

# **SB 2749**

## **RELATING TO WASTEWATER**

Provides that a county may not prohibit, based upon proximity to a county sewer system, the use of an otherwise authorized individual wastewater system as an on-site means of wastewater disposal in lieu of wastewater treatment works

PSM/ENE



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

SENATE COMMITTEES ON  
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS  
AND  
ENERGY AND ENVIRONMENT  
S.B. 2749, RELATING TO WASTEWATER

Testimony of Gary L. Gill  
Deputy Director, Environmental Health Administration

February 20, 2014  
2:50 p.m.

- 1 **Department's Position:** The Department of Health (Department) opposes this measure.
- 2 **Fiscal Implications:** None.
- 3 **Purpose and Justification:** The Department respectfully opposes this measure because it conflicts with
- 4 Hawaii Administrative Rules. Chapter 11-62 requires all buildings located within or near proximity of
- 5 an available public sewer system to connect to the public sewer. The use of individual wastewater
- 6 systems is intended to serve as a temporary measure until such time as public sewers become available
- 7 to the lot.
- 8 This bill prohibits the county from requiring a property with an authorized individual wastewater
- 9 system, based on proximity, to connect to a county operated wastewater treatment system.
- 10 However, cesspools and other individual wastewater systems have the potential to adversely
- 11 affect our groundwater and near shore waters. County wastewater treatment plants provide higher levels
- 12 of treatment and better quality wastewater that can be used as reclaimed water which conserves our

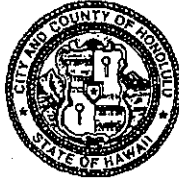
1 limited water resources. Once county sewers are constructed, the counties have the responsibility and  
2 means to properly operate, maintain, and provide adequate treatment of wastewater to levels that are  
3 safe and do not adversely impact the environment.

4 Thank you for the opportunity to testify on this measure.

DEPARTMENT OF ENVIRONMENTAL SERVICES  
**CITY AND COUNTY OF HONOLULU**

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707  
TELEPHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: <http://envhonolulu.org>

KIRK CALDWELL  
MAYOR



LORI M.K. KAHIKINA, P.E.  
DIRECTOR

TIMOTHY A. HOUGHTON  
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.  
DEPUTY DIRECTOR

IN REPLY REFER TO:  
WAS 14-27

February 18, 2014

The Honorable Mike Gabbard, Chair  
and Members of the Committee on  
Energy Environment  
The Honorable Will Espero, Chair  
and Members of the Committee on  
Public Safety, Intergovernmental and  
Military Affairs  
State Senate  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Gabbard, Chair Espero, and Members:

SUBJECT: Senate Bill 2749, Relating to Wastewater

The City and County of Honolulu, Department of Environmental Services (ENV), opposes Senate Bill (SB) 2749, Relating to Wastewater, which would not allow counties to prohibit, based on proximity to a county operated wastewater treatment system, the use of an otherwise authorized individual wastewater treatment system as an on-site means of wastewater disposal in lieu of wastewater treatment works.

This bill talks primarily about composting toilets as an alternative, although the proposed language is broader and includes all otherwise authorized individual wastewater systems. While the use of composting toilets may be appropriate in areas not served by a county operated wastewater treatment system, allowing individuals to disconnect or not connect to the county operated wastewater system places an unfair burden on other customers served by the county operated wastewater system. Counties have been required to build wastewater systems to serve the majority population centers of the counties and have invested billions of dollars in wastewater infrastructure sized to support mandatory connection within the service area. Customers have to pay for the construction, operation, and maintenance of that pre-existing infrastructure. Allowing some potential customers to not connect unfairly increases the cost burden on other customers.

The Department of Environmental Services respectfully recommends that SB 2749 not be moved forward.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori M.K. Kahikina", is written over a horizontal line.

