

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

March 9, 2018

Committee
Report No. _____

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

Chair and Members:

Your Budget and Finance Committee, having met on February 13, 2018, makes reference to County Communication 17-470, from the Director of Environmental Management, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 3.55, MAUI COUNTY CODE, CREATING THE ENVIRONMENTAL PROTECTION AND SUSTAINABILITY FUND."

The purpose of the proposed bill to create a new Chapter 3.55, Maui County Code ("MCC"), establishing an Environmental Protection and Sustainability Fund ("EPS Fund").

2. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.54, MAUI COUNTY CODE, RELATING TO THE SOLID WASTE MANAGEMENT FUND."

The purpose of the proposed bill is to amend Chapter 3.54, MCC, relating to the Solid Waste Management Fund, by deleting the purposes of the fund relating to environmental protection and sustainability.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill, entitled "A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 3.55, MAUI COUNTY CODE, RELATING TO THE ENVIRONMENTAL PROTECTION AND SUSTAINABILITY FUND, AND AMENDING CHAPTER 3.54, MAUI COUNTY CODE, RELATING TO THE SOLID WASTE MANAGEMENT FUND," approved as to form and legality.

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As proposed, the amendment to Chapter 3.54, MCC, is contingent upon the creation of a new EPS fund. Therefore, the revised proposed bill consolidates the purposes of the two proposed bills transmitted by County Communication 17-470, by establishing the EPS Fund and amending the Solid Waste Management Fund accordingly.

Your Committee notes Section 8-15.3(4), Revised Charter of the County of Maui (1983), as amended, added the following responsibility to the powers, duties, and functions of the Director of Environmental Management: "Guide efforts to optimize opportunities for environmental, natural resource protection, sustainability, conservation, and restoration."

The Deputy Director of Environmental Management said establishment of the EPS Fund would allow the Department to better account for expenditures for environmental protection and sustainability.

He said the EPS Fund will be responsible for all functions related to recycling, landfill diversion, and abandoned vehicles and metals programs. He said accounting for these uses under the Solid Waste Management Fund does not provide the true cost of the added duties of environmental protection and sustainability.

The Deputy Director said the Department estimates \$4,062,118.70 in revenue for the proposed EPS Fund for Fiscal Year 2019. He said the estimate is based on projected quantities to be collected and proposed rates per unit.

The Deputy Director said the term "refuse" was changed to "solid waste" because of the various types of waste accepted at the landfills. Your Committee notes "solid waste" is defined in Section 340A-1, Hawaii Revised Statutes.

The Budget Director said the proposed changes to the MCC would more clearly delineate the revenues and expenditures relating to environmental protection and sustainability.

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Your Committee noted the effective date of the revised proposed bill is July 1, 2018. Therefore, a proposed Fiscal Year 2018 budget amendment is not needed.

Your Committee voted 9-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Hokama, Vice-Chair White, and members Atay, Carroll, Cochran, Crivello, Guzman, King, and Sugimura voted "aye."

Your Budget and Finance Committee RECOMMENDS the following:

1. That Bill _____ (2018), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 3.55, MAUI COUNTY CODE, RELATING TO THE ENVIRONMENTAL PROTECTION AND SUSTAINABILITY FUND, AND AMENDING CHAPTER 3.54, MAUI COUNTY CODE, RELATING TO THE SOLID WASTE MANAGEMENT FUND," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-470 be FILED.

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



RIKI HOKAMA, Chair

ORDINANCE NO. _____

BILL NO. _____ (2018)

A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 3.55, MAUI COUNTY CODE, RELATING TO THE ENVIRONMENTAL PROTECTION AND SUSTAINABILITY FUND, AND AMENDING CHAPTER 3.54, MAUI COUNTY CODE, RELATING TO THE SOLID WASTE MANAGEMENT FUND

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

SECTION 1. The Revised Charter of the County of Maui (1983), as amended, was amended in 2012 to add the following powers, duties, and functions to the Director of Environmental Management: guide efforts to optimize opportunities for environmental and natural resource protection, sustainability, conservation, and restoration. Thereafter, the Environmental Protection and Sustainability Division was established in the Department of Environmental Management. To manage and fund this new division, it is now desirable and necessary to establish a dedicated environmental protection and sustainability fund. Concurrent with the creation of the environmental protection and sustainability fund, it is also desirable and necessary to amend the solid waste management fund to reflect the revised powers, duties, and functions within the department of environmental management.

SECTION 2. Title 3, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

“Chapter 3.55

ENVIRONMENTAL PROTECTION AND SUSTAINABILITY FUND

Sections:

- 3.55.010 Fund established.**
- 3.55.020 Purpose and uses.**
- 3.55.030 Definitions.**
- 3.55.040 Deposits to the fund.**
- 3.55.050 Administration.**
- 3.55.060 Administrative rules.**

3.55.010 Fund established. There is established and created a fund to be known as the “environmental protection and sustainability fund.”

