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November 5, 2025

Honorable Richard T. Bissen, Jr.
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Richard T. Bissen, Jr.
Mayor
11-6-25
Date

For Transmittal to:

Honorable Tom Cook, Chair
Water and Infrastructure Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Cook:

SUBJECT: BILL 158 (2025), ON WATER CONSERVATION AND CONTROL OF WATER USE DURING WATER SHORTAGES (WAI 8)

Thank you for your letter dated October 28, 2025. Department of Water provides the following response to your questions:

1. Sections 6 and 7 of the bill amend Sections 19.500.090 and 19.530.030, Maui County Code, respectively.
 - a. Has your Department considered whether these amendments trigger the requirement of planning commission review under Section 8-8.4 of the Revised Charter of the County of Maui (1983), as amended? Although the term "land use ordinance" remains undefined, generally Code Title 19 amendments have required planning commission review. Please explain.

"By Water All Things Find Life"

Response:

Section 6 of the proposed bill has been removed. Section 7 of the proposed bill is now renumbered Section 6. Section 19.530.030 does not relate to land use but only to administrative enforcement. Therefore, the proposed amendments to Section 19.530.030 would not require planning commission review.

- b. Would the Department have any objection to dealing with the proposed amendments to Code Section 19.500.090 through a new section in Chapter 14.06B and integrating the proposed amendment to Section 19.530.030 into the violations and penalties provisions in the new chapter?

Response:

Please refer to our answer under 1a. We think a new section in 14.06B will not be necessary. If your committee prefers that the amendments to Section 19.530.030 are addressed in the violations and penalties section of 14.06B, we can make those changes.

- 2. The Board of Water Supply reviewed a prior draft of the bill to amend Code Chapter 14.06A in March 2025.
 - a. Please advise whether your Department considered this review as required under the Charter or conducted as a courtesy.

Response:

The chair agendaized this item as suggested by Director Stufflebean and the board received a presentation from the Department at its March 20, 2025 meeting. The Department consulted the Board as a courtesy.

- b. Please provide the Board's comments on the bill that the Committee should consider.

Response:

The Board of Water Supply commented on the water conservation goals in the Water Shortage and Conservation Plan provided as background in the Department's presentation. One board member commented that those conservation goals are too optimistic. The Board had no comments on the content of the draft bill.

3. The terms "commercial facilities" and "commercial establishments" are used in different sections of the bill. Do the terms mean different things? If not, please identify the term that you would like to have used consistently throughout the bill, and if helpful, define the term.

Response:

The term "commercial facilities" has been removed and the term "commercial establishments" is now used consistently in the bill. "Commercial" is used in the same manner as "Commercial purpose" defined in 19.04.040 as "the growing, processing, manufacturing, or sale of products or goods or the provision of services for consideration and profit."

4. Do hotels, motels, and resorts fall under the term "commercial facilities" and are they intended to be subject to the outdoor water use restrictions in Section 14.06B.090? Please explain.

Response:

Yes, hotels are subject to the outdoor water use restrictions. Section 14.06B.090 watering schedule has been revised to substitute "commercial facilities" with "non-residential establishments" to clarify that the watering schedule applies to consumers that are not commercial in nature, such as public facilities, schools, churches and non-profit entities.

5. "Water theft" is a new term that is defined but not used in the bill. If you would like to retain the term, please use it in the bill. Otherwise, please advise if the term may be removed, along with the terms "LEED" and "WaterSense."

Response:

All three terms have been removed.

6. Proposed Section 14.06B.100 provides a non-exhaustive list of actions that may be considered "water waste." Should a definition for the term be moved into the definitions provision?

Response:

Because this section provides examples of remedies for the types of water waste, it may be helpful to retain the description of water waste in the same section.

7. Proposed Section 14.06B.050 authorizes the Director to declare a water shortage. What objective standards or criteria will the Department use to make the determination? Would it be appropriate to codify those standards? Please explain.

Response:

The Director applies the triggers defined in the 2024 Water Shortage and Conservation Plan. The plan defines specific indicators and shortage triggers for each of the Department's water systems. Shortage triggers for surface water conditions are established as a percent of storage remaining, projected surface water flow, production and ditch supply. Triggers for groundwater conditions are defined as well production weighted chloride levels. Section 14.06B.050 is revised by adding the type of conditions to be considered by the Director. Spelling out the detailed indicators and conditions for shortage triggers in the plan ensures transparency.

8. Proposed Section 14.06B.090 governs outdoor water use. Does the entire section apply only when a water shortage is *not* in effect, or does only subsection B apply? Do the watering restrictions in subsection A and the exemptions in Subsection C apply without regard to a water shortage declaration? Please clarify the intended scope of each subsection.

Response:

Subsection A applies at all times, regardless of whether a water shortage has been declared. This is clarified in the revised bill. The watering schedule in subsection B applies unless a water shortage is declared for the applicable water system. A water shortage declaration will impose a stricter irrigation schedule than set forth in subsection b. The exemptions in subsection C apply in the following manner: 1. Irrigation with recycled water, gray water or rainwater catchment do not utilize DWS water supply. 2. Irrigation by agricultural consumers is dictated in section 14.01.040. 3. Temporary irrigation of recently installed seed or sod is exempt for the stated time period only.

9. Sections 14.06B.120 through 14.06B.140 refer to requirements for "new" commercial, hotel, multi-family, and public use developments. How does the Department intend to apply these provisions to projects with approved plans that are not yet completed?

Response:

Projects that have approved plans and permits that are not yet completed are not subject to the provisions.

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10. Proposed Section 14.06B.080 references the Commission on Water Resource Management. What is the intended effect of this provision, given that CWRM has not yet adopted a water shortage plan? Please explain.

Response:

The CWRM is in the process of developing a water shortage plan. The CWRM can by rule declare that a water shortage exists and require reductions in water use according to HRS 174C-62. The Department would have to abide by any required restrictions, which may not exempt agricultural consumers.

11. Page 9, Subsection 14.06B.100.(C)(2), includes a "temporary malfunction" provision. What circumstances is this meant to address, and does the Department recommend clarifying this subsection?

Response:

The provision was intended to address water leaks from malfunctioning irrigation or distribution systems and establish a time frame for required repairs. After further review, the Department finds that the provision is confusing and that leak detection and repairs on the Department and consumer side is sufficiently addressed in Section 14.06B.030.

Thank you for the opportunity to comment on this agenda item. If you have any questions, please contact me.

Sincerely,



JOHN STUFFLEBEAN, P.E.
Director