

JAN 22 2015

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that the State's streams,  
2 groundwaters, and ocean are being harmed by water pollution from  
3 nonpoint contamination sources that flow off the land directly  
4 rather than through pipes or ditches. A nonpoint contamination  
5 source of great concern are cesspools. These substandard  
6 systems are essentially holes in the ground that discharge raw,  
7 untreated sewage. Groundwaters, drinking water sources,  
8 streams, and the ocean are contaminated by cesspool pollution  
9 from systems that don't treat wastewater but merely dispose of  
10 the wastewater.

11           The legislature further finds that the State's cesspools  
12 release approximately 55,000,000 gallons of untreated sewage  
13 into the ground each day. There are approximately 90,000  
14 cesspools in the State, with nearly 50,000 located on Hawaii  
15 island, approximately 14,000 on Kauai, over 12,000 on Maui, over  
16 11,000 on Oahu, and over 1,400 on Molokai. In response to the  
17 State's cesspool pollution problem, the department of health has



1 proposed amending chapter 11-62, Hawaii Administrative Rules, to  
2 prohibit the installation of new cesspools and require that an  
3 existing cesspool be connected or upgraded to a septic system  
4 within one hundred eighty days after the sale of a property.  
5 While these proposed changes may reduce water contamination, the  
6 changes will also impose substantial costs on private  
7 landowners.

8 The purpose of this Act is to offer financial assistance to  
9 cesspool owners who connect or upgrade to septic systems by  
10 establishing a cesspool system upgrade or replacement income tax  
11 credit.

12 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15 **"§235- Individual wastewater system; cesspool system**  
16 **upgrade; income tax credit.** (a) There shall be allowed to each  
17 taxpayer subject to the tax imposed by this chapter a cesspool  
18 system upgrade tax credit which shall be deductible against the  
19 taxpayer's net income tax liability, if any, imposed by this  
20 chapter for the taxable year in which the credit is properly  
21 claimed.



1       The tax credit may be claimed by any taxpayer who connects  
2 a cesspool system to a septic system during the taxable year or  
3 upgrades from a cesspool system by placing into service during  
4 the taxable year a septic system or a department of health-  
5 approved individual wastewater system.

6       (b) The amount of the tax credit shall be equal to the  
7 costs incurred by the taxpayer to connect or upgrade the  
8 individual's cesspool system to a septic system or a department  
9 of health-approved individual wastewater system, including  
10 purchase and installation costs. There shall be allowed a  
11 maximum of one cesspool system upgrade income tax credit per  
12 cesspool system.

13       (c) For the purposes of this section:

14       "Actual cost" means costs related to the upgraded  
15 wastewater system under subsection (a), including purchase,  
16 accessories, and installation.

17       "Cesspool" means an individual wastewater system consisting  
18 of an excavation in the ground whose depth is greater than its  
19 widest surface dimension, which receives untreated wastewater,  
20 and retains or is designed to retain the organic matter and  
21 solids discharging therein, but permits the liquid to seep



1 through its bottom or sides to gain access to the underground  
2 formation.

3 "Individual wastewater system" means facilities, including  
4 cesspools, septic systems, and aerobic treatment units, that are  
5 not connected to a sewer and are used and designed to receive  
6 and dispose of no more than one thousand gallons per day of  
7 domestic wastewater or greater than one thousand gallons with a  
8 variance.

9 "Septic system" means an individual wastewater system that  
10 usually consists of a septic tank, piping, and a drainage field  
11 where there is natural biological decontamination as it is  
12 filtered through soil.

13 "Waste" means sewage, industrial and agricultural matter,  
14 and any other liquid, gaseous, or solid substance, including  
15 radioactive substance, whether or not treated, which may pollute  
16 or tend to pollute the waters of the State.

17 "Wastewater" means any liquid waste, whether or not treated  
18 and whether animal, mineral, or vegetable, including  
19 agricultural, industrial, and thermal wastes.

20 (d) Credits which exceed the taxpayer's income tax  
21 liability for any taxable year shall be used as a credit against



1 the taxpayer's income tax liability in subsequent years until  
2 exhausted.

3 (e) The director of taxation shall prepare such forms as  
4 may be necessary to claim a tax credit under this section. The  
5 director may also require the taxpayer to furnish reasonable  
6 information to ascertain the validity of the claim for credit  
7 made under this section and may adopt rules necessary to  
8 effectuate the purposes of this section pursuant to chapter 91."

9 SECTION 3. Section 321-27, Hawaii Revised Statutes, is  
10 amended by amending subsection (c) to read as follows:

11 "(c) Any amount in the fund in excess of \$1,500,000 on  
12 June 30 of each year shall [~~be deposited into the general fund.~~]  
13 fund the cesspool system upgrade income tax credit established  
14 under section 235- ."

15 SECTION 4. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 2015, and  
18 shall be repealed on July 1, 2019.

19 *Yeu Kuley*

*J. K. Gish*

*Strained House*

INTRODUCED BY:

*A.C. Kuhlman*

*Ronald Baker*

*[Signature]*



Ed Puvion

Mark L.

Paul H.



# S.B. NO. 132

**Report Title:**

Department of Health; Cesspools; Septic Systems; Individual Wastewater Systems; Income Tax Credit; Sanitation and Environmental Health Special Fund

**Description:**

Establishes a cesspool system upgrade income tax credit for taxpayers who connect or upgrade a cesspool system to a septic system or any department of health-approved individual wastewater system; and requires any annual amount over \$1,500,000, in the department of health's sanitation and environmental health special fund, be used to fund the cesspool system upgrade income tax credit rather than having the excess special fund moneys be deposited into the general fund. Repeals July 1, 2019.

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

