



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
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**Written Testimony Only**

**Testimony in SUPPORT of HB1244 HD1 SD1  
RELATING TO WASTEWATER**

SENATOR JILL N. TOKUDA, CHAIR  
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: April 3, 2017  
Time: 1:35 PM

Room Number: 211

- 1 **Fiscal Implications:** The Department would need resources to implement the proposed cesspool
- 2 compliance grant program under Section 342D-B of this measure.
- 3 **Department Testimony:** The Department strongly supports this bill as long as it does not replace
- 4 our priorities requested in the Executive Budget.
- 5 Cesspools are a major source of pollution to Hawaii's waters. There are approximately 90,000
- 6 cesspools in the State, discharging approximately 55 million gallons of untreated sewage into the
- 7 groundwater every day. Ground water flows into drinking water sources, streams and the ocean,
- 8 harming public health and the environment, including beaches and coral reefs. Ninety-five percent
- 9 of all drinking water in Hawaii comes from ground water sources. Cesspools should be phased out
- 10 in order to eliminate threats to drinking water and recreational waters. Expanded tax credits and
- 11 grants would help facilitate the phasing out of cesspools.
- 12 The Department supports using all available regulatory tools to achieve the upgrading and
- 13 conversion of cesspools as soon as feasible, but not later than January 1, 2050. The Department
- 14 also supports the establishment of a new compliance grant program that will assist homeowners
- 15 with cesspool upgrades or connection to a sewage system.
- 16 Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

To: The Honorable Jill N. Tokuda, Chair  
and Members of the Senate Committee on Ways and Means

Date: Monday, April 3, 2017  
Time: 1:35 P.M.  
Place: Conference Room 211, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: H.B. 1244, H.D. 1, S.D. 1, Relating to Cesspools

The Department of Taxation (Department) appreciates the intent of H.B. 1244, H.D. 1, S.D. 1, which seeks to incentivize the conversion of cesspools to more environment friendly alternatives, but has concerns over the provisions of the measure which allow the tax credit to be refundable. The Department otherwise defers to the Department of Health on the merits of this bill, and provides the following comments on for your consideration.

With respect to tax aspects of H.B. 1244, H.D. 1, S.D. 1, the Joint Senate Committee on Commerce, Consumer Protection, and Health and the Senate Committee on Agriculture and Environment adopted the Department's recommendation to delete the provisions which would have made the cesspool upgrade, conversion, or connection income tax credit assignable, as well as the Department's request to make the changes related to the tax credit effective for taxable years beginning after December 31, 2017. S.D. 1 is effective on July 1, 2017.

First, the Department firmly believes that a rebate or grant program is far preferable than a tax credit for assisting low income taxpayers in converting a cesspool, because it enables a low income household to obtain funds sooner; a tax credit requires the taxpayer to wait until the end of a tax year before they can file a claim for tax refund.

Second, as a general matter, the Department prefers nonrefundable credits because refundable credits create the potential for wrongful claims and substantial abuse. This is especially true with this credit, since it is a 100% credit of qualified expenses, up to a maximum of \$10,000.

Third, Section 3 of this measure creates a cesspool compliance grant program. If the intent of this program to provide grants to homeowners with limited incomes, then the Department suggests leaving the cesspool tax credit nonrefundable, as the taxpayers who claim

the credit instead of receiving a grant will likely have the income tax liability to use the nonrefundable cesspool credit as an offset, and there is no need to make it refundable.

Fourth, while the measure is effective on July 1, 2017, Section 3 which establishes the grant program provides that grants cannot be provided to persons having an unspecified federal adjusted gross income, and the amounts to be funded in Sections 4 and 5 need to be established in order for the measure to be implemented.

Finally, the Department notes that it is able to administer this measure with the current effective date.

Thank you for the opportunity to provide comments.

**Harry Kim**  
*Mayor*



**Wil Okabe**  
*Managing Director*

**Barbara J. Kossow**  
*Deputy Managing Director*

## County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553  
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March 31, 2017

Senator Jill N. Tokuda, Chair  
Committee on Ways and Means  
Hawai'i State Capitol  
Honolulu, HI 96813

Dear Chair Tokuda and members:

**RE: HB 1244, HD1, SD1  
Relating to Cesspools**

Thank you for this opportunity to testify against HB 1244, HD1, SD1. I know the bill is well intended, but it is unnecessary, and it is contrary to our efforts to find a way to make housing more affordable.

Yes, I realize that Hawaii has changed and we are now in the 21st century, but those of us who grew up in ancient times know that some of the old practices, while not entirely compatible with modern thought, are nevertheless environmentally sound and do not need to be discarded. As a prime example, in Hawaii County we have literally thousands of lots on which cesspools pose absolutely no hazard to groundwater or risk of pollution. Many of these lots may represent the best hope for current and future Hawaii residents to live in a dwelling rather than on the street.

