

COUNCIL OF THE COUNTY OF MAUI
WATER AND INFRASTRUCTURE
COMMITTEE

November 15, 2024

Committee
Report No. _____

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

Chair and Members:

Your Water and Infrastructure Committee, having met on October 21, 2024, makes reference to Bill 130 (2024), entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 14.07.090, MAUI COUNTY CODE, TO ALLOW THE DIRECTOR OF WATER SUPPLY TO ADMINISTRATIVELY EXTEND WATER METER RESERVATIONS IN LIMITED CIRCUMSTANCES BASED ON SPECIFIC FINDINGS.”

Bill 130’s purpose is to amend the County Water Code by granting the Director of Water Supply conditional authority to extend water-meter reservations beyond five years, retroactive to July 1, 2019.

Your Committee notes that the Department of Water Supply’s administrative rules say a water-meter reservation is “a written commitment by the department executed by the director indicating that the proposed project will be provided source or service.”

Your Committee noted that some water applicants, including many in Upcountry Maui, have not been able to get their projects ready for water service before their reservations expired. Projects have been delayed by challenges with off-site improvements and inadequate water infrastructure.

A Department of Water Supply representative said the Department previously set a two-year reservation limitation and could grant extensions indefinitely, without justification. A Deputy Corporation Counsel noted this system caused legal challenges.

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Since 2019, a five-year reservation limitation has been used with no administrative extensions granted. Bill 130 would strike a balance between the previous and current reservation system by allowing administrative extensions upon certain findings.

The Deputy Corporation Counsel said the intent of Bill 130's retroactive date is to allow an applicant with a reservation initially granted during that timeframe to request an extension under proposed subsection 14.07.090(C) in Bill 130.

By correspondence dated October 11, 2024, the Director transmitted comments and proposed amendments to Bill 130.

Your Committee noted that when a water-meter reservation expires, the applicant's deposit is lost. The Department representative recommended that the deposit remain with the property. Your Committee voted to revise Bill 130 to include that recommendation.

Your Committee also voted to revise Bill 130 by:

1. Amending Bill 130's title;
2. Setting a five-year duration for reservations issued before January 1, 2025;
3. Setting a three-year duration for reservations issued on or after January 1, 2025;
4. Authorizing the Director to grant two-year extensions to water-meter reservations, if applicants submit a request at least 60 days prior to the reservation's expiration, when at least three of the four criteria, specified under proposed subsection 14.07.090(C), are found; and

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5. Allowing an applicant to appeal an extension request to the Board of Water Supply if the Director denies the request and authorizing the Board to reverse the Director’s decision when at least three of the four criteria are found.

Your Committee notes that the Board of Water Supply has the general authority to consider an appeal by an applicant who was unable to timely request an extension.

Your Committee expressed support for Bill 130, as revised, to help water applicants in need of more time to complete their projects.

Your Committee voted 9-0 to recommend passage of Bill 130, CD1 (2024), on first reading. Committee Chair Cook, Vice-Chair Sugimura, and members Johnson, Kama, Lee, Paltin, Rawlins-Fernandez, Sinenci, and U‘u-Hodgins voted “aye.”

Your Committee is in receipt of Bill 130, CD1 (2024), entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 14.07.090, MAUI COUNTY CODE, TO ALLOW THE DIRECTOR OF WATER SUPPLY TO EXTEND WATER METER RESERVATIONS BASED ON SPECIFIC FINDINGS,” approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions and nonsubstantive revisions.

Your Water and Infrastructure Committee **RECOMMENDS** that Bill 130, CD1 (2024), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 14.07.090, MAUI COUNTY CODE, TO ALLOW THE DIRECTOR OF WATER SUPPLY TO EXTEND WATER METER RESERVATIONS BASED ON SPECIFIC FINDINGS,” be **PASSED ON FIRST READING** and be **ORDERED TO PRINT**.

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



TOM COOK, Chair

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ORDINANCE NO. _____

BILL NO. 130, CD1 (2024)

A BILL FOR AN ORDINANCE AMENDING SECTION 14.07.090, MAUI COUNTY CODE, TO ALLOW THE DIRECTOR OF WATER SUPPLY TO EXTEND WATER METER RESERVATIONS BASED ON SPECIFIC FINDINGS

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

SECTION 1. This Ordinance's purpose is to allow the Director of Water Supply to extend water meter reservations based on specific findings.

SECTION 2. Section 14.07.090, Maui County Code, is amended to read as follows:

“14.07.090 Payment of water system development fee.

A. Applicant ready for water service. The director [shall] must approve applications only upon payment of the water system development fee or application of credit for water service or additional water service, [provided] if water source capacity is available at that time. Total payment for water service [shall] must be the water system development fee in effect at the time the meter is installed.

B. Applicant not ready for water service. Upon payment of a deposit equal to the water system development fee [set forth] in the annual budget ordinance by an applicant who, to the director's satisfaction, is unable to accept water service immediately, the department may reserve an allocation of water service source capacity available at that time. Total payment for water service will be the water system development fee in effect at the time the meter is installed. [The] For reservations issued before January 1, 2025, the duration of [any such] the reservation [shall] may not exceed five years, [provided] if water service source capacity is available[.], subject to subsection C. For reservations issued on or after January 1, 2025, the duration of the reservation may not exceed three years, if water service source capacity is available, subject to

subsection C. The department and the applicant [shall] must agree in writing on the amount of any reserved allocation.

[If within five years, the applicant is not able to accept installation of water service, the application and the reservation of the allocation shall expire, the deposit paid by the applicant shall be forfeited, and said deposit shall be applied to the water system development fee fund with no credit of any kind toward any future application.]

C. Extension.

1. If an applicant with a reservation is unable to accept installation of water service within the duration of the reservation, the reservation may be extended for two years by the director, if requested by the applicant at least 60 days prior to the reservation's expiration, and the director finds at least three of the following:

a. Application of the reservation limitation would cause an absurd, unfair, or unreasonably harsh result to the applicant.

b. The applicant's circumstance or condition is exceptional, and the director would grant the same request if made by every similarly situated applicant.

c. Extension of the reservation expiration will be without detriment to existing users.

d. The applicant's construction plans for required water system improvements have been approved by the department, and the applicant has completed significant construction on the water system improvements.

2. Findings justifying the extension must be reduced to writing in a memorandum, which will be maintained in the applicant's file.

3. If the director denies the request for an extension, the applicant may appeal the decision to the board in accordance with chapter 14.11. The board may reverse the decision of the director in accordance with section 14.11.040 upon finding at least three of the four criteria in paragraph 14.07.090(C)(1).

D. If the reservation expires, the deposit paid by the applicant must be credited to the property for use in a future application on the same property."

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, on its approval, takes effect retroactive to July 1, 2019.

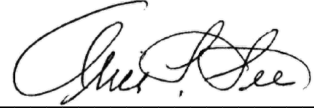
APPROVED AS TO FORM AND LEGALITY:



Department of the Corporation Counsel
County of Maui

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INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Alice L. Lee".

ALICE L. LEE

Upon the request of the Mayor.