

COUNCIL OF THE COUNTY OF MAUI

**POLICY, ECONOMIC DEVELOPMENT,
AND AGRICULTURE COMMITTEE**

February 2, 2018

**Committee
Report No. _____**

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

Chair and Members:

Your Policy, Economic Development, and Agriculture Committee, having met on January 22, 2018, makes reference to County Communication 18-18, from the Director of Personnel Services, 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, THE CITY AND COUNTY OF HONOLULU, THE COUNTY OF KAUAI, AND THE COUNTY OF HAWAII TO SHARE THE COSTS AND EXPENSES OF SERVICES DIRECTLY RELATED TO THE INTEREST ARBITRATION HEARING FOR BARGAINING UNIT 14."

The purpose of the proposed bill is to authorize the Mayor to enter into an intergovernmental agreement with the State of Hawaii, the City and County of Honolulu, the County of Kauai, and the County of Hawaii ("Public Employer Group") to share the costs and expenses of professional services, including expert witnesses, arbitrators, and court reporters, directly related to the interest arbitration hearing for Bargaining Unit 14.

At the request of the Chair of the Committee, 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, THE CITY AND COUNTY OF HONOLULU, THE COUNTY OF KAUAI, THE COUNTY OF MAUI, AND THE COUNTY OF HAWAII TO SHARE THE COSTS AND EXPENSES OF SERVICES DIRECTLY RELATED TO THE INTEREST ARBITRATION HEARING FOR BARGAINING UNIT 14," incorporating nonsubstantive revisions throughout the bill and in Exhibit "1."

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Your Committee noted Bargaining Unit 14 covers law enforcement officers, ocean safety officers, and water safety officers for the State and the counties. The State Legislature created Bargaining Unit 14 in 2013 in large part to shift law enforcement officers, ocean safety officers, and water safety officers out of a bargaining unit that was predominantly clerical and into one that included public safety personnel.

Your Committee notes the Public Employer Group and the Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, are at an impasse and it is anticipated the matter will be resolved via interest arbitration.

Your Committee further notes the Mayor shall not enter into any intergovernmental agreement which places a financial obligation upon the County or any department or agency thereof, unless authorized by ordinance pursuant to Section 2.20.020, Maui County Code.

A Deputy Corporation Counsel said the County of Kauai viewed this matter as an intergovernmental agreement, and the State, City and County of Honolulu, and County of Hawaii agreed even though the matter is not subject to procurement laws.

The Deputy said the Department's litigation fund will absorb the County of Maui's portion of the costs. He said costs and expenses of professional services will be equally distributed among the five entities in the Public Employer Group, and each entity will be responsible for 20 percent of the total cost.

Your Committee discussed whether the State's share of costs should be commensurate with the number of votes allowed. Section 89-6, Hawaii Revised Statutes, accounts for the division of votes among the parties involved. For Bargaining Unit 14, the Governor shall have six votes and the Mayors, the Chief Justice, and the Hawaii Health Systems Corporation Board shall each have one vote.

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Your Committee revised the title of the proposed bill by deleting an unnecessary reference to the County of Maui. Your Committee also revised Exhibit "1" to the proposed bill by correcting the signature line for the County of Maui to require the approval of the Mayor.

Your Committee voted 6-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Sugimura, Vice-Chair Crivello, and members Carroll, Cochran, Guzman, and Hokama voted "aye." Committee members Atay, King, and White were excused.

Your Committee is in receipt of a further revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, 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, THE CITY AND COUNTY OF HONOLULU, THE COUNTY OF KAUAI, AND THE COUNTY OF HAWAII TO SHARE THE COSTS AND EXPENSES OF SERVICES DIRECTLY RELATED TO THE INTEREST ARBITRATION HEARING FOR BARGAINING UNIT 14," incorporating your Committee's revisions.

