

REQUEST FOR LEGAL SERVICES

Date: February 7, 2022
From: Kelly Takaya King, Chair
Climate Action, Resilience and Environment Committee

TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Keola Whittaker, Esq.

Subject: **BILL 23, CD1 (2022)** CARE-79

Background Data: Please see attached bill. Please send response to care.committee@mauicounty.us with a reference to CARE-79.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

Requestor's signature  Kelly Takaya King	Contact Person <u>Lesley Milner</u> (Telephone Extension: <u>7886</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)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): February 9, 2022
REASON: For posting on the February 18, 2022, Council meeting agenda

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)

care:ltr:079acc01:brs

Attachment

ORDINANCE NO. _____

BILL NO. **23, CD1** (2022)

A BILL FOR AN ORDINANCE AMENDING THE BUILDING CODE RELATING TO
ENERGY AND WATER USE PERFORMANCE BENCHMARKING

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

SECTION 1. Benchmarking is the method of comparing the energy performance of facilities to similar building types across the country or to the same building over time. Monitoring energy performance enables inefficiencies in buildings to be identified. Benchmarking is essential for determining which energy improvements will be effective, identifying underperforming buildings, and verifying efficiency plans.

SECTION 2. Chapter 16.26B, Maui County Code, is amended by adding a new section, to be designated and to read as follows:

“Chapter 16.26B.4000. Chapter 40 added. Energy and water use performance benchmarking. The International Building Code is amended by adding a new chapter to read as follows:

CHAPTER 40

ENERGY AND WATER USE PERFORMANCE BENCHMARKING

4000.1 Purpose. The purpose of this Ordinance is to implement procedures for providing energy use data, benchmarking energy performance, and publicly disclosing energy performance for covered facilities owned by the County of Maui.

4000.2 Definitions. Whenever used in this chapter, unless the context otherwise requires:

“Benchmarking information” means information generated by the benchmarking tool, as defined, including descriptive information about the physical facility and its operational characteristics. The information must include:

- A. Property address.
- B. Primary use type.
- C. Gross floor area.
- D. Site EUI.
- E. Weather normalized source EUI.
- F. Annual greenhouse gas emissions.
- G. Water use.
- H. The energy performance score that compares a building’s energy use to similar buildings’ energy use.
- I. Compliance or noncompliance with this section.

“Benchmark” means to input the total energy consumed for a building and other descriptive information for such a building as required by the benchmarking tool to establish a baseline for energy performance and identify opportunities to reduce cost and waste.

“Benchmarking tool” means the energy star portfolio manager internet-based tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide or an equivalent tool adopted by the department of management.

“Covered facility” means a structure owned, leased, or managed by the County that exceeds ten thousand gross square feet in total covered floor area and for which the County regularly pays all or part of the annual energy or water bills.

“Energy performance score” means the numeric rating generated by the benchmarking tool that compares the energy usage of the building to that of similar buildings.

“EUI” means energy use intensity, a score generated by the benchmarking tool to express energy used per square foot of gross floor area in kBtus (one thousand British thermal units).

“Gross floor area” is the total square footage, on all floors, at, above, and below grade, of all building components as depicted in building layout diagrams in the department of management’s records.

“Tenant” means a person leasing, occupying, or holding possession of a covered facility.

“Utility” means an entity that distributes and sells energy for covered facilities.

4000.3 Benchmarking requirements. A. All covered facilities containing a floor area that exceeds ten thousand gross square feet must be benchmarked for the previous calendar year.

- B. Benchmarking information must include:
1. Property address.
 2. Gross floor area.
 3. Site EUI.
 4. Weather normalized source EUI.
 5. Annual greenhouse gas emissions.
 6. Water use.
 7. Energy performance score that compares a building's energy use to similar buildings' energy use.
 8. Compliance or noncompliance with this section.

C. The managing director must annually benchmark and obtain an energy performance score under the schedule in the following table. Later benchmarking submissions are due by June 1 of each year.

Facility	Initial Reporting Date
Covered facilities containing a floor area of 50,000 gross square feet or greater	December 30, 2022
Covered facilities containing a floor area of 10,000 gross square feet and less than 50,000 gross square feet	June 1, 2023

4000.4 Procedure. A. The managing director must enter data in the benchmarking tool and benchmark the building using whole-building utility data. Whole building utility data can be obtained from a utility, with tenant authorization where required; from meters; or from tenants.

B. If a utility has made aggregated utility data available to the County, then the managing director must benchmark using whole building utility data from the utility.

C. When the managing director does not have whole-building information sufficient to fulfill the requirements of this section and has made a reasonable effort to obtain the information required, the managing director must instead submit a partial-building benchmarking report.

D. A partial-building benchmarking report must include any available whole-building information, including any available aggregated utility data, square footage covered by energy and water data, and all common area information.

E. The report must be submitted annually and maintained by the department of management.

4000.5 Disclosure. A. The department of management must make available to the public, and update annually, benchmarking information for the previous calendar year according to the schedule in the following

table. Benchmarking information must be made available to the public by August 30 of each year.

Facility	Initial Disclosure Date
Covered facilities containing a floor area of 50,000 gross square feet or greater	August 30, 2023
Covered facilities containing a floor area of more than 10,000 gross square feet and less than 50,000 gross square feet	August 30, 2024

B. The department of management must make available to the public, and update annually, the following information:

1. Summary statistics on energy consumption for covered facilities derived from aggregating benchmarking information.
2. Summary statistics on overall compliance with this section.
3. For each covered facility:
 - a. The status of compliance with the requirements of this section.
 - b. Annual summary statistics for the covered facility, including EUI, annual greenhouse gas emissions, water use per square foot, and energy performance score.
 - c. A year-by-year comparison of benchmarking information.

4000.6 Assessing results. By December 31, 2027, the department of management must review the effect of this section on improving the energy performance score for covered facilities. If the energy performance score for covered facilities has not improved satisfactorily, the department of management must make recommendations to the council as to whether amendments to this section or other measures are necessary to improve the energy performance score for covered facilities.

4000.7 Maintenance of records. The managing director must maintain records necessary to carry out this section, including energy and water bills and other documents received from tenants or utilities, for at least three years.”

SECTION 3. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

care:misc:079abill01:brs

INTRODUCED BY:

Kelly T. King