

COUNCIL OF THE COUNTY OF MAUI  
**COMMITTEE OF THE WHOLE**

February 17, 2006

**Committee  
Report No.**

\_\_\_\_\_ 06-22

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

Chair and Members:

Your Committee of the Whole, having met on August 16, 2005, November 15, 2005, December 13, 2005, and January 31, 2006, makes reference to County Communication No. 05-249, from the Director of Finance, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH".

The purpose of the proposed bill is to authorize the Mayor to enter into an intergovernmental agreement with the State of Hawaii, Department of Health, regarding the Statewide Program on Parking for Persons with Disabilities, to receive an additional \$9,495 for services to be performed in conjunction with the administration and operation of distributing disabled parking placards for Fiscal Year 2006.

Your Committee notes that the Compensation and Payment Schedule, as stated in the Memorandum of Agreement attached to the proposed bill, identifies a reimbursement amount not to exceed \$9,495 to the County for services rendered. Your Committee further notes that this amount is approximately the same amount that was reimbursed to the County in Fiscal Year 2005.

At its meeting of August 16, 2005, your Committee met with the Director of Finance and the First Deputy Corporation Counsel.

There was no public testimony.

The Director of Finance provided a brief overview of the matter. He stated that the disabled parking placards are distributed through the Motor Vehicle and Licensing Division of the Department of Finance. He further stated that the County receives revenue from the distribution of the disabled parking placards totaling approximately \$4,200 per year, in addition to the \$9,495 reimbursement from the State.

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Your Committee expressed concern that the County was not being adequately reimbursed for a State program that costs approximately \$40,000 per year to administer.

Your Committee discussed whether a lump sum amount or a fee per service cost would be more feasible for calculating an adequate reimbursement figure to the County. Your Committee decided that a minimum of \$38,000 of State funds would be an adequate reimbursement figure to the County for services rendered.

Your Committee realized that the continuation of this service is vital to the disabled community, but at the same time was concerned that County taxpayer dollars are paying for a State function.

Your Committee deferred the matter pending substantive revisions to the Memorandum of Agreement attached to the proposed bill, as it relates to the Compensation and Payment Schedule.

By correspondence dated August 18, 2005, your Committee requested that the Department of the Corporation Counsel revise Section 4 of the Memorandum of Agreement to require payment to the County of Maui of not less than \$38,000.

By correspondence dated August 18, 2005, your Committee requested that the Department of Finance provide the County of Maui's history for providing services for the Statewide Program on Parking for Persons with Disabilities, specifically regarding the distribution of disabled parking placards.

By correspondence dated August 29, 2005, the Department of Finance informed your Committee that, according to the Administrator for the Motor Vehicle and Licensing Division, the County has distributed parking placards on behalf of the State since November 1994, and identified legislative changes to Hawaii Revised Statutes (HRS), Chapter 291, Part III, Parking for Disabled Persons.

By correspondence dated August 31, 2005, the Department of the Corporation Counsel transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH". The purpose of the revised proposed bill is to authorize the Mayor to enter into an intergovernmental agreement with the State of Hawaii, Department of Health, regarding the Statewide Program on Parking for Persons with

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Disabilities, to receive a minimum of \$38,000 for services to be performed in conjunction with the administration and operation of distributing disabled parking placards for Fiscal Year 2006.

By correspondence dated September 6, 2005, Francine Wai, Executive Director, Disability and Communication Access Board (DCAB), State of Hawaii, clarified that the U.S. Court of Appeals for the Ninth Circuit ruled that State and local governments are prohibited from charging a fee for a parking placard for persons protected by the Americans with Disabilities Act.

By correspondence dated November 14, 2005, your Committee requested that Francine Wai, Executive Director, DCAB, State of Hawaii, or her representative attend your Committee's November 15, 2005 meeting.

By correspondence dated November 14, 2005, Francine Wai, Executive Director, DCAB, State of Hawaii, informed your Committee that neither she nor a representative would be able to attend the November 15, 2005 meeting. She provided a summary of the "Costs of the Parking Program", which includes information on the current Fiscal Year 2005-2006, the next Supplemental Budget Year 2006-2007, and DCAB's "Parking Data Analysis" for Fiscal Year 2004-2005.

At its meeting of November 15, 2005, your Committee met with the Director of Finance; the Administrator for the Motor Vehicle and Licensing Division, Department of Finance; and the First Deputy Corporation Counsel.

There was no public testimony.

The Director of Finance provided a brief overview of the matter. He stated that the disabled parking placards are distributed through the Motor Vehicle and Licensing Division. He further stated that the reimbursement received from the State is an amount far less than the \$38,000 total cost of the service.

Your Committee discussed the role of the County in subsidizing a State program, and questioned whether the County is willing to continue issuing disabled parking placards on behalf of the State. The Administrator for the Motor Vehicle and Licensing Division said that DCAB had indicated that if the County decided to discontinue the service, they would provide the public with a mail-in service.

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Your Committee discussed whether the other counties had executed similar memoranda of agreement. Based upon correspondence from DCAB, all counties have not yet executed similar memoranda of agreement.

Your Committee discussed whether salary adjustments could be provided in the proposed Memorandum of Agreement. The Administrator for the Motor Vehicle and Licensing Division said that such a provision could be incorporated into the Memorandum of Agreement and would result in automatic pay increases upon collective bargaining increases.

Your Committee discussed the convenience of the service offered to disabled individuals in need of a parking placard within the County of Maui. Your Committee discussed the possible inconveniences posed by a mail-in service and noted the State's preference that the program continue to be provided by the County.

The Director of Finance and the Administrator for the Motor Vehicle and Licensing Division said that the County has been working in cooperation with DCAB to secure additional funding for the program, and that DCAB has been very supportive of the efforts to secure additional funding.