Your Policy, Economic Development, and Agriculture Committee RECOMMENDS the following:

1. That Bill _____ (2018), as revised herein and 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, THE CITY AND COUNTY OF HONOLULU, THE COUNTY OF KAUAI, AND THE COUNTY OF HAWAII TO SHARE THE COSTS AND EXPENSES OF SERVICES DIRECTLY RELATED TO THE INTEREST ARBITRATION HEARING FOR BARGAINING UNIT 14," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

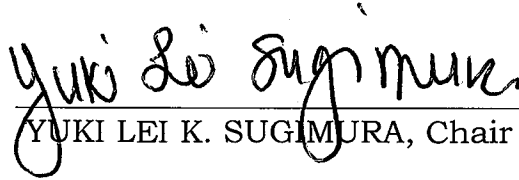
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2. That County Communication 18-18 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



YUKI LEI K. SUGIMURA, Chair

pea:cr:18055aa:ske

ORDINANCE NO. _____

BILL NO. _____ (2018)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, THE CITY AND COUNTY OF HONOLULU, THE COUNTY OF KAUAI, AND THE COUNTY OF HAWAII TO SHARE THE COSTS AND EXPENSES OF SERVICES DIRECTLY RELATED TO THE INTEREST ARBITRATION HEARING FOR BARGAINING UNIT 14

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

SECTION 1. Purpose. The State of Hawaii, the City and County of Honolulu, the County of Kauai, the County of Maui, and the County of Hawaii ("Public Employer Group") and the Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, are at an impasse with regard to the collective bargaining agreement for Bargaining Unit 14, and it is anticipated that the matter will be resolved via interest arbitration.

A copy of the Intergovernmental Agreement between the members of the Public Employer Group to share the costs and expenses of professional services directly related to the interest arbitration hearing for Bargaining Unit 14, including expert witnesses, arbitrators, and court reporters, is attached hereto and incorporated herein by reference as Exhibit "1."

SECTION 2. Council authorization. Section 2.20.020, Maui County Code, provides that, unless authorized by ordinance, the Mayor shall not enter into any intergovernmental agreement or any amendment thereto which places a financial obligation upon the county or any department or agency thereof:

Pursuant to Section 2.20.020, Maui County Code, the Council of the County of Maui hereby authorizes the Mayor to enter into an intergovernmental

agreement, in the form attached hereto as Exhibit "1," all other necessary documents relating to the agreement, and any amendments thereto.

SECTION 3. Effective date. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



GARY Y. MURAI
Deputy Corporation Counsel
County of Maui
LF LIT-5674/2017-0098
2018-01-11 IGA Ordinance

Intergovernmental Agreement

This Intergovernmental Agreement (IGA), executed on the respective dates indicated below, is effective as of _____, 2018, and is made by and between the State of Hawaii, the City and County of Honolulu, the County of Kauai, the County of Maui, and the County of Hawaii (collectively Parties), to share the costs and expenses of services directly related to the Interest Arbitration hearing for Bargaining Unit 14.

Recitals

- A. The Bargaining Unit 14 collective bargaining agreement expired on June 30, 2017.
- B. Pursuant to § 89-11, Hawaii Revised Statutes, the Parties filed for impasse culminating in an arbitration decision.
- C. In order to prepare for the Interest Arbitration hearing for Bargaining Unit 14, various services, including the services of expert witnesses, arbitrators, and court reporters, may become necessary.
- D. The Attorney General's Office has advised that the procurement of the services of expert witnesses, arbitrators, and court reporters are exempt from the requirements of the Hawaii Public Procurement Code, Hawaii Revised Statutes Chapter 103D.
- E. The Attorney General's Office has advised that this IGA is exempt from the requirements of the Hawaii Public Procurement Code, Hawaii Revised Statutes Chapter 103D.

NOW THEREFORE, in consideration of the promises contained in this IGA, the Parties agree as follows:

- 1. The costs and expenses of services directly related to and incurred for the Interest Arbitration hearing for Bargaining Unit 14 shall be shared and equally divided among the Parties. Such services include those of expert witnesses, arbitrators, and court reporters.

2. This IGA shall represent the obligation of each Party to fund its share of the costs.

IN VIEW OF THE ABOVE, the Parties execute this IGA by their signatures, on the dates below, to be effective as of the date first above written.

STATE OF HAWAI'I

CITY & COUNTY OF HONOLULU

Department of Human Resources Development
Director

Department of Human Resources
Director

Department of the Attorney General
Deputy Attorney General

Department of the Corporation Counsel
Corporation Counsel

Department of Budget & Fiscal Services
Director

COUNTY OF HAWAI'I

COUNTY OF MAUI

Office of the Mayor
Managing Director

Office of the Mayor
Mayor

Office of the Corporation Counsel
Corporation Counsel

Department of the Corporation Counsel
Corporation Counsel

COUNTY OF KAUAI

Department of Human Resources
Director

Office of the County Attorney
County Attorney