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OFFICE OF THE
COUNTY COUNCIL

MEMO TO: GET-3(2) File

F R O M: Tamara Paltin, Councilmember

Tamara M Paltin

SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO
2021 HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE** (PAF 20-178)

The attached legislative proposal pertains to Item 3(2) on the Committee's agenda.

paf:ske:20-179c

Attachment

Resolution

No. _____

APPROVING FOR INCLUSION IN THE 2021 HAWAII
STATE ASSOCIATION OF COUNTIES LEGISLATIVE
PACKAGE A STATE BILL TO GIVE COUNTIES
AUTHORITY TO ESTABLISH RENTAL-CAR LIMITS

WHEREAS, by Resolution 19-98, the Council affirmed Maui County's commitment to the Paris Climate Agreement and its goals of mitigating greenhouse-gas emissions and adapting to impacts of climate change; and

WHEREAS, reducing rental cars on the road would contribute to meeting these goals by reducing dependency on petroleum and greenhouse gas emissions generated from for ground-transportation vehicles; and

WHEREAS, the United States Environmental Protection Agency states that a typical passenger vehicle emits about 4.6 metric tons of carbon dioxide per year; and

WHEREAS, over 20,000 rental cars on Maui adversely impact the County's ability to mitigate greenhouse-gas emissions; and

WHEREAS, the United States Department of Transportation states that reducing traffic can improve the environment by reducing vehicle miles traveled, which reduces fuel consumed and emissions generated by acceleration and decelerations; and

WHEREAS, counties do not have the ability to limit rental cars under State law; now, therefore,

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

1. That the proposed State bill, attached as Exhibit "A," to allow counties to establish rental-car limits, is approved for inclusion in the 2021 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO RENTAL CARS.

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

1 SECTION 1. Section 46-1.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "Subject to general law, each county shall have the following
4 powers and shall be subject to the following liabilities and
5 limitations:

6 (1) Each county shall have the power to frame and adopt a
7 charter for its own self-government that shall establish the county
8 executive, administrative, and legislative structure and
9 organization, including but not limited to the method of
10 appointment or election of officials, their duties,
11 responsibilities, and compensation, and the terms of their office;

12 (2) Each county shall have the power to provide for and
13 regulate the marking and lighting of all buildings and other
14 structures that may be obstructions or hazards to aerial
15 navigation, so far as may be necessary or proper for the protection
16 and safeguarding of life, health, and property;

17 (3) Each county shall have the power to enforce all claims on
18 behalf of the county and approve all lawful claims against the

____.B. NO. _____

1 county, but shall be prohibited from entering into, granting, or
2 making in any manner any contract, authorization, allowance
3 payment, or liability contrary to the provisions of any county
4 charter or general law;

5 (4) Each county shall have the power to make contracts and to
6 do all things necessary and proper to carry into execution all
7 powers vested in the county or any county officer;

8 (5) Each county shall have the power to:

9 (A) Maintain channels, whether natural or artificial,
10 including their exits to the ocean, in suitable condition to carry
11 off storm waters;

12 (B) Remove from the channels, and from the shores and beaches,
13 any debris that is likely to create an unsanitary condition or
14 become a public nuisance; provided that, to the extent any of the
15 foregoing work is a private responsibility, the responsibility may
16 be enforced by the county in lieu of the work being done at public
17 expense;

18 (C) Construct, acquire by gift, purchase, or by the exercise
19 of eminent domain, reconstruct, improve, better, extend, and
20 maintain projects or undertakings for the control of and protection
21 against floods and flood waters, including the power to drain and
22 rehabilitate lands already flooded;

____.B. NO. _____

1 (D) Enact zoning ordinances providing that lands deemed
2 subject to seasonable, periodic, or occasional flooding shall not
3 be used for residence or other purposes in a manner as to endanger
4 the health or safety of the occupants thereof, as required by the
5 Federal Flood Insurance Act of 1956 (chapter 1025, Public Law
6 1016); and

7 (E) Establish and charge user fees to create and maintain any
8 stormwater management system or infrastructure;

9 (6) Each county shall have the power to exercise the power of
10 condemnation by eminent domain when it is in the public interest
11 to do so;

12 (7) Each county shall have the power to exercise regulatory
13 powers over business activity as are assigned to them by chapter
14 445 or other general law;

15 (8) Each county shall have the power to fix the fees and
16 charges for all official services not otherwise provided for;

