

WAI Committee

From: Caleb P. Rowe <Caleb.Rowe@co.maui.hi.us>
Sent: Thursday, November 6, 2025 10:13 AM
To: WAI Committee
Cc: June A. Pacubas
Subject: WAI-19, Bill 160
Attachments: WAI-19 Response.PDF

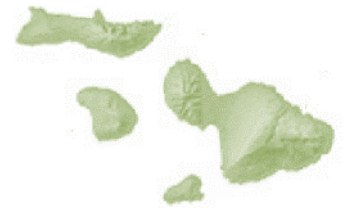
Please see attached.

RICHARD T. BISSEN, JR.
Mayor

VICTORIA J. TAKAYESU
Corporation Counsel

MIMI DESJARDINS
First Deputy

LYDIA A. TODA
Risk Management Officer



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November 6, 2025

MEMORANDUM

To: WAI Committee
From: Caleb P. Rowe, Deputy Corporation Counsel
Re: Bill 160, WAI-19 Response to Questions

A handwritten signature in black ink, appearing to read "Caleb P. Rowe".

I have received your Request for Legal Services dated October 31, 2025 and respond to your questions as follows:

Question: "Please advise whether the proposed MOU places a financial obligation on the County and explain the source of the financial obligation."

Response: As referenced in your request, paragraph 2 under the "Commitments" section, the Memorandum of Understanding ("MOU") states that the County commits to "contributions of necessary resources to support a multi-year work plan. This may involve allocation staff time for meeting coordination, pooling resources, shared funding for a long-term coordinator position, and other essential resources or capacities as collectively determined." However, paragraph five of the "Miscellaneous Conditions" states that "Members and Resource Participants are not obligated to commit resources, commit use of their lands or participate in obtaining funds unless such commitments are part of a specific and separated written agreement executed by the Member(s) and Resource Participants. Expenditures will be determined by separate and specific written agreements entered by the Members and Resource Participants."

These two paragraphs appear to contradict one another, and in an abundance of caution to avoid violating Section 2.20.020 of the Maui County Code ("MCC"), this document was submitted for Council approval. Even if monetary contributions will be subject to subsequent agreement, it is anticipated that the County will be providing staff time to determine what that funding will be and for what projects. Staff time falls within the definition of "obligation" set forth in MCC § 2.20.010(B)¹ and accordingly, this agreement would involve obligations of employee time during paid working hours.

Question: "Please note that, if the County has a financial obligation under the MOU, Section 2 of the bill does not authorize the Mayor to execute any amendments to the MOU that increase that obligation."

¹ "'Obligation' means any commitment, promise or similar representation contained in any intergovernmental agreement that the county or any agency thereof will provide...any professional or technical service."

Response: As noted above, the agreement makes clear that commitments to use funds will be part of a “specific and separate written agreement.” Since the MOU does not call for any funding, none would be requested by way of this resolution, but rather, would be part of a subsequent agreement. Under the terms of the Resolution, this would require either a separate MOU or an amendment to this MOU to be submitted to Council. This would be appropriate as any subsequent agreement would place a new affirmative financial obligation on the County.