

# REQUEST FOR LEGAL SERVICES

**Date:** January 22, 2018  
**From:** Riki Hokama, Chair  
Budget and Finance Committee


**TRANSMITTAL**

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Richelle M. Thomson, Esq.

**Subject:** **SOLID WASTE MANAGEMENT FUND AND ENVIRONMENTAL PROTECTION AND SUSTAINABILITY FUND** (BF-111)

**Background Data:** Please review and, if appropriate, approve as to form and legality the attached revised proposed bill. For ease of reference, a track-changes version and a "clean" version are attached. Please provide a hard copy of the approved bill with your response.

**Work Requested:** ☒ FOR APPROVAL AS TO FORM AND LEGALITY  
☐ OTHER:

Requestor's signature  Riki Hokama	Contact Person <u>Michele Yoshimura</u> (Telephone Extension: 7663)
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☐ ROUTINE (WITHIN 15 WORKING DAYS) ☐ RUSH (WITHIN 5 WORKING DAYS)  
☐ PRIORITY (WITHIN 10 WORKING DAYS) ☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): February 5, 2018  
REASON: For posting on February 7, 2018 for the February 13, 2018 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)

bf:ltr:111acc01:mmmy

Attachments

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (20178)

A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 3.55,  
MAUI COUNTY CODE, ~~CREATING-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 ~~d~~Director of ~~e~~Environmental ~~m~~Management: guide efforts to optimize opportunities for environmental, and natural resource protection, sustainability, conservation, and restoration. Thereafter, the ~~director of environmental management established the~~ ~~e~~Environmental ~~p~~Protection and ~~s~~Sustainability ~~and protection~~ ~~d~~Division was established in the Department of Environmental Management. ~~In order for the efficient~~To management and fund ~~ing of~~ 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 ~~now~~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: ~~the personnel, equipment, operating, programmatic, administrative, and capital expenses of the environmental protection and sustainability division of the department of environmental management, including:~~

~~1. —Uses or programs related to environmental or natural resources protection, sustainability, conservation, and restoration.~~

~~21.~~ Energy security or sustainability.

~~32.~~ 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.

~~43.~~ Recycling programs.

~~54.~~ Abandoned vehicles and metals programs.

~~65.~~ The cost of personnel.

~~76.~~ The cost of equipment.

~~87.~~ Acquisition of real property to be used for the purposes identified in this section.

~~98.~~ Planning, design, and construction of facilities related to the purposes identified in this section.

~~190.~~ 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.

~~140.~~ Leveraging funds provided by federal, state, nonprofit or for-profit organizations, and other non-County entities to further the purposes identified in this section.

~~121.~~ 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:

~~“Grease waste” or “grease trap waste” means the same as the term is defined in section 14.19A.040 of this code.~~

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

“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” or “biosolids”~~ 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 ~~or biosolids;~~

~~2. As set forth in the annual budget ordinance, such Any fees or portions of fees thereof related to the recycling surcharge or disposal of commodities such as green waste, sewage sludge or biosolids, grease waste, and contaminated cooking oil that are not otherwise reserved for deposit into the solid waste management fund pursuant to chapter 3.54 of this title as set forth in the annual budget ordinance; and.~~

3. ~~Such s~~Supplemental transfers as ~~may be provided by law~~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.

~~D. The director of environmental management may adopt administrative rules necessary to carry out the purposes of this chapter."~~

**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 subsection 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 36. This ordinance shall take effect ~~upon its approval~~ on July 1, 2018.

APPROVED AS TO FORM AND LEGALITY:

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RICHELLE M. THOMSON  
Department of the Corporation Counsel  
County of Maui  
LF2017-1036  
Ordinance 11-16-2017bf:misc:111abill03:mmm

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.**
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- 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.

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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[;].
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  7. Landfill diversion; and
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SECTION 4. Section 3.54.025, Maui County Code, is amended to read as follows:

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“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:

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RICHELLE M. THOMSON  
Department of the Corporation Counsel  
County of Maui  
bf:misc:111abill03:mmmy