Lori M.K. Kahikina, P.E.  
Director

Council Chair  
Gladys C. Baisa

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Michael P. Victorino

Council Members  
Elle Cochran  
Donald G. Couch, Jr.  
Stacy Crivello  
Don S. Guzman  
G. Riki Hokama  
Mike White



Director of Council Services  
David M. Raatz, Jr., Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
www.maui-county.gov/council

February 19, 2014

TO: The Honorable Will Espero, Chair  
Senate Committee on Public Safety, Intergovernmental and Military Affairs  
The Honorable Mike Gabbard, Chair  
Senate Committee on Energy and Environment

FROM: Gladys C. Baisa  
Council Chair *Gladys C. Baisa*

SUBJECT: **HEARING OF FEBRUARY 20, 2014; TESTIMONY IN OPPOSITION TO SB 2749,  
RELATING TO WASTEWATER**

Thank you for the opportunity to testify in **opposition** to this important measure. The purpose of this measure is prohibit a county from prohibiting the use of an individual wastewater system as an on-site means of wastewater disposal, based on proximity to a county sewer system.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

1. Section 27-21.6, Hawaii Revised Statutes, assigns to the counties the regulation of individual wastewater systems and private wastewater treatment works.
2. By limiting the counties' authority to prohibit certain on-site means of wastewater disposal, this bill would infringe upon the counties' ability to perform effective regulation.
3. The counties must continue to be allowed to ensure that wastewater is treated and disposed of in a manner that protects the environment and maintains the viability of county treatment systems.

For the foregoing reasons, I **oppose** this measure.

Council Chair  
Gladys C. Baisa

Vice-Chair  
Robert Carroll

Council Members  
Elle Cochran  
Donald G. Couch, Jr.  
Stacy Crivello  
Don S. Guzman  
G. Riki Hokama  
Michael P. Victorino  
Mike White



Director of Council Services  
David M. Raatz, Jr., Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

February 14, 2014

TO: Honorable Will Espero, Chair  
Senate Committee on Public Safety, Intergovernmental and Military Affairs

Honorable Mike Gabbard, Chair  
Senate Committee on Energy and Environment

FROM: Robert Carroll  
Council Vice Chair

A handwritten signature in black ink that reads "Robert Carroll".

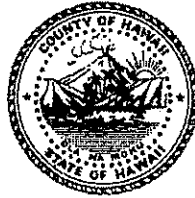
DATE: Thursday, February 20, 2014

SUBJECT: **OPPOSITION TO SB 2749, RELATING TO WASTEWATER**

I oppose SB 2749 for the reasons cited in testimony submitted by the Maui County Council Chair, and urge you to oppose this measure.

William P. Kenoi  
Mayor

Walter K.M. Lau  
Managing Director



BJ Leithead Todd  
Director

John A. Medeiros  
Deputy Director

**County of Hawai'i**  
**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
345 Kekūanāo'a Street, Suite 41 • Hilo, Hawai'i 96720  
(808) 961-8083 • Fax (808) 961-8086  
<http://www.hawaiicounty.gov/environmental-management/>

February 19, 2014

The Honorable Will Espero, Chair  
and Members of the Committee on Public Safety, Government Operations, and Military  
Affairs

The Honorable Mike Gabbard, Chair  
and Members of the Committee on Energy and Environment  
State Senate  
State Capitol  
Honolulu, Hawai'i 96813

Dear Chair Espero, Chair Gabbard, and Members:

Subject: **SENATE BILL 2749 RELATING TO WASTEWATER  
NOTICE OF HEARING**  
**DATE: Thursday, February 20, 2014**  
**TIME: 2:50 PM**  
**PLACE: Conference Room 225  
State Capitol  
415 South Beretania Street**

The County of Hawai'i Department of Environmental Management (DEM) opposes Senate Bill (SB) 2749, Relating to Wastewater, for the following reasons:

1. Hawai'i Revised Statutes §27-21.6(5)(A): Transfer of the regulation of the design, construction, and operation of individual wastewater systems and private wastewater treatment systems places an operational burden on the County. Despite the availability of start-up funds by the State, there will be an annual financial burden on the County to address both operational and staffing expenses.
2. Hawai'i Revised Statutes §27-21.6(5)(B):
  - a. The inability to prohibit the use of individual wastewater systems (IWS), based on proximity, as an onsite means of wastewater disposal reduces the ability of Counties to require properties with an IWS to connect to a county operated wastewater treatment system. This is in contravention to the following:
    - i. Hawai'i Administrative Rules (HAR) §11-62-06(b) which requires that all buildings generating wastewater located within or near proximity of an available public sewer system to connect to the public sewer.

