

Council Chair
Mike White

Vice-Chair
Robert Carroll

Presiding Officer Pro Tempore
Stacy Crivello

Councilmembers
Alika Atay
Elle Cochran
Don S. Guzman
Riki Hokama
Kelly T. King
Yuki Lei K. Sugimura



COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

November 9, 2017

RECEIVED

2017 NOV -9 AM 11:32

**OFFICE OF THE
COUNTY CLERK**

The Honorable Mike White
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair White:

**SUBJECT: RESOLUTION ATTACHING A STATE BILL
RELATING TO LIABILITY PROTECTION FOR
COUNTY LIFEGUARD SERVICES FOR
INCLUSION IN THE 2018 MAUI COUNTY
LEGISLATIVE PACKAGE**

May I request the attached proposed resolution, entitled "APPROVING FOR INCLUSION IN THE 2018 MAUI COUNTY LEGISLATIVE PACKAGE A STATE BILL TO REINSTATE AND REAUTHORIZE LIABILITY PROTECTION FOR COUNTY LIFEGUARD SERVICES," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink that reads "Yuki Lei K. Sugimura".

YUKI LEI K. SUGIMURA, Chair
Policy, Economic Development,
and Agriculture Committee

paf:ske:17-254b

Enclosure

COUNTY COMMUNICATION NO. 17-451

Resolution

No. _____

APPROVING FOR INCLUSION IN THE 2018
MAUI COUNTY LEGISLATIVE PACKAGE A
STATE BILL TO REINSTATE AND
REAUTHORIZE LIABILITY PROTECTION FOR
COUNTY LIFEGUARD SERVICES

WHEREAS, liability protection for county lifeguard services is an important matter affecting all four counties, such that a proposed State bill entitled "A BILL FOR AN ACT RELATING TO TORT LIABILITY" was approved for inclusion in the 2018 Hawaii State Association of Counties Legislative Package; and

WHEREAS, Act 170, Session Laws of Hawaii 2014, relating to tort liability was amended and repealed on June 30, 2017 which makes the proposed State bill in its current form insufficient; and

WHEREAS, Chapter 663, Hawaii Revised Statutes, should be amended by adding a new section to provide an exception to liability for county lifeguard services; and

WHEREAS, liability protection for county lifeguards providing rescue, resuscitative, or other lifeguard services on the beach or in the ocean in the scope of employment, notwithstanding gross negligence or wanton act or omission as a county lifeguard, is a serious matter; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A", to reinstate and reauthorize liability protection for county lifeguard services, is approved for inclusion in the 2018 Maui County Legislative Package; and
2. That certified copies of this resolution be transmitted to the Mayor, County of Maui; the Governor, State of Hawaii; the Senate President, State of Hawaii; and the Speaker of the House of Representatives, State of Hawaii.

Resolution No. _____

APPROVED AS TO FORM AND LEGALITY

Deputy Corporation Counsel
County of Maui

paf:ske:17-254a

A BILL FOR AN ACT

RELATING TO TORT LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended by adding a
2 new section to be appropriately designated and to read as follows:

3 "§663- Exception to liability for county lifeguard services. (a) For the
4 purpose of this section:

5 "County lifeguard" means a person employed as a lifeguard by a county of
6 this State.

7 "Employing county" means the county employing a county lifeguard.

8 (b) Notwithstanding any other law to the contrary, a county lifeguard, the
9 employing county, and the State shall not be liable for any civil damages resulting
10 from any act or omission of the lifeguard while providing rescue, resuscitative, or
11 other lifeguard services on the beach or in the ocean in the scope of employment as
12 a county lifeguard. This exception from liability, however, shall not apply when the
13 claim for civil damages results from a county lifeguard's gross negligence or wanton
14 act or omission."

15 SECTION 2. This Act shall not affect rights and duties that matured,
16 penalties that were incurred, and proceedings that were begun, before its effective
17 date.

EXHIBIT ' A '

____.B. NO. _____

1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect upon its approval

3

4

5

INTRODUCED BY: _____

____.B. NO. _____

Report Title:

State and County Tort Liability

Description:

Re-establishes the liability exceptions for county lifeguards.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

paf:ske:17-254c