

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

September 23, 2008

**Committee
Report No.**

08-111

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

Chair and Members:

Your Policy Committee, having met on September 2, 2008, makes reference to County Communication No. 07-10, from the Council Chair, relating to matters involving the Hawaii State Association of Counties (HSAC).

Your Committee is in receipt of correspondence dated July 22, 2008, from Councilmember Joseph Pontanilla, HSAC Treasurer, transmitting a memorandum dated July 1, 2008, from HSAC President, Mel Rapozo, requesting that proposals for inclusion in the 2009 HSAC Legislative Package be submitted by October 1, 2008.

Your Committee is in receipt of correspondence dated July 29, 2008, from your Committee's Chair, requesting that proposals for the 2009 HSAC Legislative Package be submitted by August 22, 2008.

Your Committee is in receipt of the following proposals for consideration in the 2009 HSAC Legislative Package:

1. Correspondence dated July 30, 2008, from Councilmember Pontanilla, transmitting a proposed State bill entitled "A BILL FOR AN ACT RELATING TO HOUSING", and a justification sheet for the bill. The purpose of the proposed bill is to extend the 45-day window for a legislative body to approve, approve with modification, or disapprove an affordable housing project under Section 201H-38, Hawaii Revised Statutes, to 90 days.
2. Correspondence dated August 26, 2008, from the Council Chair, transmitting a proposed State bill entitled "A BILL FOR AN ACT RELATING TO PROCUREMENT", and a justification sheet for the bill. The purpose of the proposed bill is to remove the requirement for local governments to comply with rules adopted by the policy board and to place the decision-making power to use cooperative contracts within the discretion of local governments.

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

September 23, 2008
Page 2

Committee
Report No. 08-111

3. Correspondence dated August 26, 2008, from your Committee Chair, transmitting a proposed State bill entitled “A BILL FOR AN ACT RELATING TO TRAFFIC INFRACTIONS”, and a justification sheet for the bill. The purpose of the proposed bill is to require the State to transfer a portion of the fines and forfeitures collected for uncontested traffic infractions to the county in which the violations occurred.

Your Committee met with the First Deputy Corporation Counsel.

There was no public testimony.

Your Committee notes that the three proposals were included in the 2008 HSAC Legislative Package; however, none of the proposals were successful during the 2008 legislative session.

Your Committee voted to approve the three proposals for inclusion in the 2009 HSAC Legislative Package.

Your Policy Committee RECOMMENDS the following:

1. That the following proposals be APPROVED for inclusion in the 2009 HSAC Legislative Package:
 - a. a proposed bill entitled “A BILL FOR AN ACT RELATING TO HOUSING” and justification sheet;
 - b. a proposed bill entitled “A BILL FOR AN ACT RELATING TO PROCUREMENT” and justification sheet; and
 - c. a proposed bill entitled “A BILL FOR AN ACT RELATING TO TRAFFIC INFRACTIONS” and justification sheet; and
2. That a copy of this committee report be TRANSMITTED to the HSAC Executive Committee.

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

September 23, 2008
Page 3

Committee
Report No. 08-111

Adoption of this report is respectfully requested.

pol:cr:08003(5)aa:knh

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

September 23, 2008
Page 4

Committee
Report No. 08-111



DANNY A. MATEO Chair

BILL KAUAKEA MEDEIROS Member

G. RIKI HOKAMA Vice-Chair

MICHAEL J. MOLINA Member

MICHELLE ANDERSON Member

JOSEPH PONTANILLA Member

GLADYS C. BAISA Member

MICHAEL P. VICTORINO Member

JO ANNE JOHNSON Member

JUSTIFICATION SHEET

- PROPOSER:** Hawaii State Association of Counties
- TITLE:** A BILL FOR AN ACT RELATING TO HOUSING
- PURPOSE:** Extends the forty-five day window for a legislative body to approve, approve with modification, or disapprove an affordable housing project under Section 201H-38, Hawaii Revised Statutes, to ninety days.
- MEANS:** Amends Section 201H-38, Hawaii Revised Statutes.
- JUSTIFICATION:** With the authority granted to the county councils by Act 249 (2007) to modify affordable housing projects, extending the councils' review period to ninety days will produce projects that are better suited to the counties' respective needs while still providing an expedited process.
- The 45-day deadline is inadequate for a responsible review of a project, partly because a significant amount of time is consumed by the notice requirements under Chapter 92, HRS, for scheduling Council and committee meetings.
- Passage of this measure would reflect the Legislature's recognition of the scheduling and other limitations imposed on the councils by the Sunshine Law.
- This measure only addresses the councils' role in the approval process, which historically has not been the source of delays and increased costs for good affordable housing projects.

