



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

H.B. NO. 1722, RELATING TO CESSPOOLS.

BEFORE THE:

HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, AND HAWAIIAN AFFAIRS

DATE: Tuesday, January 30, 2018 **TIME:** 9:45 a.m.

LOCATION: State Capitol, Room 312

TESTIFIER(S): Russell A. Suzuki, First Deputy Attorney General, or
Ryan K. P. Kanaka'ole, Deputy Attorney General

Chair Ing and Members of the Committee:

The Department of the Attorney General provides the following comments.

H.B. No. 1722 amends the Hawaiian Homes Commission Act (HHCA) to establish a cesspool compliance grant program and special fund for the purpose of assisting lessees of Hawaiian home lands with cesspool upgrade or conversion costs. The bill also establishes that recipients of a cesspool compliance grant are ineligible for the cesspool upgrade, conversion, or connection income tax credit under section 235-16.5, Hawaii Revised Statutes (HRS).

First, we note that pursuant to the procedures of the U.S. Department of the Interior (USDOl), any amendment to the HHCA triggers the USDOl's review to determine whether the proposed amendment requires approval of Congress. To avoid the time it can take to complete such a review, the Committee might consider that the intent of the bill can be realized without amending the HHCA; a cesspool compliance grant program and special fund for lessees of Hawaiian home lands can instead be statutorily established in the HRS.

Second, this bill uses several terms that should be defined for clarity. The terms in need of definitions can be found on page 1, lines 9-13, of the bill; they are "cesspool," "septic system," "aerobic treatment unit system," and "sewerage system." Sections 235-16.5 and 342D-72, HRS, both provide identical definitions of the terms "cesspool,"

“septic system,” and “aerobic treatment unit system.” Section 342D-1, HRS, defines the term “sewerage.” We recommend that this bill include definitions similar, if not identical, to those found in sections 235-16.5, 342D-1, and 342D-72, HRS.

Third, the term “beneficiaries of this Act” is used on page 1, line 7, and page 2, line 4, of the bill to identify those certain individuals eligible to receive funds from the proposed cesspool compliance grant program. This term may be overbroad for the purpose of the bill because the term “beneficiaries of this Act” would include all native Hawaiians who meet the eligibility requirements of the HHCA, regardless of whether that individual holds a lease to Hawaiian home lands. To limit the eligibility for the proposed grant program to those beneficiaries who actually hold a lease, the term “lessees” should be used.

Finally, for uniformity with existing wording of the HHCA, the term “property” on page 2, line 5, of the bill should be replaced with the term “tract.”

Thank you for the opportunity to provide these comments.

HB-1722

Submitted on: 1/29/2018 10:05:14 AM

Testimony for OMH on 1/30/2018 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Hawaiian Civic Club of Honolulu	Support	No

Comments:

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF TAXATION**

830 PUNCHBOWL STREET, ROOM 221

HONOLULU, HAWAII 96813

<http://tax.hawaii.gov/>

Phone: (808) 587-1540 / Fax: (808) 587-1560

Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Kaniela Ing, Chair
and Members of the House Committee on Ocean, Marine Resources, & Hawaiian
Affairs

Date: Tuesday, January 30, 2018
Time: 9:45 A.M.
Place: Conference Room 312, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 1722 Relating to Cesspools

The Department defers to the Department of Health and the Department of Hawaiian Home Lands (DHHL) on the merits of H.B. 1722 and provides the following comments for your consideration. H.B. 1722 establishes a grant program to assist beneficiaries on Hawaiian home lands with the costs of upgrading or converting a cesspool. The measure also provides that a recipient of such a grant is ineligible for the cesspool upgrade, conversion, or connection income tax credit under Hawaii Revised Statutes (HRS) section 235-16.5. The measure is effective upon approval and applies to taxable years beginning after December 31, 2017 with funding for the program effective July 1, 2018.

The Department requests that DHHL be authorized to periodically provide to the Department a listing of any recipient of the grant along with their tax identification number so that the Department can ensure that such person does not also claim the tax credit under HRS section 235-16.5. In like manner, the Department requests authority so that it can communicate with DHHL whether an individual has claimed a tax credit under HRS section 235-16.5. Such information would otherwise be considered confidential taxpayer information, and disclosure of any such information is would be prohibited under HRS section 235-116.

Thank you for the opportunity to provide comments.

HB-1722

Submitted on: 1/29/2018 9:45:36 AM

Testimony for OMH on 1/30/2018 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Donna K Santos		Support	No

Comments:

HB-1722

Submitted on: 1/29/2018 9:45:43 AM

Testimony for OMH on 1/30/2018 9:45:00 AM

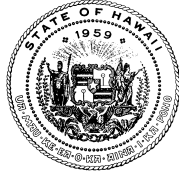
Submitted By	Organization	Testifier Position	Present at Hearing
Noalani Nakasone	Individual	Support	No

Comments:

I am a Native Hawaiian and I am from Kauai.

I urge you to please support this bill.

Mahalo!



