

April 25, 2025, Committee meeting

BUDGET, FINANCE, AND ECONOMIC DEVELOPMENT COMMITTEE
Amendment Summary Form

Legislation: Bill 54 (2025), "A BILL FOR AN ORDINANCE AMENDING SECTION 3.12.070, MAUI COUNTY CODE, TO REQUIRE COMMUNITY WORKFORCE AGREEMENTS FOR LARGE CAPITAL IMPROVEMENT PROJECTS OF MORE THAN \$500,000"

Proposer: Tamara Paltin, Councilmember. *Tamara A.M. Paltin*

Description: Amending Bill 54(2025) to clarify that that projects subjected to community agreement workforce are open to both union and non-union contractors and to make revisions to comply with the Drafting Guide for Maui County Legislation.

Motions: Move to substitute Bill 54 (2025) with the attached proposed CD1 version.

Effect: See attached proposed CD1 version.

Reasons: The proposed amendments would clarify that the County is permitted to select any otherwise-qualified bidder without regard to its status with respect to union contracts if the bidder is willing, ready, and able to execute and comply with the terms of the community workforce agreement.

Attachments: Proposed CD1 version.

paf:mkm:25-102e

ORDINANCE NO. _____

BILL NO. 54, CD1 (2025)

A BILL FOR AN ORDINANCE AMENDING SECTION 3.12.070, MAUI COUNTY CODE, TO REQUIRE COMMUNITY WORKFORCE AGREEMENTS FOR LARGE CAPITAL IMPROVEMENT PROJECTS OF MORE THAN \$500,000

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Capital improvement projects represent a significant investment of Maui County's public resources, and ensuring the projects are executed within projected cost estimates and timelines is of significant public benefit.

The Council finds Maui County can improve its ability to deliver capital improvement projects with efficiency and increase economic-development benefits by requiring a community workforce agreement for larger capital improvement projects.

A community workforce agreement can avoid work stoppages and slowdowns by addressing labor disputes using arbitration procedures and can include a preference for hiring local residents to the extent permitted by law.

Community workforce agreements are open to both union and non-union contractors. The department awarding a project covered by a community workforce agreement may select any qualified bidder for the award without regard to whether it is otherwise a signatory to a collective bargaining agreement.

This Ordinance's purpose is to require responsive bidders be signatories to the community workforce agreement for all capital improvement project contracts of more than \$500,000.

SECTION 2. Section 3.12.070, Maui County Code, is amended to read as follows:

“3.12.070 Competitive bidding and procurement procedures. A. Expenditures of public money [shall] must be made in accordance with the competitive bidding requirements and other applicable sections of Hawaii Revised Statutes chapter 103, and as otherwise required by law.

B. Competitive bidding must be in accordance with the following procedures:

1. The department making the purchase or contracting for the project [shall] must prepare the specifications, bid form, general conditions, etc.

2. The department [shall] must then submit the necessary documents to the finance director.

3. The finance director [shall] must advertise for bids and open such bids on the appointed day. Any legal question [shall] must be referred to the corporation counsel.

4. The finance director [shall] must award the contract to the lowest responsible bidder; provided, that sufficient funds have been made available in the budget for this purpose. [He shall] The finance director must inform the mayor and all bidders of the results and return the bid bonds of the unsuccessful bidders, and the mayor [shall] must inform the council forthwith.

5. For capital improvement project contracts of more than \$500,000, a bidder is not a responsible bidder if they are not a signatory to the community workforce agreement in effect at the time of contract award. The community workforce agreement must:

a. Be binding on all contractors at all tiers. All contractors must condition the engagement of each subcontractor on the subcontractor's execution of an agreement to be bound by the community workforce agreement.

b. Include all construction work on a project subject to this provision.

c. Permit the County to select any otherwise-qualified bidder without regard to its status with respect

to union contracts if the bidder is willing, ready, and able to execute and comply with the terms of the community workforce agreement.

d. Prohibit discrimination on any basis prohibited by federal, state, or county law.

e. Require that alleged violations of the community workforce agreement be resolved by a mandatory, final, and binding arbitration procedure.

f. If union labor is used, require that the unions refrain from strikes, picketing, and other labor actions on or arising from a project subject to the community workforce agreement; and for both union and non-union labor, that contractors refrain from lockouts or similar actions on or arising from a project subject to the community workforce agreement.

g. Require that contractors request referral of County residents and must contain a goal that at least 80 percent of all hours on projects will be worked by County residents. To the extent permitted by law and consistent with the unions' hiring hall provisions, if County residents possess the requisite skills and qualifications, they will be referred to contractors working on projects subject to the community workforce agreement. If there are not enough County residents to meet project needs, contractors may request referral of residents from other counties in the State.

h. Require that all apprentices must be indentured in a State-approved apprenticeship program.

i. Incorporate the "helmets to hardhats" program, which creates pathways for careers in construction to returning veterans.

j. Require that the wages, hours, shift schedules, holidays, and other terms and conditions of employment are governed by the applicable craft's master agreement.

k. Have an effective term of at least five years with the ability for five-year extensions. The community workforce agreement in effect at time of contract award will apply for the contract's entire duration, regardless of the term of the applicable community workforce agreement.

l. Be negotiated and executed on the County's behalf by the mayor, subject to approval by council by resolution.

[5.] 6. In the event the low bid exceeds the amount available for the project, the finance director may reject all bids, or [he] may request the mayor to write to the council for additional appropriations.

[6.] 7. The finance director [shall] must execute all contracts which have been awarded after competitive bids have been advertised.

[7.] 8. The finance director [shall] must transmit the low bid and bond to the department of the corporation counsel for the preparation of the necessary documents. The finance director [shall] must then process the same; that is, send the contract to the contractor for execution, see that the performance bond is executed, and complete other administrative tasks as required. Both the contract and bond must be approved as to form and legality by the department of corporation counsel.

[8.] 9. After the contract and bond have been returned to the finance director, [he shall] they must have the same certified as to availability of funds from the proper agency. [He] The finance director must then transmit copies thereof as follows: the original to the county clerk, one copy to the department concerned, one copy to the contractor, and one copy to be filed in the office of the finance director.

[9.] 10. The department concerned [shall] must be responsible for issuing the order to proceed and ensure that the contract is properly performed.

[10.] 11. The department concerned [shall] must make the final inspection of the project and inform the finance director when the project is accepted. The finance director [shall] must then publish notice of and make final payment on the project.

[11.] 12. The finance director [shall] must inform the mayor in writing when contracts are awarded and when final payment is made. The mayor, in turn, [shall] must inform the council on these matters.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This Ordinance takes effect on approval.