

REQUEST FOR LEGAL SERVICES

D a t e: June 19, 2025
F r o m: Tom Cook, Chair
Water and Infrastructure Committee

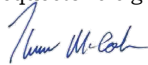
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Caleb P. Rowe, Esq.

Subject: BILL 56 (2025), AMENDING SECTION 14.10.010, MAUI COUNTY CODE, TO ESTABLISH NEW WATER RATES FOR PRESERVATION AND RESTORATION OF NATIVE SPECIES HABITATS (WAI-8)

Background Data: Please see proposed CD1 version of Bill 56 (2025). Please submit your response to wai.committee@mauicounty.us with a reference to WAI-8.

Work Requested: ☒ [X] FOR APPROVAL AS TO FORM AND LEGALITY
☐ [] OTHER:

Requestor's signature  Tom Cook, Chair	Contact Person <u>Keone J. Hurdle or Carla M. Nakata</u> (Telephone Extension: <u>7659 or 5519, respectively</u>)
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☐ [] ROUTINE (WITHIN 15 WORKING DAYS) ☐ [] RUSH (WITHIN 5 WORKING DAYS)
☐ [] PRIORITY (WITHIN 10 WORKING DAYS) ☐ [] URGENT (WITHIN 3 WORKING DAYS)

☒ [X] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): June 23, 2025, noon
REASON: For consideration at the next WAI Committee meeting.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: ☐ [] APPROVED ☐ [] DISAPPROVED ☐ [] OTHER (SEE COMMENTS BELOW)
☐ [] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

wai:ltr:008acc02:kjh

Attachment

ORDINANCE NO. _____

BILL NO. 56, CD1 (2025)

A BILL FOR AN ORDINANCE AMENDING SECTION 14.10.010, MAUI COUNTY CODE, TO AUTHORIZE WATER RATES FOR PRESERVATION AND RESTORATION OF NATIVE HAWAIIAN SPECIES HABITATS

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

SECTION 1. This Ordinance's purpose is to provide discounted water rates for Department of Water Supply consumers who are using water primarily for the purpose of conserving or restoring native Hawaiian species habitats without any associated commercial activity.

SECTION 2. Section 14.10.010, Maui County Code, is amended to read as follows:

"14.10.010 Water service rates. A. Water rates for agricultural, nonpotable agricultural, nondwelling agricultural, emergency water, temporary irrigation, preservation, and general consumers, must be set forth in the annual budget ordinance.

B. Agricultural consumers may qualify for agricultural water rates. Each consumer requesting an agricultural rate for water service must submit an annual written application to the department attaching the following documentation, if applicable, regarding their product or service:

1. A copy of the consumer's filed State of Hawai'i, department of taxation, general excise[,] use tax return, form G-45, for the period preceding the date of application.

2. A copy of the consumer's filed Internal Revenue Service[, profit or loss from farming schedule F.] tax return, and a copy of schedule F (form 1040), profit or loss from farming.

3. A description of the commercial agricultural operation that includes:

- a. The type of commercial operation.
- b. The anticipated monthly water usage.
- c. The age of the crop or stock, if applicable.

d. A five-year timeline of projected annual gross income.

e. A site plan demarcating the commercial agricultural operation, landscaping, grassy areas, dwellings and other structures, and irrigation system.

C. Emergency water consumers may qualify for emergency water rates where water that would otherwise be delivered as potable water has been determined by the director to be within a designated unsafe water advisory area as a result of a disaster or emergency as defined in section 127A-2, Hawai‘i Revised Statutes, and resulting in a proclamation of a state of emergency or local state of emergency under section 127A-14, Hawai‘i Revised Statutes. Emergency water rates will only be available to customers whose property has been determined by the director to be within the unsafe water advisory area.

D. Temporary irrigation consumers may qualify for temporary irrigation rates where a consumer’s home was destroyed, and water service temporarily canceled, as a result of a disaster or emergency as defined in section 127A-2, Hawai‘i Revised Statutes, and resulting in a proclamation of a state of emergency or local state of emergency under section 127A-14, Hawai‘i Revised Statutes. To qualify for this rate, water must be nonpotable and used for maintenance of residential landscaping, including lawns, crops, and gardens, as applicable.

E. Preservation consumers may qualify for preservation rates where:

1. The property is located in the State agricultural or conservation land use district or a County open space zoning district.

2. The property is owned or under a management agreement with a nonprofit or community land trust that complies with section 501(c) of the Internal Revenue Code. Documentation of ownership or management, including bylaws referencing preservation or restoration of native Hawaiian species habitats in the mission statement, must be submitted with the application for preservation rates.

3. The water will be used primarily for native Hawaiian species habitat preservation or restoration, with no associated commercial activity.

4. The consumer has submitted a conservation plan that includes:

a. Acreage of the preservation or restoration area.

b. The anticipated monthly water usage.

c. Best management practices for water conservation, as determined by the director to be acceptable.

d. A site plan demarcating the preservation or restoration area, dwellings and other structures, and irrigation systems.

5. For purposes of this subsection, “native Hawaiian species habitat” means the habitat of endemic or indigenous species that:

a. Arrived either by natural means, including by water, wind, or bird migration; or

b. Were included in the approximately 23 species brought over by the first human migration to the Hawaiian islands and that have adapted to native ecosystems.

[E.] F. General or agricultural water service will not be allowed from a meter for which the nonpotable agricultural rate is approved.

[F.] G. The penalty for using nonpotable [agriculture] agricultural water service to supply general uses is removal of the meter.

H. The penalty for using preservation water service to supply general or agricultural uses is removal of the meter.

[G.] I. The penalty for providing water service to lots other than the lot to which the service is assigned is removal of the meter.

[H.] J. Water service requests by property lessees or licensees may be granted[:] if:

1. [If requested] Requested and guaranteed by the fee simple owner of the property; or

2. A lump sum payment equal to a two-billing period estimate [must be] is deposited with the department as collateral for future billings.”

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.

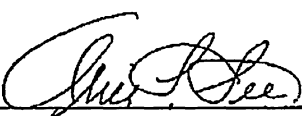
SECTION 4. This Ordinance, upon approval, takes effect retroactive to July 1, 2025.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

wai:misc:008abill02:kjh

INTRODUCED BY:



Upon the request of the Mayor.

WAI Committee

From: WAI Committee
Sent: Thursday, June 19, 2025 2:21 PM
To: CorpCounselRFLS@co.maui.hi.us
Cc: Carla M. Nakata
Subject: BILL 56 (2025), AMENDING SECTION 14.10.010, MAUI COUNTY CODE, TO ESTABLISH
NEW WATER RATES FOR PRESERVATION AND RESTORATION OF NATIVE SPECIES
HABITATS
Attachments: 008acc02.pdf; 008abill02.docx
Importance: High

Please see attached RFLS and the marked up version of Bill 56 (2025).