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

WRITTEN
TESTIMONY ONLY

**Testimony in SUPPORT of HB1722
RELATING TO CESSPOOLS**

REPRESENTATIVE KANIELA ING, CHAIR
HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

Hearing Date: January 30, 2018
Time: 9:45 a.m.

Room Number: 312

1 **Fiscal Implications:** None for the Department of Health (Department). The measure establishes a
2 grant program and special fund to assist beneficiaries on Hawaiian Home Lands with cesspool
3 upgrade or conversion costs. Establishes that a recipient of a cesspool upgrade grant shall not be
4 eligible for the cesspool upgrade, conversion, or connection income tax credit. Appropriates
5 moneys for the grant program.

6 **Department Testimony:** We appreciate and support the intent of this initiative, but defer to the
7 Governor's Executive Supplemental Budget Request for the Department's appropriations and
8 personnel priorities. Cesspools are a major source of pollution to Hawaii's waters. There are
9 approximately 88,000 cesspools in the State, discharging approximately 53 million gallons of
10 untreated sewage into the groundwater every day. Ground water flows into drinking water sources;
11 since ninety-five percent of all drinking water in Hawaii comes from ground water sources, this
12 cesspool pollution can potentially harm human health. Groundwater also flows into streams and the
13 ocean, harming public health and the environment, including beaches, recreational waters, and coral
14 reefs.

15 During the most recent regular Legislative session, Act 125 was passed, requiring the replacement
16 of all cesspools by 2050. The Legislature has taken important actions to address Hawaii's
17 cesspools. There is an urgent need to protect the public health and environment with cesspool
18 upgrades as soon as feasible. These upgrades can be to sewer, septic systems or any other
19 individual wastewater systems that comply with the Department's Chapter 11-62, Hawaii
20 Administrative Rules.

21 The cost of upgrades will be high, averaging \$20,000 to \$30,000. The Department is open to
22 various forms and strategies of financial support for homeowners who upgrade. Expanded tax

- 1 credits and grants are two possible options that would help homeowners afford the phasing out of
- 2 cesspools.
- 3 This bill addresses a small part of the overall cesspools problem with Department of Hawaiian
- 4 Homelands properties, but is one step in the right direction.
- 5 Thank you for the opportunity to testify on this measure.



200 North Vineyard Boulevard, A300
Honolulu, HI 96817
Ph: 808-587-7886
Toll Free: 1-866-400-1116
www.hawaiiancommunity.net

January 28, 2018

House Committee on Ocean, Marine Resources, and Hawaiian Affairs
Tuesday, January 30, 2018, 9:45am
Conference Room 312

HB1722 – Relating to Cesspools

Aloha Chair Ing, Vice-Chair DeCoite, and Committee Members:

I am submitting testimony on behalf of Hawaiian Community Assets (HCA), a Native Hawaiian controlled nonprofit HUD-approved housing counseling agency that specializes on serving the unique housing needs of native Hawaiian beneficiaries of the Hawaiian Home Lands Trust to **STRONGLY SUPPORT HB1722 with amendments.**

HB1722 would provide the opportunity for native Hawaiian beneficiaries to upgrade or convert their existing cesspools. In our work as a housing counseling agency, we have determined the need for amendments to this existing bill in order to ensure broader, more widespread upgrading or conversion of cesspools by beneficiary families statewide.

Amendment 1: Make the Tax Deduction a Non-Refundable Tax Credit

According to the Department of Housing and Urban Development's Housing Needs of Native Hawaiians Report¹ released in May 2017, Native Hawaiians overall report the highest levels of poverty and lowest median incomes of any other population in the State. As a result, through our counseling services, we have determined that the vast majority of native Hawaiian beneficiaries do not report tax liabilities on their tax returns. Therefore, a tax deduction would do little to assist beneficiaries in the upgrading or conversion of their cesspools. For this reason, we recommend an amendment that would convert the tax deduction to a non-refundable tax credit.

Amendment 2: Increase the Tax Credit Amount to \$25,000

Recently, HCA has been assisting native Hawaiian beneficiary families budget for upgrading or conversion of cesspools to septic tanks. With the majority of families considered low- and moderate-income, earning at or below 100% the Area Median Income, the average cost of upgrading or conversion of \$45,000 is extremely cost prohibitive. For this reason, we recommend an amendment to increase the tax credit amount from \$10,000 to \$25,000 to help make the upgrading or conversion more affordable for our beneficiary families.

¹ Housing Needs of Native Hawaiians. Department of Housing and Urban Development, May 2017.
<https://www.huduser.gov/portal/sites/default/files/pdf/HNNH.pdf>

Amendment 3: Extend the Term of the Grant to 5 Tax Years

Currently, the bill is scheduled to be in effect for 1 tax year. This provides little time to build public awareness and to coordinate the resources necessary for beneficiaries to upgrade or convert their cesspools, including working with contractors and the various Counties and Department of Hawaiian Home Lands (DHHL) for permitting. We recommend to extend the term of the grant to 5 tax years, which would allow for organizations like HCA to work in a public-private partnership with the State to educate families and assist them in the process of upgrading and conversion as well as promote the tax credit and navigate the often complicated process of working with both the Counties and DHHL.