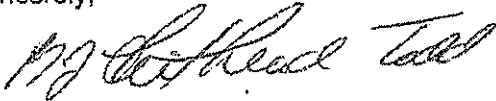
- ii. Hawai'i County Code Chapter 21, Sewers, §21-5 which requires that owners of all dwellings, buildings or properties used for human occupancy, employment, recreation, or other purposes, which are accessible to a sewer are required at their expense to connect directly with the public sewer within one hundred eighty days after date of official notice.
- iii. Cesspools by definition are considered to be IWS's under HAR §11-62-36, Subchapter 3, Individual Wastewater Systems. As such, SB 2749 which reduces the ability of Counties to require properties with an IWS, based on proximity, to connect to a county operated wastewater treatment system is in contravention to the intent of HAR §11-62-05, Critical Wastewater Disposal Areas (CWDA).

b. Additional Concerns:

- i. Use of IWS's, by properties that are accessible to County Sewer, as an on-site means of wastewater disposal in lieu of connection to the County Sewer system could jeopardize the County's ability to obtain Environmental Protection Agency (EPA) grant funding under 40CFR35, State and Local Assistance.

Based on the above, the County of Hawai'i Department of Environmental Management respectfully requests that SB 2749 not be passed.

Sincerely,



BJ Leithead Todd  
Director

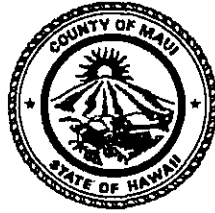
cc: Mayor William P. Kenoj  
Wally Lau, Managing Director  
John Medeiros, Deputy Director  
Amy Self, Deputy Corporation Counsel  
Dora Beck, P.E., Wastewater Division Chief



ALAN M. ARAKAWA  
Mayor

KYLE K. GINOZA, P.E.  
Director

MICHAEL M. MIYAMOTO  
Deputy Director



TRACY TAKAMINE, P.E.  
Solid Waste Division

ERIC NAKAGAWA, P.E.  
Wastewater Reclamation Division

**COUNTY OF MAUI  
DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**  
2200 MAIN STREET, SUITE 100  
WAILUKU, MAUI, HAWAII 96793

February 19, 2014

Senator Will Espero, Chair  
and Members of the Committees on Public Safety, Intergovernmental  
& Military Affairs  
Senator Mike Gabbard, Chair  
and Members of the Committees on Energy & Environment  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Espero and Gabbard and Members:

**SUBJECT: SB 2749 RELATING TO INDIVIDUAL WASTEWATER  
TREATMENT SYSTEMS**

Thank you for the opportunity to comment on the subject bill. The County of Maui Department of Environmental Management (DEM) OPPOSES the bill.

The County of Maui (Department of Environmental Management, Wastewater Reclamation Division) is opposed to Senate Bill No. 2749 being considered in the twenty-seventh legislative session (2014). The proposed changes to Item (5) Section 27-21.6, Hawaii Revised Statutes are not in the best interest of Maui County's government and its residents. Item 5 should be completely deleted from HRS, as well as the proposed revisions involving individual wastewater treatment systems (IWTS's) for several reasons:

1. The County does not have the expertise to undertake the responsibilities of regulating the design, construction and operation of IWTS's and private wastewater treatment works.
2. The State Department of Health who currently oversees these actions has an experienced staff and the resources and expertise required to conduct such oversight.
3. The majority of the properties in proximity of existing sewer systems are urban residential in nature and not rural areas with farming required for self sustenance or with large enough areas that they require compost generated on site with human waste.
4. The Environmental Protection Agency (with assistance from the State Department of Health) currently oversees the production of compost using human waste (sludge from treatment plants) to ensure it is safe for human exposure and use. There would be little, if any, oversight if this were allowed at individual residences.