3.55.020 Purpose and uses. The environmental protection and sustainability fund is established for the purpose of funding efforts by the environmental protection and sustainability division of the department of environmental management to optimize opportunities for environmental and natural resource protection, sustainability, conservation, and restoration, including:

1. Energy security or sustainability.
2. Landfill diversion, including uses or programs identified in or compatible with the County’s integrated solid waste management plan, as amended, established pursuant to chapter 342G, Hawaii Revised Statutes.
3. Recycling programs.
4. Abandoned vehicles and metals programs.
5. The cost of personnel.
6. The cost of equipment.
7. Acquisition of real property to be used for the purposes identified in this section.
8. Planning, design, and construction of facilities related to the purposes identified in this section.
9. Grants or loans to nonprofit or for-profit organizations for the purposes identified in this section, made in accordance with the requirements of chapter 3.36 of this title.
10. Leveraging funds provided by federal, state, nonprofit or for-profit organizations, and other non-County entities to further the purposes identified in this section.
11. Other expenses related to the purposes identified in this section.

3.55.030 Definitions. Unless otherwise expressly stated, whenever used in this chapter the following terms shall have the following meanings:

“Landfill diversion” means separation of wastes from the waste stream for the purpose of reducing, recycling, reusing, or otherwise diverting waste from disposal in a landfill.

“Recycling” means the same as the term is defined in section 342G-1, Hawaii Revised Statutes.

“Sewage sludge” means the same as the term is defined in section 342D-1, Hawaii Revised Statutes.

3.55.040 Deposits to the fund. There shall be deposited into the environmental protection and sustainability fund:

1. Monies transferred from the wastewater reclamation division of the department of environmental management related to the processing, handling, or disposal of sewage sludge.

2. Any fees or portions thereof as set forth in the annual budget ordinance.

3. Supplemental transfers as set forth in the annual budget ordinance.

3.55.050 Administration. A. The director of finance shall establish a separate account to record revenues and supplemental transfers credited to and expenses incurred by the fund.

B. Any proposed appropriation shall be submitted to the council for approval as a budget appropriation in either the annual budget or a proposed amendment to the budget ordinance. In adopting each fiscal year’s budget and capital program, the council may make appropriations to the fund.

C. The revenues in this fund shall not be used for any purpose except the purposes listed in section 3.55.020.

3.55.060 Administrative rules. The director of environmental management may adopt administrative rules necessary to carry out the purposes of this chapter.”

SECTION 3. Section 3.54.020, Maui County Code, is amended to read as follows:

“3.54.020 Purpose. A. The solid waste management fund is established for the purpose of paying for the personnel, equipment, operating, and capital expenses of the solid waste

[management] division of the department of environmental management [and of landfill diversion].

B. There shall be deposited into the solid waste management fund all [refuse] solid waste collection charges and landfill disposal charges received pursuant to [sections 8.04.060 and 8.04.076] chapter 8.04 of this code, or such appropriations as set forth in the annual budget ordinance that are not otherwise reserved for deposit to the environmental protection and sustainability fund pursuant to section 3.55.040 of this title, and such supplemental transfers as may be provided by law.

C. Moneys in the solid waste management fund may be expended to pay for:

1. [Refuse] Solid waste collection[;], disposal, and associated expenses.
 2. Landfill operation[;].
 3. Acquisition of real property to be used as landfills [or for recycling facilities;].
 4. Planning, design, and construction of landfills [and recycling facilities;].
 5. The cost of personnel[;].
 6. The cost of equipment[;].
 7. Landfill diversion; and
 8. Other expenses related to collection, and disposal of solid waste.]
7. Uses or programs related to the purposes identified in this section.”

SECTION 4. Section 3.54.025, Maui County Code, is amended to read as follows:

“3.54.025 Definitions. Unless otherwise expressly stated, whenever used in this chapter the following terms shall [be taken to] have the following meanings:

“Landfill” means the same as the term is defined in section 8.04.010 of this code.

["Landfill diversion" means any act that would separate wastes from the waste stream for the purpose of reducing, recycling or reusing.

“Recycling” means the same as the term is defined in section 342G-1 of the Hawaii Revised Statutes.]

“Solid waste” means the same as the term is defined in section 340A-1, [of the] Hawaii Revised Statutes.”

SECTION 5. 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 6. This ordinance shall take effect on July 1, 2018.

APPROVED AS TO FORM AND LEGALITY:



RICHELLE M. THOMSON
Department of the Corporation Counsel
County of Maui
2017-0093
2018-01-23 Establish Chapter 3.55
Amend Chapter 3.54 MCC
bf:misc:111abill03:mmy