater Contamination Maps for the State of Hawaii.

Your Committee notes that the Council referred County Communication No. 05-46 to its Water Resources Committee at the Council meeting of January 21, 2005, and County Communication No. 06-228 to its Water Resources Committee at the Council meeting of September 1, 2006.

At its meeting of November 29, 2006, the Water Resources Committee recommended that County Communication Nos. 05-46 and 06-228 be referred to the Council Chair for the term beginning January 2, 2007, for a recommendation as to referral or other disposition.

At its meeting of January 5, 2007, the Council referred County Communication Nos. 05-46 and 06-228 to your Water Resources Committee (County Communication No. 07-6).

Your Committee notes that it previously reported on this matter through Committee Report No. 07-49, which recommended that a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO THE DUTIES OF THE BOARD OF WATER SUPPLY" be passed on first reading and be ordered to print. At its meeting of April 20, 2007, the Council adopted Committee Report No. 07-49.

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By correspondence dated March 30, 2007, the Chair of the Board of Water Supply transmitted the Board's recommendations on the draft bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES" (Water Supply Rules bill).

By correspondence dated April 11, 2007, your Committee's Chair transmitted correspondence dated April 6, 2007, from Thomas Rice, Rice Farms, requesting agricultural water rates for his farm that is not zoned agriculture.

By correspondence dated June 29, 2007, the Council Chair transmitted a draft bill entitled "A BILL FOR AN ORDINANCE RELATED TO DROUGHT DECLARATIONS" (Drought bill). The purpose of the draft Drought bill is to codify the Department of Water Supply's drought regulations.

At its meeting of July 2, 2007, your Committee met with the Director of Water Supply and a Deputy Corporation Counsel.

There was no public testimony.

Your Committee considered the draft Drought bill as it relates to drought declarations for the Upcountry and Central Maui areas. Your Committee requested that the Director transmit an updated version of the drought guidelines for the Upcountry area.

Your Committee deferred the matter pending further discussion.

By correspondence dated June 2, 2007, received on July 16, 2007, the Executive Director, Wailuku Main Street Association/Tri-Isle Main Street Resource Center, supported the codification of the Department's rules and regulations.

By correspondence dated July 20, 2007, the Department of the Corporation Counsel transmitted a draft bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES". The purpose of the draft bill is to establish Chapter 14.10, Maui County Code (MCC), entitled "Water Rates and Fees" (Rates and Fees bill).

At its meeting of July 23, 2007, your Committee met with the Deputy Director of Water Supply; a Lieutenant, Fire Prevention Bureau, Department of Fire and Public

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Safety; the Administrator, Development Services Administration, Department of Public Works; the Corporation Counsel; and a Deputy Corporation Counsel.

Your Committee received testimony from one person commenting on water service development fees for distribution lines and fire protection as it relates to fire flow standards.

Your Committee considered the Water Supply Rules bill as it relates to fire flow requirements. Your Committee deferred consideration of the matter pending further discussion.

At its meeting of July 30, 2007, your Committee deferred consideration of the matter pending further discussion.

By correspondence dated August 1, 2007, the Director of Water Supply transmitted an updated version of the Upcountry drought guidelines used by the Department to implement mandatory water conservation measures during times of drought in the Upcountry area.

At its meeting of August 13, 2007, your Committee deferred consideration of the matter pending further discussion.

At its meeting of September 6, 2007, your Committee met with the Deputy Director of Water Supply and two Deputy Corporation Counsel.

There was no public testimony.

Your Committee discussed the mandatory and voluntary conservation measures in the Upcountry and Central Maui areas as they relate to the Drought bill, the Upcountry drought guidelines, water conservation, and the use of recycled water.

Your Committee deferred consideration of the matter pending further discussion.

At its meeting of September 17, 2007, your Committee deferred consideration of the matter without discussion.

At its meeting of October 15, 2007, your Committee deferred consideration of the matter without discussion.

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At its meeting of January 7, 2008, your Committee met with the Director of Water Supply and a Deputy Corporation Counsel.

There was no public testimony.

Your Committee considered the draft Water Supply Rules bill as it relates to policy matters unrelated to administrative procedure.

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated January 10, 2008, your Committee's Chair requested the Director of Water Supply to review and make comments on the draft Water Supply Rules bill, and consider comments submitted by other departments in his review.