A BILL FOR AN ACT

RELATING TO HOUSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The forty-five day window for a
2 legislative body to approve, approve with modification, or
3 disapprove an affordable housing project is too short to have a
4 meaningful discussion of the project. Allowing ninety days will
5 provide an expedited review while allowing the legislative body
6 to do its due diligence in evaluating a project.

7 SECTION 2. Section 201H-38, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) The corporation may develop on behalf of the State or
10 with an eligible developer, or may assist under a government
11 assistance program in the development of, housing projects that
12 shall be exempt from all statutes, ordinances, charter
13 provisions, and rules of any government agency relating to
14 planning, zoning, construction standards for subdivisions,
15 development and improvement of land, and the construction of
16 dwelling units thereon; provided that:

.B. NO.

- 1 (1) The corporation finds the housing project is
2 consistent with the purpose and intent of this
3 chapter, and meets minimum requirements of health and
4 safety;
- 5 (2) The development of the proposed housing project does
6 not contravene any safety standards, tariffs, or rates
7 and fees approved by the public utilities commission
8 for public utilities or of the various boards of water
9 supply authorized under chapter 54;
- 10 (3) The legislative body of the county in which the
11 housing project is to be situated shall have approved
12 the project with or without modifications:
- 13 (A) The legislative body shall approve, approve with
14 modification, or disapprove the project by
15 resolution within [~~forty-five~~] ninety days after
16 the corporation has submitted the preliminary
17 plans and specifications for the project to the
18 legislative body. If on the [~~forty-sixth~~]
19 ninety-first day a project is not disapproved, it
20 shall be deemed approved by the legislative body;
- 21 (B) No action shall be prosecuted or maintained
22 against any county, its officials, or employees
23 on account of actions taken by them in reviewing,

____.B. NO. _____

1 approving, modifying, or disapproving the plans
2 and specifications; and
3 (C) The final plans and specifications for the
4 project shall be deemed approved by the
5 legislative body if the final plans and
6 specifications do not substantially deviate from
7 the preliminary plans and specifications. The
8 final plans and specifications for the project
9 shall constitute the zoning, building,
10 construction, and subdivision standards for that
11 project. For purposes of sections 501-85 and
12 502-17, the executive director of the corporation
13 or the responsible county official may certify
14 maps and plans of lands connected with the
15 project as having complied with applicable laws
16 and ordinances relating to consolidation and
17 subdivision of lands, and the maps and plans
18 shall be accepted for registration or recordation
19 by the land court and registrar; and
20 (4) The land use commission shall approve, approve with
21 modification, or disapprove a boundary change within
22 forty-five days after the corporation has submitted a
23 petition to the commission as provided in section

____.B. NO. _____

1 205-4. If on the forty-sixth day the petition is not
2 disapproved, it shall be deemed approved by the
3 commission."

4 SECTION 3. Statutory material to be deleted is bracketed
5 and in strikethrough. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

8 INTRODUCED BY: _____

JUSTIFICATION SHEET

- PROPOSER:** Hawaii State Association of Counties
- TITLE:** A BILL FOR AN ACT RELATING TO PROCUREMENT
- PURPOSE:** To remove the requirement for local governments to comply with rules adopted by the policy board and to place the decision-making power to use cooperative contracts within the discretion of local governments.
- MEANS:** Amends §103D-802, Hawaii Revised Statutes (HRS), by deleting language pertaining to rules adopted by the policy board.
- JUSTIFICATION:** §103D-201 and §103D-202, HRS, establish a procurement policy board with the authority to adopt rules consistent with Chapter 103D. Chapter 103D is based on the Model Procurement Code. All states have adopted a version of the Model Procurement Code. Most states that allow cooperative purchasing do not have policy boards restricting a government's ability to participate in cooperative contracts.

Currently, local governments in the State of Hawaii are limited by the Hawaii Administrative Rules set by the policy board to choose whether to use cooperative contracts. This is true even if the cooperative contracts went through a competitive selection process similar to the laws and rules of the State of Hawaii. Consequently, local governments may not be able to enter into a cooperative contract that is the most cost-effective choice for itself or for its taxpayers.

