

REPORT OF THE COMMITTEE ON EXECUTIVE MATTERS AND LEGAL AFFAIRS

Voting Members

Ron Menor, Chair; Carol Fukunaga, Vice-Chair,
Ikaika Anderson, Brandon J.C. Elefante, Ann H. Kobayashi, Joey Manahan,
Ernest Y. Martin, Trevor Ozawa, Kymberly Marcos Pine

Committee Meeting Held
October 18, 2016

Honorable Ernest Y. Martin
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Executive Matters and Legal Affairs, which considered Bill 53 (2016), CD1 entitled:

"A BILL FOR AN ORDINANCE RELATING TO INTERGOVERNMENTAL AND PRIVATE GRANT AGREEMENTS,"

introduced on September 1, 2016, and which passed second reading at the October 5, 2016 Council meeting, reports as follows:

The purpose of the Bill is to make certain changes to the requirements for intergovernmental and private grant agreements.

Your Committee amended the Bill to a CD2 version that corrects drafting errors and makes technical and nonsubstantive changes.

The Acting Director of Transportation Services testified in support of the Bill.

The Acting Executive Director of the Honolulu Authority for Rapid Transportation (HART) testified that both the CD1 and CD2 versions of the Bill are consistent with the Revised City Charter, under which HART is obligated to obtain prior Council consent and approval of any agreements that place an obligation on the City. The Acting Executive Director provided your Committee with a list of prior agreements relating to the rail transit

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON

NOV 0 2 2016

COMMITTEE REPORT NO.

322

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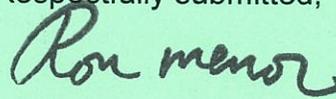
project that have created an obligation on the City and come before the Council for approval (Departmental Communication No. 701 (2016)). Your Committee was assured by the Acting Executive Director that the types of agreements listed would continue to be submitted to the Council for approval under the CD1 or CD2 versions of the Bill. He went on to note that even for agreements that do not require HART to come before the Council, the hope is that HART leadership would continue to advise and give updates and notice to the Council regarding those agreements.

Your Committee Chair stated that it is important for the Council to understand when an agreement "places an obligation on the city" so as to trigger the requirement for prior Council consent and approval. He requested the Corporation Counsel to provide Councilmembers with an explanation on this matter prior to final Council action on the Bill.

Your Committee received comments from one individual.

Your Committee on Executive Matters and Legal Affairs is in accord with the intent and purpose of Bill 53 (2016), CD1, as amended herein, and recommends that it pass third reading in the form attached hereto as Bill 53, CD2. (Ayes: Menor, Anderson, Elefante, Fukunaga, Kobayashi, Ozawa, Pine - 7; Noes: None; Excused: Manahan, Martin - 2.)

Respectfully submitted,



Committee Chair

PROCESSED
CITY OF HONOLULU
OCT 20 2016

CITY COUNCIL
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HONOLULU, HAWAII

ADOPTED ON

NOV 02 2016

COMMITTEE REPORT NO.

322



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **53 (2016), CD2**

A BILL FOR AN ORDINANCE

RELATING TO INTERGOVERNMENTAL AND PRIVATE GRANT AGREEMENTS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to make certain changes to the requirements for intergovernmental and private grant agreements.

SECTION 2. Section 1-8.1, Revised Ordinances of Honolulu 1990, is amended to add a definition of "HART" to read as follows:

"HART" means the Honolulu Authority for Rapid Transportation."

SECTION 3. Section 1-8.2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 1-8.2 [Council approval of agreements.] Intergovernmental and private grant agreement reporting requirements.

