
HOUSE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF HEALTH TO DEVELOP A PLAN TO
AUTHORIZE GRAY WATER RECYCLING SYSTEMS FOR RESIDENTIAL
PREMISES UNDER APPROPRIATE CIRCUMSTANCES.

1 WHEREAS, the Legislature enacted section 342D-70, Hawaii
2 Revised Statutes, in 1993 to authorize the counties to establish
3 programs regulated by the Department of Health for the recycling
4 of gray water from residential units for the purpose of
5 irrigating lawns and gardens; and
6

7 WHEREAS, Senate Standing Committee Report No. 645 (1993)
8 found that gray water recycling "is consistent with the State's
9 environmental policy, which calls for the conservation of
10 natural resources and the recycling of waste water" and that it
11 will help alleviate the impact of decreasing county water
12 supplies and the significantly increased burden on waste water
13 treatment and disposal systems; and
14

15 WHEREAS, Senate Standing Committee Report No. 645 (1993)
16 found that "oversight of private wastewater systems falls within
17 the purview of the Department of Health" and that the Department
18 of Health should, therefore, have "jurisdiction over the gray
19 water recycling program"; and
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21 WHEREAS, House Standing Committee Report No. 1209 made
22 similar findings and noted that "[w]ith the water tables in each
23 county decreasing, the use of gray water recycling will help
24 alleviate some of the demand for water for the purposes of
25 irrigation"; and
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27 WHEREAS, the Department of Health subsequently adopted,
28 Chapter 11-62, Hawaii Administrative Rules, to establish
29 definitions and design standards for gray water recycling
30 systems; and
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1 WHEREAS, according to its Wastewater Branch, the Department
2 of Health has approved at least one gray water recycling system
3 in the District of Kona, Island of Hawaii; and
4

5 WHEREAS, none of the counties have applied to the
6 Department of Health to establish a gray water recycling
7 program; and
8

9 WHEREAS, each of the counties has established building
10 codes including provisions from the Uniform Plumbing Code, but
11 none of the counties has adopted the gray water provisions of
12 the Uniform Plumbing Code, which are significantly more
13 restrictive than the provisions of section 342D-70, Hawaii
14 Revised Statutes, and Chapter 11-62, Hawaii Administrative
15 Rules; and
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17 WHEREAS, in 2007, the Legislature enacted Chapter 107,
18 Hawaii Revised Statutes, by which the State Building Code was
19 established, effective July 1, 2007; and
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21 WHEREAS, section 107-25, Hawaii Revised Statutes, provides
22 that the State Building Code consists of, among other things,
23 the most recent edition of the Uniform Plumbing Code; and
24

25 WHEREAS, section 107-28, Hawaii Revised Statutes, requires
26 the counties to adopt building codes based on the State Building
27 Code by July 1, 2009; and
28

29 WHEREAS, section 107-28, Hawaii Revised Statutes, permits
30 each county to delete from its building code any of the State
31 Building Code provisions it deems "necessary to protect health,
32 life, and property, and to preserve the order and security of
33 the county," except where the statute discloses an express or
34 implied intent that the statute shall be exclusive or uniform
35 throughout the State; and
36

37 WHEREAS, none of the counties has adopted the gray water
38 provisions of the Uniform Plumbing Code, as incorporated into
39 the State Building Code; and
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41 WHEREAS, the City and County of Honolulu, for example, may
42 decline to adopt the gray water provisions of the Uniform
43 Plumbing Code, as incorporated by the State Building Code, at
44 least in areas served by its sewer system, because it needs gray



1 water to move sewage and sludge through its gravity lines to its
2 sewage treatment plants; and

3
4 WHEREAS, legislation was considered in 2008 that would
5 place responsibility for developing gray water recycling
6 programs with the Department of Health but the Director of
7 Health testified that the Department lacks the resources to
8 oversee implementation of a gray water program for residences
9 served by county sewer systems; and