Local governments are in the best position to assess their own needs and the needs of the people they serve. Therefore, local governments are also in the best position to make competent decisions as to whether to use a cooperative contract.

The amendment would merely provide local governments with another option when deciding whether to enter into a cooperative contract. There may be contracts, other than the cooperative contract, that have gone through Hawaii's procurement process and are still more cost efficient for local governments. The amendment gives local governments another choice.

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 103D-802, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§103D-802 Cooperative purchasing authorized.** A public
4 procurement unit may either participate in, sponsor, conduct, or
5 administer a cooperative purchasing agreement for the
6 procurement of goods, services, or construction with one or more
7 public procurement units, external procurement units, or
8 nonprofit private procurement units pursuant to [~~rules adopted~~
9 ~~by the policy board and~~] an agreement entered into between the
10 participants. The cooperative purchasing may include, but shall
11 not be limited to, joint or multi-party contracts between public
12 procurement units, and state public procurement unit
13 requirements contracts which are made available to local public
14 procurement units. Cooperative purchasing agreements may be
15 exempt from preferences pursuant to part X.

16 SECTION 2. Statutory material to be deleted is bracketed
17 and in strikethrough.

18 SECTION 3. This Act shall take effect upon its approval.

____.B. NO. ____

1

2

INTRODUCED BY: _____

3

JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties

TITLE: RELATING TO TRAFFIC INFRACTIONS

PURPOSE: To require the State to transfer a portion of the fines and forfeitures collected for uncontested traffic infractions to the county in which the violations occurred

MEANS: Create a new chapter, 291F, "Transmittal of Uncontested Traffic Fines and Forfeitures to Counties," and amend section 291C-171(a), Hawaii Revised Statutes

JUSTIFICATION: While the counties are responsible for enforcement, revenues accruing from violations of the Statewide Traffic Code are paid solely to the State. Traffic citations are issued by police officers whose costs, including salaries, equipment, and administrative support, are funded by the counties. Allowing each county to receive the fines and forfeitures generated as a result of county enforcement of traffic laws is fair and will provide the counties a much-needed modicum of financial relief from the State. The measure specifically excludes those fines and forfeitures accruing from State-enforced violations, which do not involve the expenditure of County resources.

When traffic violations remain uncontested, there is no need to resort to the State courts. The burden on State-funded personnel and resources is, therefore, minimized. The bill seeks solely to have those fines and forfeitures paid by offenders without contest transferred to the county in which the infraction occurred.

Authorizing the counties to collect such fines and forfeitures would provide the counties with a dedicated revenue source and diversify the counties' revenue bases. As a result, the measure would help to stabilize the counties' budgets and promote the viability of the counties' public services, including the provision of traffic-safety improvements.

____.B. NO. _____

1 **Sec. 291F-B Transmittal of fines and forfeitures.** (a) The
2 state director of finance shall transmit to each county not more
3 than thirty days after the end of each fiscal quarter ___ per
4 cent of all the fines and forfeitures collected for uncontested
5 traffic infractions committed in that county which are in excess
6 of amounts required by the State to pay the administrative costs
7 of the traffic violations bureau.

8 (b) Subsection (a) shall not apply to:

9 (1) Fines and forfeitures for violations that occur on
10 state off-street parking facilities, parks, airports,
11 and harbors that are subject to enforcement by the
12 State; and

13 (2) Fines and forfeitures that are required by law to be
14 paid into a special, revolving, or trust fund.

15 No county shall be entitled to any portion of the fines and
16 forfeitures described in this subsection."

17 SECTION 2. Section 291C-171, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) All fines and forfeitures collected upon conviction or
20 upon the forfeiture of bail of any person charged with a
21 violation of any section or provision of the state traffic laws
22 and all assessments collected relating to the commission of

____.B. NO. _____

1 traffic infractions shall be paid to the director of finance of
2 the State.

3 The judiciary shall identify those uncontested traffic
4 infractions as defined in section 291F-A. The disposition of
5 finances and forfeitures paid to the state director of finance
6 shall be subject to section 291F-B."

7 SECTION 3. In codifying the new sections added by section
8 1 of this Act, the revisor of statutes shall substitute
9 appropriate section numbers for the letters used in designating
10 the new sections in this Act.

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect on July 1, 2008.

13 INTRODUCED BY: _____