By correspondence dated January 28, 2008, your Committee's Chair transmitted a copy of correspondence dated December 14, 2006 to the Director of Water Supply, and the Director's December 22, 2006 response regarding the enactment of an ordinance requiring the disclosure of inadequate residential fire protection to prospective tenants.

By correspondence dated March 3, 2008, your Committee's Chair transmitted a draft bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2008 BUDGET FOR THE COUNTY OF MAUI, AS IT PERTAINS TO REVENUES - FEES, RATES, ASSESSMENTS AND TAXES FOR THE WATER FUND" (Appeals Filing Fee bill). The purpose of the draft bill is to amend the Fiscal Year 2008 Budget to establish a \$300 filing fee for appeals to the Board of Water Supply pursuant to Section 14.11.050, MCC.

By correspondence dated March 3, 2008, your Committee's Chair transmitted a draft bill entitled "A BILL FOR AN ORDINANCE RELATING TO APPEALS TO THE BOARD OF WATER SUPPLY" (Filing Fee Refund bill). The purpose of the draft bill is to amend Section 14.11.030, MCC, to provide for a refund of the appeals filing fee if the appellant prevails.

At its meeting of March 10, 2008, your Committee met with the Director of Water Supply; the Fiscal Officer, Department of Water Supply; and two Deputy Corporation Counsel.

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There was no public testimony.

Your Committee considered a revised draft Appeals Filing Fee bill submitted by your Committee's Chair. Your Committee's Chair provided your Committee with the background of Ordinance No. 3446, which established Chapter 14.11, MCC, entitled "APPEALS TO THE BOARD OF WATER SUPPLY".

Your Committee's Chair noted that Chapter 14.11, enacted on May 4, 2007, authorizes the Board of Water Supply to affirm, reverse, or modify decisions or orders of the Director of Water Supply. Section 14.11.030 states "A person filing a notice of appeal shall pay a fee as set forth in the annual budget".

Your Committee discussed pending and past appeals with the Director, the Fiscal Officer, and a Deputy Corporation Counsel, and the need for a filing fee to help offset administrative costs associated with an appeal. Your Committee's Chair noted that no filing fees for appeals have been collected since 2002. The Deputy Corporation Counsel noted that other County boards do require a filing fee.

Your Committee agreed with the \$300 filing fee for appeals, but requested that the draft bill include language to allow the fee to be refunded in full or in part, at the discretion of the Board, if the appellant prevails.

Your Committee voted to recommend passage of the revised draft Appeals Filing Fee bill.

Your Committee is in receipt of a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2008 BUDGET FOR THE COUNTY OF MAUI, AS IT PERTAINS TO REVENUES - FEES, RATES, ASSESSMENTS AND TAXES FOR THE WATER FUND", approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's suggested revisions.

Your Committee also considered the draft Rates and Fees bill. Your Committee's Chair stated that the draft bill would codify the Department of Water Supply's rules for charges for water service. Your Committee's Chair noted that the draft bill reflects language currently in the Board of Water Supply's Rules and Regulations, but includes nonsubstantive revisions, and revisions to comply with the Revised Charter of the County of Maui (1983), as amended.

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Your Committee voted to recommend passage of the draft Rates and Fees bill.

Your Committee is in receipt of a proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES BY ADDING A NEW CHAPTER ENTITLED WATER RATES AND FEES", approved as to form and legality by the Department of the Corporation Counsel.

Your Water Resources Committee RECOMMENDS the following:

1. That Bill No. _____ (2008), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2008 BUDGET FOR THE COUNTY OF MAUI, AS IT PERTAINS TO REVENUES - FEES, RATES, ASSESSMENTS AND TAXES FOR THE WATER FUND" be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That Bill No. _____ (2008), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES BY ADDING A NEW CHAPTER ENTITLED WATER RATES AND FEES" be PASSED ON FIRST READING and be ORDERED TO PRINT.

Adoption of this report is respectfully requested.

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MICHELLE ANDERSON **Chair**

DANNY A. MATEO **Member**

MICHAEL P. VICTORINO **Vice-Chair**

JOSEPH PONTANILLA **Member**

GLADYS C. BAISA **Member**