10
11 WHEREAS, in consideration of the Director of Health's 2008
12 testimony, House Bill No. 763 was introduced in 2009 to require
13 the Department of Health to implement a gray water recycling
14 program for premises not served by county wastewater systems and
15 authorize the counties to establish gray water recycling
16 programs for premises that are served by county wastewater
17 systems, provided the standards for those programs are no more
18 restrictive than those set forth in the State's administrative
19 rules; and

20
21 WHEREAS, the Comptroller, on behalf of the State Building
22 Code Council, testified in opposition to House Bill No. 763
23 because, in his opinion, it conflicted with the process set
24 forth for adoption by the counties of the State Building Code;
25 and

26
27 WHEREAS, the Director of Health testified in opposition to
28 House Bill No. 763, echoing the testimony of the Comptroller and
29 not even mentioning her 2008 testimony that the Department
30 lacked the resources to implement gray water recycling for
31 premises served by county wastewater systems; and

32
33 WHEREAS, section 342D-70, Hawaii Revised Statutes, and
34 Chapter 11-62, Hawaii Administrative Rules, and the State
35 Building Code, through its incorporation of the most recent
36 Uniform Plumbing Code, authorize residential gray water
37 recycling programs; and

38
39 WHEREAS, section 342D-70, Hawaii Revised Statutes, and
40 Chapter 11-62, Hawaii Administrative Rules, disclose an express
41 or implied intent that they shall be exclusive or uniform
42 throughout the State and preempt and the gray water provisions
43 of the Uniform Plumbing Code, as incorporated by the State
44 Building Code, and the counties' power to adopt, amend, or



1 reject those provisions, as they relate to proposed gray water
2 recycling systems in areas not served by county waste-water
3 systems; and
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5 WHEREAS, county building departments will not issue permits
6 for construction or modification of dwellings that incorporate
7 gray water recycling systems, notwithstanding clear authority to
8 do so in State law;
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10 WHEREAS, the burden on water supplies and on wastewater
11 treatment systems has only increased since the Legislature
12 authorized the establishment of gray water recycling programs in
13 1993; and
14

15 now, therefore,
16

17 BE IT RESOLVED by the House of Representatives of the
18 Twenty-fifth Legislature of the State of Hawaii, Regular Session
19 of 2009, the Senate concurring, that the Director of Health is
20 requested, in consultation with the State Building Code Council
21 and the counties, to develop a plan by which:
22

23 (1) Section 342D-70, Hawaii Revised Statutes, and Chapter
24 11-62, Hawaii Administrative Rules, may be given
25 effect for residential premises not served by county
26 wastewater systems, including review and approval by
27 the Department of Health of plans for proposed gray
28 water recycling systems;
29

30 (2) The gray water provisions of the Uniform Plumbing
31 Code, as incorporated by the State Building Code, may
32 be made applicable to residential premises served by
33 county wastewater systems to the extent that those
34 provisions are no more restrictive than the provisions
35 of section 342D-70, Hawaii Revised Statutes, and
36 Chapter 11-62, Hawaii Administrative Rules, and any
37 gray water reuse guidelines developed by the
38 Department of Health; and
39

40 (3) Designs proposing inclusion of gray water recycling
41 systems in residential premises not served by county
42 waste-water systems shall be routed by the appropriate
43 county to the Department of Health for review and



1 approval as part of the process by which building
2 permits are reviewed and approved; and
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4 BE IT FURTHER RESOLVED that the Department of Health is
5 requested to submit a report to the Legislature setting forth
6 its plan, together with any recommended legislation, no later
7 than twenty days prior to the convening of the Regular Session
8 of 2010; and
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10 BE IT FURTHER RESOLVED that certified copies of this
11 Concurrent Resolution be transmitted to the Director of Health,
12 the Comptroller, and the Mayor and the Chairperson of the
13 Council of each county.
14
15
16

OFFERED BY: _____

A large, stylized handwritten signature in black ink, appearing to be 'JG', is written over a horizontal line.

MAR 18 2009

