

JAN 20 2012

A BILL FOR AN ACT

RELATING TO SOLID WASTE POLLUTION.

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

1 SECTION 1. The legislature finds that communities in which
2 are located landfills and other disposal sites bear a
3 disproportionately heavy burden in meeting community needs. The
4 legislature further finds that violators of environmental health
5 laws need to be responsible to help those communities they harm
6 by paying an additional penalty.

7 The purpose of this Act is to create a community giveback
8 fee to help groups perform activities and services for the
9 greater good of their communities.

10 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
11 by adding a new section to be appropriately designated and to
12 read as follows:

13 "§46- Community giveback fee; disposition. (a) The
14 county shall deposit the community giveback fees collected and
15 transferred by the State pursuant to section 342H-10 into the
16 general fund of the county. The county shall distribute the
17 moneys to one or more nonprofit organizations located in the



1 affected community. The nonprofit organization shall use the
2 moneys as follows:

3 (1) Retain an administrative fee of not more than
4 \$ _____ or _____ per cent of the community giveback
5 fees distributed to the nonprofit organization for the
6 fiscal year, whichever is less; and

7 (2) Distribute the remaining sum to community groups,
8 whether nonprofit or not, that are engaged in any type
9 of community activity or community service for the
10 betterment of the community.

11 (b) The county shall develop and adopt the necessary
12 procedures to implement this section in accordance with the
13 county charter and ordinances."

14 SECTION 3. Section 342H-10, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§342H-10 Administrative penalties.** (a) In addition to
17 any other administrative or judicial remedy provided by this
18 chapter or by rules adopted under this chapter, the director is
19 authorized to impose by order the penalties specified in this
20 section and in section 342H-9(a) and (b)."

21 (b) Factors to be considered in imposing an administrative
22 penalty include:



- 1 (1) The nature and history of the violation and of any
2 prior violations;
- 3 (2) The economic benefit, if any, resulting from the
4 violation;
- 5 (3) The opportunity, difficulty, and history of corrective
6 action;
- 7 (4) Good faith efforts to comply; and
- 8 (5) Any other matters that justice may require.

9 (c) It is presumed that the violator's economic and
10 financial conditions allow payment of the penalty, and the
11 burden of proof to the contrary shall be on the violator.

12 (d) There shall be assessed a community giveback fee on
13 any person who is penalized under this section. The community
14 giveback fee shall be not more than \$ per penalty, to
15 be deposited into the general fund then transferred by the State
16 to the county in which the violation occurred.

17 The distribution by the county of the community giveback
18 fee shall be in accordance with section 46- ."

19 SECTION 4. Section 342H-10.5, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§342H-10.5 Disposition of collected fines and penalties.**

22 Except as otherwise provided in this section, fines and




1 penalties collected under sections 342H-9 and 342H-10, except as
2 otherwise provided under section 342H-10 with regard to the
3 community giveback fee, shall be deposited into the
4 environmental response revolving fund established by section
5 128D-2. Where a county individually, or the State and a county
6 jointly, initiates and conducts an investigation resulting in
7 the imposition and collection of a fine or penalty, pursuant to
8 section 342H-30(c), the fine or penalty shall be distributed as
9 follows:

- 10 (1) One half to the department of the county whose
11 officers or employees initiated and conducted the
12 investigation; and
13 (2) One half to the environmental response revolving fund
14 established in section 128D-2."

15 SECTION 5. New statutory material is underscored.

16 SECTION 6. This Act shall take effect upon its approval.

17
INTRODUCED BY: 



S.B. NO. 2302

Report Title:

Health; Counties; Community Giveback Fee

Description:

Creates a community giveback fee to be assessed against solid waste violators. Requires State to transfer the community giveback fee to the county in which the violation occurred for disbursement to community organizations located in the affected community.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