Mahalo for your time, leadership and consideration. Please **pass HB1722 with proposed amendments**. Feel free to contact me directly at 808.587.7653 or jeff@hawaiiancommunity.net should you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink that reads "Jeff Gilbreath". The signature is written in a cursive, slightly slanted style.

Jeff Gilbreath
Executive Director

HB-1722

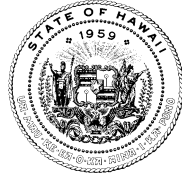
Submitted on: 1/27/2018 1:41:18 PM

Testimony for OMH on 1/30/2018 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez		Support	No

Comments:

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

SHAN S. TSUTSUI
LT. GOVERNOR
STATE OF HAWAII

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879
HONOLULU, HAWAII 96805

**TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES,
AND HAWAIIAN AFFAIRS**

IN SUPPORT WITH AMENDMENT OF

HB 1722 RELATING TO CESSPOOLS

January 29, 2018

Aloha Chair Ing and members of the Committee:

Thank you for the opportunity to testify on House Bill 1722. This bill establishes a grant program and special fund to assist beneficiaries on Hawaiian home lands with cesspool upgrade or conversion costs. The Department supports this measure with an amendment.

The Department supports this grant program that would assist beneficiaries in meeting the costs of upgrading or converting a cesspool located on Hawaiian home lands to a septic or aerobic treatment unit system or connecting a cesspool located on Hawaiian home lands to a sewerage system. The amendment that the Department would request is as recommended by the Department of the Attorney General that the cesspool compliance grant program and special fund be statutorily established in the HRS instead of amending the Hawaiian Homes Commission Act.

Thank you for your consideration of our testimony.

DAVID Y. IGE
GOVERNOR



LAUREL A. JOHNSTON
ACTING DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY LAUREL A. JOHNSTON
ACTING DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES,
AND HAWAIIAN AFFAIRS
ON
HOUSE BILL NO. 1722

**January 30, 2018
9:45 a.m.
Room 312**

RELATING TO CESSPOOLS

House Bill No. 1722 establishes a grant program to assist beneficiaries on Hawaiian home lands with cesspool upgrades or conversion costs; establishes that a recipient of a cesspool grant shall not be eligible for the cesspool upgrade, conversion, or connection income tax credit; establishes the Cesspool Compliance Grant Program Special Fund (CCGPSF); and appropriates \$50,000,000 in general funds for FY 19 for deposit into the CCGPSF.

While the Department of Budget and Finance takes no position on the establishment of a cesspool grant program for Hawaiian home lands beneficiaries, as a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and

the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 1722, it is difficult to determine whether the proposed special fund would be self-sustaining.

In addition, appropriating \$50,000,000 in general funds for FY 19 for deposit into the CCGPSF may impact the Administration's ability to fund other programs and activities in the FY 19 Supplemental Budget.

We defer to the Department of Hawaiian Home Lands on the operational impacts of implementing a cesspool grant program.

Thank you for your consideration of our comments.

HB-1722

Submitted on: 1/29/2018 8:37:11 PM

Testimony for OMH on 1/30/2018 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephanie Lauifi		Support	No

Comments:

HB-1722

Submitted on: 1/30/2018 7:46:44 AM

Testimony for OMH on 1/30/2018 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES
DEMOCRATIC PARTY OF HAWAII**

TO THE COMMITTEE ON OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS

HOUSE OF REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Tuesday, January 30, 2018

9:45 a.m.

Hawaii State Capitol, Conference Room 312

RE: Testimony in Support of HB 1752, RELATING TO AQUATIC LIFE

To the Honorable Kaniela Ing, Chair; the Honorable Lynn DeCoite, Vice-Chair, and Members of the Committee on Ocean, Marine Resources & Hawaiian Affairs:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on House Bill No. 1752, relating to Non-commercial Marine Fishing License requirement established under the Department of Land and Natural Resources. The OCC Legislative Priorities Committee is in favor of House Bill No. 1752 and support its passage.

House Bill No. 1752, is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it aims to protect and restore marine protected areas with the most fish depletion. Specifically, the DPH Platform states, "[w]e support democratic participation of citizens and residents to protect (i) valuable coastal ecosystems and reefs from misuse and (ii) beaches for public use and recreation. The Hawai'i Coastal Zone Management (CZM) law, HRS Chapter 205A, currently provides for public participation in management of coastal resources. We believe in the vigorous enforcement of our environmental laws and increased public-private stewardships and citizen involvement in protecting our resources." (Platform of the DPH, P. 8, Lines 427-433 (2016)),

Given that House Bill No. 1752 establishes a non—commercial marine fishing license requirement; allocates any revenue generated to administration of the licensing program or marine resource management and protection; authorizes the Department of Land and Natural Resources to adopt rules and create a special fund, it is the position of the OCC Legislative Priorities Committee to support this measure as it protects Hawai'i's valuable coastal ecosystems and reefs from misuse and depletion of marine life.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ **Melodie Aduja**

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889