Senators Will Espero and Mike Gabbard, Chairs  
and Members of the Committees on Public Safety, Intergovernmental & Military Affairs  
and the Energy & Environment  
February 19, 2014  
Page 2

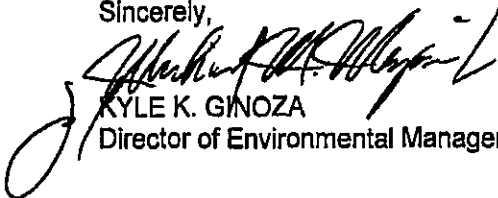
to ensure it is safe for human exposure and use. There would be little, if any, oversight if this were allowed at individual residences.

5. This would severely impact the financial ability of the County to provide public sewer service. The County requires monthly payments for sewer service. These payments are necessary to operate the sewage collection and treatment systems. Allowing properties to disconnect will increase the cost to those connected as less revenue is being collected.
6. The environmental impacts will increase as all types of affordable IWTS's release substantially higher volumes of nutrients and pollutants into the environment than the County's collection and treatment systems.

We trust you will carefully consider these comments in your consideration of this proposed bill. We appreciate the opportunity to comment on this bill and we are available if you have any questions or require clarification of our comments.

Mahalo for the opportunity to comment.

Sincerely,



KYLE K. GINOZA  
Director of Environmental Management



Testimony for SB 2749 Relating to Wastewater  
Committee on Public Safety, Intergovernmental and Military Affairs  
Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair

Committee on Energy and Environment  
Senator Mike Gabbard, Chair  
Senator Russell E. Ruderman, Vice Chair

Thursday, February 20, 2014, 2:50 p.m. Room 225

Dear Chair Espero, Chair Gabbard, and Members of the Committees:

This letter is in **STRONG SUPPORT** of SB2749 and the use of composting toilets as a water conservation measure. I am Lynn McCrory, Senior Vice President of Government Affairs for Pūlama Lānaʻi. Pūlama Lānaʻi is the entity that was set up on Lanai to work with the community and government as we move the island toward sustainability.

The island of Lānaʻi is a desert island with a very minimal aquifer and no running streams. We are in the process of constructing a Desalination facility in order to bring water to the island. There are many places on Lānaʻi where composting toilets would work beautifully and simply. Yes, there may be a near wastewater system, but placing additional load on to the system, will create further water shortage issues. This bill would allow expansion of areas for outdoor uses that would conserve our water.

We humbly ask your support of SB 2749. Mahalo!

Me ke aloha pumehana  
With warm aloha,

Lynn P. McCrory  
Senior Vice President of Government Affairs

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 17, 2014 8:18 PM  
**To:** PSMTestimony  
**Cc:** wesley.j.wong@live.com  
**Subject:** Submitted testimony for SB2749 on Feb 20, 2014 14:50PM

**SB2749**

Submitted on: 2/17/2014

Testimony for PSM/ENE on Feb 20, 2014 14:50PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Wes	Individual	Support	No

Comments: Makes sense for struggling residential home owners to save on paying sewer fees. May be a good idea to extract commercial business from this proposal; due to potential of commercial business activities that may contain hazardous pollutants that should be treated in a more advanced WWTP rather than an IWS.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 18, 2014 6:39 AM  
**To:** PSMTestimony  
**Cc:** chelsea.morriss@gmail.com  
**Subject:** \*Submitted testimony for SB2749 on Feb 20, 2014 14:50PM\*

**SB2749**

Submitted on: 2/18/2014

Testimony for PSM/ENE on Feb 20, 2014 14:50PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chelsea	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 18, 2014 6:20 PM  
**To:** PSMTestimony  
**Cc:** d.bt@live.com  
**Subject:** \*Submitted testimony for SB2749 on Feb 20, 2014 14:50PM\*

**SB2749**

Submitted on: 2/18/2014

Testimony for PSM/ENE on Feb 20, 2014 14:50PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Diane Brucato-Thomas	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 19, 2014 10:12 AM  
**To:** PSMTestimony  
**Cc:** stacy.crivello@mauicounty.us  
**Subject:** Submitted testimony for SB2749 on Feb 20, 2014 14:50PM

**SB2749**

Submitted on: 2/19/2014

Testimony for PSM/ENE on Feb 20, 2014 14:50PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Stacy Helm Crivello	Individual	Oppose	No

Comments: I oppose this measure and support Maui Council Chair Gladys Baisa opposition stated in her submitted testimony.

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