I recently directed my departments to do everything in their power to figure out how to bring down the cost of housing. If we were to require septic tanks in areas where cesspools should be acceptable, we immediately would be adding \$10,000-\$20,000 to the cost of every dwelling, with no environmental benefit whatsoever.

If the Legislature wishes to offer financial incentives to install septic or other treatment systems, by all means do so, but please do not outlaw cesspools, even if the prohibition does not take effect until 2050.

Jill Tokuda  
March 31, 2017  
Page 2

I do acknowledge that SD1 is an improvement over previous drafts of HB1244, in that it authorizes the director of health to grant exemptions to property owners of cesspools who present documentation showing a legitimate reason that makes it infeasible to upgrade, convert, or connect the cesspools. If HB1244 must pass, I would ask that the exemption not be limited to "infeasible," but be broadened to "infeasible, or unnecessary because of geographic location." That would perhaps allow for designation of areas where cesspools do not pose a risk of contaminating Hawaii's waters, and therefore would continue to be permitted.

Respectfully submitted,

A handwritten signature in black ink that reads "Harry Kim". The signature is written in a cursive, flowing style.

Harry Kim  
Mayor



2016-2017

**SENATE COMMITTEES ON WAYS AND MEANS**

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**SUPPORT OF HOUSE BILL 1244 HD1 SD 1**

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Joanna Griffith

Dear Chairs: Sen. Tokuda, Sen. Dela Cruz

**Vice President**

Melanie Islam

The US Green Building Council Hawaii Chapter is a 501 c3 membership organization that educates, motivates, provides resources and advocated for industry transformation to build and maintain sustainable communities. USGBC-Hawaii Chapter is part of a network of approximately 65 USGBC Chapters throughout the United States which represent USGBC in their respective regions. The USGBC Hawaii Chapter has over 1300 registered Leadership in Energy and Environmental Design (LEED) professionals and includes 250 local Hawaii organizations in both the private and public sectors.

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The USGBC Hawaii Chapter **supports HB 1244 HD1 SD1**. We believe responsible and sustainable water management is a key component to protecting water resources and public health. With over 90,000 cesspools still operating in Hawai'i, disposing millions of gallons per day into Hawai'i's groundwater supplies, action needs to be taken to upgrade or connect these residents to sanitary sewer systems to mitigate this issue. Expanding tax credits and rebate programs would be a crucial measure to incentive homeowners to upgrade by helping to make it more affordable.

**Mailing Address**

1050 Bishop Street  
#345  
Honolulu, HI 96813

We'd also like to acknowledge that this bill upholds the Hawaii State Constitution by helping to protect water resources for the benefit of the people and Hawaii's native ecosystems that rely on clean water. We strongly support HB 1244 HD21 SD1.

Sincerely,

[www.usgbchawaii.org](http://www.usgbchawaii.org)

[info@usgbchawaii.org](mailto:info@usgbchawaii.org)

Lauren C. Roth Venu  
Chair  
USGBC Hawaii Chapter Advocacy Committee  
808-781-7583  
[lauren@rothecological.com](mailto:lauren@rothecological.com)

Testimony of The Nature Conservancy of Hawai'i  
Supporting H.B. 1244 HD1 SD1 Relating to Cesspools  
Senate Committee on Ways and Means  
Monday, April 3, 2017, 1:35PM, Room 211

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*The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. We manage 40,000 acres in 14 preserves and work in 19 coastal communities to help protect the near-shore reefs and waters of the main Hawaiian Islands. We forge partnerships with government, private parties and communities to protect Hawai'i's important watershed forests and coral reefs.*

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The Nature Conservancy supports appropriate tax or other financial incentives to replace cesspools especially in areas where marine and fresh water resources may be affected.

We also recognize that the much larger issue of wastewater impacts on coral reefs, near shore waters, and human health come from untreated sewage overflowing from overburdened wastewater treatment facilities and underground injection wells, especially on Maui and Hawai'i island. We urge the State and counties to consider a thorough review, repair, and retrofit of wastewater treatment facilities, especially if the State will be requiring more people to connect to those already overburdened facilities.

Scientists estimate that populations of many of Hawai'i's near shore reef fishes have declined by more than 75% over the past 100 years. Marine managers, community stewards, and scientists across the state are also cataloguing and working to address increased instances of coral disease, bleaching and reef smothering alien algae. Scientific analysis together with long-term community experience and observation suggest that several factors are contributing to and exacerbating these threats to Hawai'i's marine health, including over-harvesting of fishes, land-based sources of pollution, as well as higher temperatures and acidification due to human induced climate change. Degradation of Hawai'i's reefs and near shore environments is not only a detriment to our health and quality of life, but also a grave loss to Hawai'i's economy, safety, and to a cultural heritage that is unique in the world.