Your Committee deferred the matter pending further discussion.

By correspondence dated November 16, 2005, your Committee requested that Francine Wai, Executive Director, DCAB, State of Hawaii, or her representative attend your Committee's December 13, 2005 meeting.

At its meeting of December 13, 2005, your Committee met with the Director of Finance; the Administrator for the Motor Vehicle and Licensing Division, Department of Finance; the First Deputy Corporation Counsel; Francine Wai, Executive Director, DCAB; Norman Olesen, Chair, Committee on Parking, and Board Member, DCAB; and Marie Kimmey, Maui Board Member, DCAB.

There was no public testimony.

Your Committee received a brief opening statement from the Director of Finance who indicated that the Administrator for the Motor Vehicle and Licensing Division and representatives from DCAB were present to provide information on the disabled parking placard program.

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The Executive Director of DCAB indicated that she had not previously been aware that your Committee was considering a revision to the Memorandum of Agreement that would require DCAB to provide a minimum payment of \$38,000 to the County of Maui. She indicated that historically, counties have offered this service to the public and had been able to charge a fee for the issuance of disabled parking placards. In the year 2000, a court ruling disallowed this practice resulting in the State entering into Memoranda of Agreement with the counties to reimburse counties for a portion of the cost of providing the service.

Mr. Olesen said that DCAB would not be able to provide the \$38,000 provided for in the revised Memorandum of Agreement. He stated that DCAB is proposing an increase in the issuance cost per parking placard from \$10 to \$12. He further stated that this figure is used to calculate the actual costs associated with issuing disabled parking placards.

Your Committee clarified that a request for emergency funding that had been made by DCAB to the State Administration had been denied. Your Committee further clarified that no such request had been made to the State Legislature.

Your Committee discussed whether the Department of Finance has communicated in writing their calculations for the actual cost of administering the disabled parking placard program. Both DCAB representatives, as well as the Administrator for the Motor Vehicle and Licensing Division, indicated that no such information had been forwarded in writing to DCAB.

Your Committee discussed the deadline for execution of the Memorandum of Agreement. Your Committee noted that the Memorandum of Agreement must be executed by June 30, 2006 in order for the County to receive payment for services rendered between July 1, 2005 and June 30, 2006.

The Executive Director of DCAB provided your Committee with an informational packet on the disabled parking placard program.

Your Committee deferred the matter pending further discussion.

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At its meeting of January 31, 2006, your Committee met with the Director of Finance; the Administrator for the Motor Vehicle and Licensing Division, Department of Finance; and the First Deputy Corporation Counsel.

There was no public testimony.

The Director of Finance provided a brief overview of the matter.

The First Deputy Corporation Counsel responded to correspondence dated January 5, 2006, from your Committee. She stated that HRS, Chapter 291, Part III, authorizes and anticipates that the County will provide the distribution of parking placards on behalf of the State. She further stated that, with the exception of the unsigned Memorandum of Agreement, the Department of the Corporation Counsel does not see any issues of liability that are apparent. Furthermore, the State Constitution does not provide for the State to reimburse the County in full, rather that the State shall share in the costs associated with the program.

Your Committee questioned whether the County is required to sign a Memorandum of Agreement that is approved by the Council before services are provided. The First Deputy Corporation Counsel stated that there is a requirement for the Council to approve intergovernmental agreements; however, in this case, because State law already authorizes and anticipates that the County will provide the service, the Memorandum of Agreement would merely provide details of the program and state the reimbursement amount for expenses.

Your Committee questioned whether the City and County of Honolulu, County of Kauai, or County of Hawaii have submitted similar correspondence requesting the State to provide a greater reimbursement with regard to their parking placard programs. The Director of Finance stated he has not seen such correspondence to date.

Your Committee further questioned whether services to the disabled community would be disrupted if the County stopped issuing parking placards on behalf of the State. The Administrator for the Motor Vehicle and Licensing Division stated that according to the Executive Director of DCAB, the State would consider a mail-in service. Your Committee noted that a mail-in service that would not require an individual to appear in person may be beneficial for members of the disabled community. The Administrator for the Motor Vehicle and Licensing Division stated that Hawaii Administrative Rules currently allow for renewal applications to be handled by mail; for new applications,

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applicants must be physically present unless the physician certifies that they are unable to appear in person. He further stated that some delay in issuing parking placards may result once the public is notified that the process has changed to a mail-in service.

Your Committee expressed dissatisfaction over the County having to provide State services while not being adequately reimbursed for expenses. Your Committee, however, did not want to create a disruption in services that are provided to members of our disabled community.

Your Committee recommended transmitting a resolution to the Governor of the State of Hawaii, Maui County's delegation to the State Legislature, and DCAB, urging the State to increase the total amount of reimbursement to the County, and attaching a copy of the committee report.

Your Committee Chair clarified the intent of the two proposed bills. The proposed bill attached to County Communication No. 05-249 requests a reimbursement of \$9,495 from the State. The revised proposed bill attached to correspondence dated August 31, 2005, from the Department of the Corporation Counsel requests a reimbursement of \$38,000 from the State.

Your Committee voted to recommend passage of the proposed bill attached to County Communication No. 05-249, requesting a reimbursement of \$9,495 from the State.

Your Committee is in receipt of a revised proposed bill from the Department of the Corporation Counsel, incorporating a nonsubstantive revision to change the date of the bill from "2005" to "2006".

Your Committee of the Whole **RECOMMENDS** the following:

1. That Bill No. \_\_\_\_\_ (2006), attached hereto, entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH" be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 05-249 be FILED.

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Adoption of this report is respectfully requested.

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