17 (9) Each county shall have the power to provide by ordinance
18 assessments for the improvement or maintenance of districts within
19 the county;

20 (10) Except as otherwise provided, no county shall have the
21 power to give or loan credit to, or in aid of, any person or
22 corporation, directly or indirectly, except for a public purpose;

____.B. NO. _____

1 (11) Where not within the jurisdiction of the public utilities
2 commission, each county shall have the power to regulate by
3 ordinance the operation of motor vehicle common carries
4 transporting passengers including the amount of rental cars within
5 the county and adopt and amend rules the county deems necessary
6 for the public convenience and necessity;

7 (12) Each county shall have the power to enact and enforce
8 ordinances necessary to prevent or summarily remove public
9 nuisances and to compel the clearing or removal of any public
10 nuisance, refuse, and uncultivated undergrowth from streets,
11 sidewalks, public places, and unoccupied lots. In connection with
12 these powers, each county may impose and enforce liens upon the
13 property for the cost to the county of removing and completing the
14 necessary work where the property owners fail, after reasonable
15 notice, to comply with the ordinances. The authority provided by
16 this paragraph shall not be self-executing, but shall become fully
17 effective within a county only upon the enactment or adoption by
18 the county of appropriate and particular laws, ordinances, or rules
19 defining "public nuisances" with respect to each county's
20 respective circumstances. The counties shall provide the property
21 owner with the opportunity to contest the summary action and to
22 recover the owner's property;

____.B. NO. _____

1 (13) Each county shall have the power to enact ordinances
2 deemed necessary to protect health, life, and property, and to
3 preserve the order and security of the county and its inhabitants
4 on any subject or matter not inconsistent with, or tending to
5 defeat, the intent of any state statute where the statute does not
6 disclose an express or implied intent that the statute shall be
7 exclusive or uniform throughout the State;

8 (14) Each county shall have the power to:

9 (A) Make and enforce within the limits of the county all
10 necessary ordinances covering all:

11 (i) Local police matters;

12 (ii) Matters of sanitation;

13 (iii) Matters of inspection of buildings;

14 (iv) Matters of condemnation of unsafe structures, plumbing,
15 sewers, dairies, milk, fish, and morgues; and

16 (v) Matters of the collection and disposition of rubbish and
17 garbage;

18 (B) Provide exemptions for homeless facilities and any other
19 program for the homeless authorized by part XVII of chapter 346,
20 for all matters under this paragraph;

21 (C) Appoint county physicians and sanitary and other
22 inspectors as necessary to carry into effect ordinances made under
23 this paragraph, who shall have the same power as given by law to

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1 agents of the department of health, subject only to limitations
2 placed on them by the terms and conditions of their appointments;
3 and

4 (D) Fix a penalty for the violation of any ordinance, which
5 penalty may be a misdemeanor, petty misdemeanor, or violation as
6 defined by general law;

7 (15) Each county shall have the power to provide public
8 pounds; to regulate the impounding of stray animals and fowl, and
9 their disposition; and to provide for the appointment, powers,
10 duties, and fees of animal control officers;

11 (16) Each county shall have the power to purchase and
12 otherwise acquire, lease, and hold real and personal property
13 within the defined boundaries of the county and to dispose of the
14 real and personal property as the interests of the inhabitants of
15 the county may require, except that:

16 (A) Any property held for school purposes may not be disposed
17 of without the consent of the superintendent of education;

18 (B) No property bordering the ocean shall be sold or otherwise
19 disposed of; and

20 (C) All proceeds from the sale of park lands shall be expended
21 only for the acquisition of property for park or recreational
22 purposes;

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1 (17) Each county shall have the power to provide by charter
2 for the prosecution of all offenses and to prosecute for offenses
3 against the laws of the State under the authority of the attorney
4 general of the State;

5 (18) Each county shall have the power to make appropriations
6 in amounts deemed appropriate from any moneys in the treasury, for
7 the purpose of:

8 (A) Community promotion and public celebrations;

9 (B) The entertainment of distinguished persons as may from
10 time to time visit the county;

11 (C) The entertainment of other distinguished persons, as well
12 as, public officials when deemed to be in the best interest of the
13 community; and

14 (D) The rendering of civic tribute to individuals who, by
15 virtue of their accomplishments and community service, merit civic
16 commendations, recognition, or remembrance;

17 (19) Each county shall have the power to:

18 (A) Construct, purchase, take on lease, lease, sublease, or
19 in any other manner acquire, manage, maintain, or dispose of
20 buildings for county purposes, sewers, sewer systems, pumping
21 stations, waterworks, including reservoirs, wells, pipelines, and
22 other conduits for distributing water to the public, lighting

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1 plants, and apparatus and appliances for lighting streets and
2 public buildings, and manage, regulate, and control the same;

3 (B) Regulate and control the location and quality of all
4 appliances necessary to the furnishing of water, heat, light,
5 power, telephone, and telecommunications service to the county;

6 (C) Acquire, regulate, and control any and all appliances for
7 the sprinkling and cleaning of the streets and the public ways,
8 and for flushing the sewers; and

9 (D) Open, close, construct, or maintain county highways or
10 charge toll on county highways; provided that all revenues received
11 from a toll charge shall be used for the construction or
12 maintenance of county highways;

13 (20) Each county shall have the power to regulate the renting,
14 subletting, and rental conditions of property for places of abode
15 by ordinance;

16 (21) Unless otherwise provided by law, each county shall have
17 the power to establish by ordinance the order of succession of
18 county officials in the event of a military or civil disaster;

19 (22) Each county shall have the power to sue and be sued in
20 its corporate name;

21 (23) Each county shall have the power to:

22 (A) Establish and maintain waterworks and sewer works;

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1 (B) Implement a sewer monitoring program that includes the
2 inspection of sewer laterals that connect to county sewers, when
3 those laterals are located on public or private property, after
4 providing a property owner not less than ten calendar days' written
5 notice, to detect leaks from laterals, infiltration, and inflow,
6 any other law to the contrary notwithstanding;

7 (C) Compel an owner of private property upon which is located
8 any sewer lateral that connects to a county sewer to inspect that
9 lateral for leaks, infiltration, and inflow and to perform repairs
10 as necessary;

11 (D) Collect rates for water supplied to consumers and for the
12 use of sewers;

13 (E) Install water meters whenever deemed expedient; provided
14 that owners of premises having vested water rights under existing
15 laws appurtenant to the premises shall not be charged for the
16 installation or use of the water meters on the premises; and

17 (F) Take over from the State existing waterworks systems,
18 including water rights, pipelines, and other appurtenances
19 belonging thereto, and sewer systems, and to enlarge, develop, and
20 improve the same;

21 (G) For purposes of subparagraphs (B) and (C):

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1 (i) "Infiltration" means groundwater, rainwater, and
2 saltwater that enters the county sewer system through cracked,
3 broken, or defective sewer laterals; and

4 (ii) "Inflow" means non-sewage entering the county sewer
5 system via inappropriate or illegal connections;

6 (24)(A) Each county may impose civil fines, in addition to
7 criminal penalties, for any violation of county ordinances or rules
8 after reasonable notice and requests to correct or cease the
9 violation have been made upon the violator. Any administratively
10 imposed civil fine shall not be collected until after an
11 opportunity for a hearing under chapter 91. Any appeal shall be
12 filed within thirty days from the date of the final written
13 decision. These proceedings shall not be a prerequisite for any
14 civil fine or injunctive relief ordered by the circuit court;

15 (B) Each county by ordinance may provide for the addition of
16 any unpaid civil fines, ordered by any court of competent
17 jurisdiction, to any taxes, fees, or charges, with the exception
18 of fees or charges for water for residential use and sewer charges,
19 collected by the county. Each county by ordinance may also provide
20 for the addition of any unpaid administratively imposed civil
21 fines, which remain due after all judicial review rights under
22 section 91-14 are exhausted, to any taxes, fees, or charges, with
23 the exception of water for residential use and sewer charges,

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1 collected by the county. The ordinance shall specify the
2 administrative procedures for the addition of the unpaid civil
3 fines to the eligible taxes, fees, or charges and may require
4 hearings or other proceedings. After addition of the unpaid civil
5 fines to the taxes, fees, or charges, the unpaid civil fines shall
6 not become a part of any taxes, fees, or charges. The county by
7 ordinance may condition the issuance or renewal of a license,
8 approval, or permit for which a fee or charge is assessed, except
9 for water for residential use and sewer charges, on payment of the
10 unpaid civil fines. Upon recordation of a notice of unpaid civil
11 fines in the bureau of conveyances, the amount of the civil fines,
12 including any increase in the amount of the fine which the county
13 may assess, shall constitute a lien upon all real property or
14 rights to real property belonging to any person liable for the
15 unpaid civil fines. The lien in favor of the county shall be
16 subordinate to any lien in favor of any person recorded or
17 registered prior to the recordation of the notice of unpaid civil
18 fines and senior to any lien recorded or registered after the
19 recordation of the notice. The lien shall continue until the unpaid
20 civil fines are paid in full or until a certificate of release or
21 partial release of the lien, prepared by the county at the owner's
22 expense, is recorded. The notice of unpaid civil fines shall state
23 the amount of the fine as of the date of the notice and maximum