Effluent from cesspools – including untreated human waste, bacteria, viruses, pharmaceuticals, cleaning products, nitrogen, phosphorus, and other contaminants – is discharged directly into the ground. From there, these pollutants can make their way into groundwater systems and near shore marine environments. In coastal areas in Hawai'i with porous soils and substrates, studies have shown that waste from cesspools can reach near-shore waters within a matter of minutes to just a few days. Replacing these coastal cesspools should be a priority.

Caring for the health and future productivity of Hawai'i's fresh and marine waters requires a combination of strategies in an ahupua'a approach. Taking care of watershed forests, upgrading wastewater treatment systems, enhancing water re-use, preventing and controlling invasive species, encouraging responsible resource use, and retiring and replacing outdated infrastructure are all a part of the solution to the variety of threats we face. Replacing old cesspools is one important component of this collective effort.

Thank you for the opportunity to comment.

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# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Modify Tax Credit for Cesspool Conversion

BILL NUMBER: HB 1244, SD-1

INTRODUCED BY: Senate Committees on Commerce, Consumer Protection, and Health and Agriculture and Environment

EXECUTIVE SUMMARY: Amends the cesspool upgrade, conversion, or connection income tax credit to: (1) make the tax credit refundable; (2) disallow the tax credit for taxpayers whose federal adjusted gross income exceeds certain amounts; (3) expand the criteria for cesspools that qualify for the tax credit; and (4) extend the sunset date to 12/31/2022. Requires that all cesspools in the State be upgraded or converted to septic or aerobic treatment unit systems or connected to sewer systems. Establishes a grant program to assist with cesspool upgrade or conversion costs.

SYNOPSIS: Amends HRS section 235-16.5 to:

- (1) make the tax credit refundable;
- (2) disallow the tax credit for taxpayers who are awarded a grant under the grant program established;
- (3) expand the criteria for cesspools that qualify for the tax credit, but require claims to be certified by the department of health; and
- (4) extend the sunset date to 12/31/2022.

Establishes a grant program to assist homeowners with conversion costs. Requires the department of health to adopt rules including a method of calculating a sliding scale grant amount based on the federal AGI of the homeowner. Provides that grants are not available if a taxpayer is single, or married filing separately, with federal AGI of \$\_\_\_\_\_ or more; if a taxpayer is a head of household with federal AGI of \$\_\_\_\_\_ or more; or if a taxpayer is filing a joint return or is a surviving spouse with federal AGI of \$\_\_\_\_\_ or more.

EFFECTIVE DATE: July 1, 2017, applies to taxable years beginning after December 31, 2017.

STAFF COMMENTS: Act 120, SLH 2015, enacted a temporary income tax credit, expiring on December 31, 2020, for 100% of the qualified costs of a cesspool upgrade, conversion, or connection, up to \$10,000. Act 182, SLH 2016, made clarifying amendments.

This measure is an extension of the current effort to mitigate the public health hazards caused by cesspools, which release millions of gallons of untreated sewage into the ground. Many houses, especially in rural areas, still have them. Converting them is expensive, hence the credit to encourage homeowners to do so.

Earlier versions of the bill made the credit assignable as well as refundable, and we pointed out that it did not make sense for a refundable credit to be assignable. The Department of Taxation



also testified that it would be unwieldy to set up a process for such a credit to be assignable. We understand from one of the bill's authors that the goal was to have the tax refund attributable to the credit to be pledged to a financial institution, so the latter could be motivated to lend the renovation costs. We note that Federal solar credit rebates (when such rebates were allowed under section 1603 of the American Reinvestment and Recovery Act of 2009, Pub. L. No. 111-5) could be pledged to financial institutions under the Federal Assignment of Claims Act, 31 U.S.C. §3727, and suggest that this statute could be used to craft appropriate language that would allow the rebate claim to be assigned to a financial institution.

Digested 4/1/2017

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 31, 2017 1:18 PM  
**To:** WAM Testimony  
**Cc:** erubbish@yahoo.com  
**Subject:** Submitted testimony for HB1244 on Apr 3, 2017 13:35PM

**HB1244**

Submitted on: 3/31/2017

Testimony for WAM on Apr 3, 2017 13:35PM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Grace Laird	Individual	Comments Only	No

Comments: I consider myself an environmentalist and am most definitely in favor of clean water. However I do not believe that it makes sense to prohibit cesspools in all locations in Hawaii. Exceptions should be allowed in remote areas, areas with low population density (ie. ag 5 and larger), areas far from the ocean, and so forth. Some properties are so rugged that constructing a leach field would be cost prohibitive, if not impossible. Housing costs in this state are so high that many people are just scraping by however they can. A well-designed cesspool is more sanitary than some other make-shift systems. Please don't make it more difficult for people to find affordable housing! Don't make more laws that people are forced to break!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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