- [(a) Except for those exempted under subsections (b), (c), or (d), any agreement, or any amendments thereto, which place an obligation upon the city or any department or agency thereof shall require prior city council's consent and approval. The final or draft version of the agreement shall be provided to the council for its review prior to the council's approval. In the event a draft agreement is provided, if a material change is made to the draft agreement after council approval, such change shall require additional council review and approval. City council's consent and authorization as well as the designated official authorized to execute the agreement on behalf of the City and County of Honolulu shall be contained in the form of either an ordinance or resolution. When carrying out the provisions of any agreement entered into in accordance with this subsection, all applications and/or amendments thereof, statistical data programs, reports or other official communications which support the application and which are required to be provided by the city or its component departments shall first be presented to the city council for its review and approval prior to its transmittal. Council's consent and authorization shall be through adoption of an appropriate resolution.
- (b) In lieu of the requirements of subsection (a), the following departments shall submit an annual report to the council by September 30 detailing all agreements placing obligations upon them that were entered into or utilized during the previous fiscal year:

ATTACHMENT TO CR-322



A BILL FOR AN ORDINANCE

- (1) Department of emergency services;
- (2) Honolulu fire department;
- (3) Department of emergency management;
- (4) Department of the medical examiner;
- (5) Honolulu police department; and
- (6) Department of the prosecuting attorney.

The agreements subject to this subsection shall be deemed approved by the council unless such report is not submitted.

- (c) In lieu of the requirements of subsection (a), an agreement that, according to written certification by the mayor or the mayor's designee, will not be executed until approved, does not require the expenditure of city funds, and for which the city has not already accepted funds, shall be deemed approved 15 days after being filed with the city clerk and distributed to all members of the city council, unless a councilmember files a written objection with the city clerk prior to the 15th day. An agreement that has been objected to shall not be eligible for approval under this subsection.

The agreement or the submittal to the city clerk shall identify the city official to be authorized to execute the agreement. Approval of the agreement shall authorize the designated city official to execute the agreement in substantially the form filed, as well as any related agreements and amendments that also do not require the expenditure of city funds and shall authorize the designated city official to receive and expend funds provided pursuant to the agreement.

An annual report shall be submitted by the managing director or the managing director's designee to the council by September 30 detailing all agreements that have been deemed approved under this subsection and executed or utilized during the previous fiscal year.]

- (a) Each department shall submit an annual report to the council by September 30 detailing all agreements placing obligations upon the department that were entered into or utilized during the previous fiscal year. The annual report need not include agreements subject to council approval in Sections 1-8.3 and 1-8.

[(d)] (b) Agreements for the rental of a facility for the purpose of holding a public meeting or a public hearing [shall be] are exempted from the requirements of this section."



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SECTION 4. Section 1-8.3, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 1-8.3 Approval of [consolidated plan] Consolidated Plan and [annual action plans.] Annual Action Plans.

- (a) Any Consolidated Plan or Annual Action Plan prepared by a city agency relating to CPD formula entitlement monies requires council approval prior to submittal to HUD and [shall] must be submitted to council for its review and approval a minimum of 90 days prior to its HUD-required transmittal date. [Council] The council shall review and approve the Consolidated Plan[and/or], Annual Action Plan, or both, no later than 15 days prior to the HUD-required plan transmittal date. The council may approve the Consolidated Plan[and/or], Annual Action Plan, or both, by resolution.
- (b) Amendments to the Consolidated Plan and Annual Action Plan will not be subject to the 90- and 15-day transmittal and approval periods, but rather [can] may be transmitted to HUD at [anytime] any time per HUD regulations subject to council approval."

SECTION 5. Chapter 1, Article 8, Revised Ordinances of Honolulu 1990 ("Intergovernmental Agreements and Private Grant Agreements"), is amended by adding a new section to be appropriately designated by the revisor of ordinances and to read as follows:

"Sec. 1-8. Approval of Honolulu High Capacity Transit Corridor Project agreements.

Any agreements or amendments to agreements concerning the Honolulu High Capacity Transit Corridor Project that place an obligation on the city (other than HART or the board of water supply) will require prior council consent and approval. The final or draft version of the agreement or amendment to the agreement must be provided to the council for its review prior to the council's approval. In the event a draft agreement or draft amendment to an agreement is provided, if a material change is made to the draft agreement or draft amendment to the agreement after council approval, such change will require additional council review and approval."

SECTION 6. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



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ORDINANCE _____

BILL **53 (2016), CD2**

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SECTION 7. This ordinance takes effect upon its approval.

INTRODUCED BY:

Ann Kobayashi

DATE OF INTRODUCTION:

September 1, 2016
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu