

COUNCIL OF THE COUNTY OF MAUI
GOVERNANCE, ETHICS, AND
TRANSPARENCY COMMITTEE

December 20, 2019

Committee
Report No. _____

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

Chair and Members:

Your Governance, Ethics, and Transparency Committee, having met on December 3, 2019, makes reference to County Communication 19-29, from Council Chair Kelly T. King, relating to litigation matters.

By correspondence dated September 25, 2019, the Department of the Corporation Counsel requested consideration of a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH THE STATE OF HAWAII, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION, FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE KAHULUI, KIHEI, AND LAHAINA WASTEWATER RECLAMATION FACILITIES."

The purpose of the proposed bill is to authorize the Mayor to enter into intergovernmental agreements with the State Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division ("HIOSH"), to settle alleged violations at the Kahului, Kihei, and Lahaina Wastewater Reclamation Facilities regarding the handling and recordkeeping of chlorine gas.

Your Committee notes that in accordance with Section 2.20.020, Maui County Code, the Mayor must not enter into any intergovernmental agreement that places a financial obligation on the County, unless authorized by ordinance.

A Deputy Corporation Counsel provided a brief overview. She said HIOSH conducted inspections of the Kahului, Kihei, and Lahaina Wastewater Reclamation Facilities in August 2018. Based on those

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inspections, HIOSH issued the respective Citations and Notifications of Penalty in February 2019, attached as Exhibits "1" through "3," to the proposed bill. The Summary of Penalties totals \$79,857.

The Deputy Director of Environmental Management provided a brief timeline of events.

Because the case involves ongoing litigation, a Deputy Corporation Counsel requested the opportunity to convene an executive meeting.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session.

Your Committee requested an update from the Managing Director relating to employee training and records maintenance on HIOSH standards.

Based on the information received and the recommendation of the Department, your Committee voted 9-0 to recommend passage of the proposed bill on first reading. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members Hokama, Kama, King, Lee, Paltin, Sinenci, and Sugimura voted "aye."

Your Committee is in receipt of a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH THE STATE OF HAWAII, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION, FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE KAHULUI, KIHEI, AND LAHAINA WASTEWATER RECLAMATION FACILITIES," approved as to form and legality by the Department of the Corporation Counsel, incorporating nonsubstantive revisions.

COUNCIL OF THE COUNTY OF MAUI

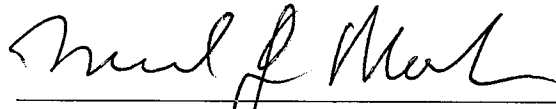
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Your Governance, Ethics, and Transparency Committee RECOMMENDS that Bill _____ (2019), attached hereto, entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH THE STATE OF HAWAII, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION, FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE KAHULUI, KIHEI, AND LAHAINA WASTEWATER RECLAMATION FACILITIES," 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.



MICHAEL J. MOLINA, Chair

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ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO
INTERGOVERNMENTAL AGREEMENTS WITH THE STATE OF HAWAII,
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, HAWAII
OCCUPATIONAL SAFETY AND HEALTH DIVISION, FOR THE SETTLEMENT OF
ALLEGED VIOLATIONS AT THE KAHULUI, KIHEI, AND LAHAINA
WASTEWATER RECLAMATION FACILITIES

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

SECTION 1. Purpose. The State of Hawaii, Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division ("HIOSH"), alleged violations of the Hawaii Occupational Safety and Health Standards at the Kahului Wastewater Reclamation Facility, Kihei Wastewater Reclamation Facility, and Lahaina Wastewater Reclamation Facility regarding the handling and recordkeeping of chlorine gas, during inspections held in August 2018 ("Alleged Violations"), as described in the respective Citation(s) and Notification of Penalty, attached as Exhibits "1" through "3."

The County and HIOSH, to avoid incurring expenses and the uncertainty of an administrative and judicial determination of the parties' respective rights and liabilities, will attempt to reach a resolution of the Alleged Violations by way of negotiated settlements, the terms, conditions, ramifications, and consequences which will be discussed in an executive meeting before the Governance, Ethics, and Transparency Committee.

In accordance with Section 2.20.020, Maui County Code, unless authorized by ordinance, the Mayor must not enter into any intergovernmental

agreement or any amendment which places a financial obligation on the county or any department or agency.

In accordance with Section 3.16.020(B), Maui County Code, any settlement in excess of \$7,500 requires Council authorization. The Department of the Corporation Counsel has requested authority to settle the Alleged Violations under the terms presented in executive session as described above.

SECTION 2. Authorization. The Council approves settlement of the Alleged Violations under the terms discussed in an executive meeting before the Governance, Ethics, and Transparency Committee. The Council authorizes the Mayor to execute agreements reflecting those terms, all other necessary documents relating to the agreements, and any amendments imposed, and agreed to, by the Corporation Counsel. The Council further authorizes the Director of Finance to satisfy the settlement in these matters.

SECTION 3. Effective date. This ordinance takes effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in blue ink, appearing to read "R. O. M.", is written over a horizontal line.

Department of the Corporation Counsel
County of Maui

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