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1 permissible daily increase of the fine. The county shall not be
2 required to include a social security number, state general excise
3 taxpayer identification number, or federal employer identification
4 number on the notice. Recordation of the notice in the bureau of
5 conveyances shall be deemed, at such time, for all purposes and
6 without any further action, to procure a lien on land registered
7 in land court under chapter 501. After the unpaid civil fines are
8 added to the taxes, fees, or charges as specified by county
9 ordinance, the unpaid civil fines shall be deemed immediately due,
10 owing, and delinquent and may be collected in any lawful manner.
11 The procedure for collection of unpaid civil fines authorized in
12 this paragraph shall be in addition to any other procedures for
13 collection available to the State and county by law or rules of
14 the courts;

15 (C) Each county may impose civil fines upon any person who
16 places graffiti on any real or personal property owned, managed,
17 or maintained by the county. The fine may be up to \$1,000 or may
18 be equal to the actual cost of having the damaged property repaired
19 or replaced. The parent or guardian having custody of a minor who
20 places graffiti on any real or personal property owned, managed,
21 or maintained by the county shall be jointly and severally liable
22 with the minor for any civil fines imposed hereunder. Any such
23 fine may be administratively imposed after an opportunity for a

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1 hearing under chapter 91, but such a proceeding shall not be a
2 prerequisite for any civil fine ordered by any court. As used in
3 this subparagraph, "graffiti" means any unauthorized drawing,
4 inscription, figure, or mark of any type intentionally created by
5 paint, ink, chalk, dye, or similar substances;

6 (D) At the completion of an appeal in which the county's
7 enforcement action is affirmed and upon correction of the violation
8 if requested by the violator, the case shall be reviewed by the
9 county agency that imposed the civil fines to determine the
10 appropriateness of the amount of the civil fines that accrued while
11 the appeal proceedings were pending. In its review of the amount
12 of the accrued fines, the county agency may consider:

- 13 (i) The nature and egregiousness of the violation;
14 (ii) The duration of the violation;
15 (iii) The number of recurring and other similar violations;
16 (iv) Any effort taken by the violator to correct the
17 violation;
18 (v) The degree of involvement in causing or continuing the
19 violation;
20 (vi) Reasons for any delay in the completion of the appeal;
21 and
22 (vii) Other extenuating circumstances.

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1 The civil fine that is imposed by administrative order after
2 this review is completed and the violation is corrected shall be
3 subject to judicial review, notwithstanding any provisions for
4 administrative review in county charters;

5 (E) After completion of a review of the amount of accrued
6 civil fine by the county agency that imposed the fine, the amount
7 of the civil fine determined appropriate, including both the
8 initial civil fine and any accrued daily civil fine, shall
9 immediately become due and collectible following reasonable notice
10 to the violator. If no review of the accrued civil fine is
11 requested, the amount of the civil fine, not to exceed the total
12 accrual of civil fine prior to correcting the violation, shall
13 immediately become due and collectible following reasonable notice
14 to the violator, at the completion of all appeal proceedings; and

15 (F) If no county agency exists to conduct appeal proceedings
16 for a particular civil fine action taken by the county, then one
17 shall be established by ordinance before the county shall impose
18 the civil fine;

19 (25) Any law to the contrary notwithstanding, any county
20 mayor, by executive order, may exempt donors, provider agencies,
21 homeless facilities, and any other program for the homeless under
22 part XVII of chapter 346 from real property taxes, water and sewer
23 development fees, rates collected for water supplied to consumers

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1 and for use of sewers, and any other county taxes, charges, or
2 fees; provided that any county may enact ordinances to regulate
3 and grant the exemptions granted by this paragraph;

4 (26) Any county may establish a captive insurance company
5 pursuant to article 19, chapter 431; and

6 (27) Each county shall have the power to enact and enforce
7 ordinances regulating towing operations."

8 SECTION 2. New statutory material is underscored.

9 SECTION 3. This Act shall take effect upon its approval.

10

11

INTRODUCED BY: _____

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