

COUNCIL OF THE COUNTY OF MAUI
BUDGET, FINANCE, AND ECONOMIC
DEVELOPMENT COMMITTEE

August 5, 2022

Committee
Report No. _____

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

Chair and Members:

Your Budget, Finance, and Economic Development Committee, having met on July 13, 2022, makes reference to Bill 111 (2022) entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII DEPARTMENT OF HEALTH FOR A LOAN FROM THE STATE WATER POLLUTION CONTROL REVOLVING FUND FOR THE COUNTYWIDE RESIDENTIAL CESSPOOL CONVERSION PROGRAM."

Bill 111's purpose is to authorize the Mayor to enter into an intergovernmental agreement with the State of Hawai'i Department of Health ("State DOH") for a loan from the Clean Water State Revolving Fund ("Clean Water SRF") for the Countywide Residential Cesspool Conversion Program in an amount not to exceed \$1,000,000.

Your Committee notes Clean Water SRF funds would assist property owners with costs related to residential cesspool conversions in compliance with Act 125 (2017).

Your Committee further notes Act 125 requires that prior to January 1, 2050, all cesspools, unless exempted, be:

- Upgraded or converted to a septic system or aerobic treatment unit system; or
- Connected to a sewerage system.

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According to the State DOH's Cesspool Conversions Finance Research Summary Report, Final, dated January 2021, there are 7,400 cesspools in Upcountry Maui designated as Priority 1. A Priority 1 level denotes a "significant risk of human health impacts, drinking water impacts, or draining to sensitive waters."

A representative of the Mayor's Office of Climate Change, Resiliency and Sustainability ("CCRS") confirmed that funding through the Clean Water SRF is a pilot project, and the final amount of funding will depend on how many other counties apply. Maui County has applied for \$500,000 in funding, but could receive up to \$1,000,000. Furthermore, these funds will need to be expended within a set timeframe, which has not yet been determined by the State.

The representative from CCRS said the County's own program is still in the beginning phases of development, to include the manner the program will be rolled out to the public and the identification of target areas; however, the County does anticipate starting the program with Upcountry Maui.

She said Clean Water SRF funds must be expended by the County instead of issued directly to property owners. The County will select a contractor through a Request For Proposals process. After the County expends the funds, the State DOH will reimburse the County.

In addition, Clean Water SRF funds must be used to fully fund the cesspool conversion, and the property owner cannot contribute to the cost. Your Committee recommended CCRS consider income as a criteria in the application process.

The Budget Director said once the total amount of funding is known, an amendment to the Fiscal Year ("FY") 2023 Budget may be needed. Your Committee notes \$1,200,000 was included in the FY 2023 Budget, Appendix A, Part I, Grants and Restricted Use Revenues, for "State of Hawaii Cesspool Conversion Pilot Program" under the Office of the Mayor.

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Your Committee expressed desire to move in the direction of composting toilets, but the Director of Environmental Management said that funds cannot be used to convert homes from cesspools to composting technology because one viable alternative has yet to be approved by the State.

Your Committee expressed support for the proposed bill and was appreciative that funds would be used to help property owners deal with the high cost of cesspool conversion.

Your Committee voted 9-0 to recommend passage of Bill 111 (2022) on first reading. Committee Chair Rawlins-Fernandez, Vice-Chair Paltin, and members Johnson, Kama, King, Lee, Molina, Sinenci, and Sugimura voted "aye."

Your Budget, Finance, and Economic Development Committee RECOMMENDS that Bill 111 (2022), attached hereto, entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII DEPARTMENT OF HEALTH FOR A LOAN FROM THE STATE WATER POLLUTION CONTROL REVOLVING FUND FOR THE COUNTYWIDE RESIDENTIAL CESSPOOL CONVERSION PROGRAM," be PASSED ON FIRST READING and be ORDERED TO PRINT.

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



KEANI N.W. RAWLINS-FERNANDEZ, Chair

ORDINANCE NO. _____

BILL NO. 111 (2022)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII DEPARTMENT OF HEALTH FOR A LOAN FROM THE STATE WATER POLLUTION CONTROL REVOLVING FUND FOR THE COUNTYWIDE RESIDENTIAL CESSPOOL CONVERSION PROGRAM

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

SECTION 1. Purpose. Approximately 12,200 cesspools currently are used for the disposal of household wastewater in the County of Maui (“County”). Discharge of raw, untreated sewage to a cesspool can migrate through the soil and potentially contaminate oceans, streams, and ground water by releasing disease-causing pathogens and nutrients. Pathogens found in untreated sewage may negatively impact human health by contaminating drinking water sources or waters used for swimming and fishing. Further, the pollution can damage land and aquatic ecosystems, including coral reefs.

In 2017, the State of Hawaii passed Act 125 requiring that prior to January 1, 2050, all cesspools, unless exempted, be: (1) upgraded or converted to a septic system or aerobic treatment unit system; or (2) connected to a sewerage system.

By way of funds allocated through the State Water Pollution Control Revolving Fund, commonly referred to as the Clean Water State Revolving Fund (“CWSRF”), the State of Hawaii may provide funding to the County to assist

property owners with costs associated with residential cesspool conversions in compliance with Act 125. Funding for this purpose will benefit the County as a whole by protecting water sources and ecosystems from pollutants generated by cesspools. The funding program may span multiple years, and specific funding amount(s) will be set-forth in the annual budget ordinance.

SECTION 2. Request for Loan. The Hawaii Revised Statutes, Chapter 342D, Part V, establishes the CWSRF in accordance with the provisions and requirements of the Federal Water Pollution Control Act, 33 US.C. 1251 et seq.

The County intends to apply for and secure funding with the State of Hawaii, Department of Health, for a CWSRF Loan for the Countywide Residential Cesspool Conversion Program (the "Program").

Under the terms and conditions anticipated with regard to the CWSRF Loan, the County shall repay, over a term not to exceed twenty years, the principal amount, which shall not exceed \$1,000,000 for the Program at a fixed rate of interest that shall not exceed the Bond Buyer's twenty-year general obligation bond issue. If the CWSRF Loan is principally forgiven by the State and the County does not default on the CWSRF Loan terms and conditions, then repayment may not be required.

Section 2.20.020, Maui County Code, provides that, unless authorized by ordinance, the Mayor shall not enter into any intergovernmental agreement or any amendment thereto which places a financial obligation upon the County or any department or agency thereof.

SECTION 3. Council authorization. Pursuant to Section 2.20.020, Maui County Code, the Council of the County of Maui hereby authorizes the Mayor to enter into an intergovernmental agreement, which would include the execution of all necessary documents between the State of Hawaii and the County relating to the CWSRF Loan, to finance the Program, including a pledge of the County's full faith and credit, including but not limited to the County's general taxing power, as security for repayment of the loan and payment of interest and loan fees, and a covenant to exercise the County's authority as needed. The repayment of principal, interest, and any loan fees shall be a first charge on the General Fund of the County.

SECTION 4. Effective date. This Ordinance takes effect on approval.

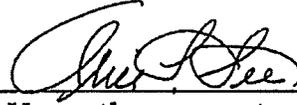
APPROVED AS TO FORM
AND LEGALITY:


STEPHANIE M. CHEN

Deputy Corporation Counsel
County of Maui
LF2021-1747

2022-06-16 Ord Authorizing IGA with State for
Cesspool Conversions.docx

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Steve Lee", written above a horizontal line.

Upon the request of the Mayor.