



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

**Testimony in SUPPORT of SB2567 SD2
RELATING TO CESSPOOLS**

REPRESENTATIVE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Hearing Date: March 13, 2018
Time: 8:30 am

Room Number: 325

1 **Fiscal Implications:** The Department of Health (Department) would need resources to implement
2 the proposed cesspool outreach and assistance program covered under this measure.

3 **Department Testimony:** The Department appreciates and supports the intent of this measure, but
4 defers to the Governor's Executive Supplemental Budget Request for the Department's
5 appropriations and personnel priorities. Cesspools are a major source of pollution to Hawaii's
6 waters. There are approximate 88,000 cesspools in the State, discharging approximately 53 million
7 gallons of untreated sewage into the groundwater every day. Groundwater flows into drinking
8 water sources; since ninety-five percent of all drinking water in Hawaii comes from ground water
9 sources, this cesspool pollution can potentially harm human health. Groundwater also flows into
10 streams and the ocean, harming public health and the environment, including beaches, recreational
11 waters, and coral reefs. Cesspools should be phased out in order to eliminate threats to drinking
12 water and recreational waters. There is an urgent need to protect the public health and environment
13 with cesspool upgrades as soon as feasible. These upgrades can be to sewer, septic systems or any
14 other individual wastewater systems that comply with the Department's Chapter 11-62, Hawaii
15 Administrative Rules.

16 The Department supports that any owner of property containing a cesspool or cesspools located
17 within a priority upgrade area and identified as priority level 1, 2, or 3, as determined by the
18 Department, shall upgrade the cesspool or cesspools by connecting to a sewer system or installing
19 an individual wastewater system or systems that comply with Department rules. The main
20 advantage of using the point-of-sale approach for cesspool phase-out is that the cost of replacing a
21 cesspool can be negotiated between the buyer and seller and factored into the selling price and/or

- 1 the financing of the home. Other States which include Rhode Island and New Jersey have passed
- 2 similar legislation to phase-out cesspools.
- 3 Thank you for the opportunity to testify on this measure.

SB-2567-SD-2

Submitted on: 3/12/2018 6:36:32 AM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES
DEMOCRATIC PARTY OF HAWAII
TO THE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
THE HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018

Tuesday, March 13, 2018

8:30 p.m.

Hawaii State Capitol, Conference Room 325

RE: Testimony in **Support** of **SB2567 SD2**, RELATING TO CESSPOOLS
To the Honorable Chris Lee, Chair; the Honorable Nicole E. Lowen, Vice-Chair and
Members of the Committee on Energy & Environmental Protection:

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 **SB2567 SD2** relating to
Cesspool Upgrades; Sale of Property; Material Fact; Seller's Disclosure; and Realtors.

The OCC Legislative Priorities Committee is in favor of **SB2567 SD2** and
strongly supports its passage as it requires cesspools located in priority upgrade areas
and identified as priority level 1, 2, or 3 to be upgraded within an unspecified number of
days after the sale of the property on which the cesspool is located; allows the Director
of Health to issue exemptions; allows cesspools located in additional priority upgrade
areas and identified as priority level 4 to be required to be upgraded within an
unspecified number of days after the sale of the property on which the cesspool is
located, upon determination of the Director of Health; designates the presence of a
cesspool as a material fact for the purposes of a residential real property seller's
mandatory disclosure; and requires realtors to advise their clients with respect to the
requirements of this Act.

SB2567 SD2 is in accord with the Platform of the Democratic Party of Hawai'i
("DPH") which provides that "[t]he Democratic Party of Hawai'i believes that the
preservation and restoration of our natural environment are essential. We support a
sustainable society that utilizes the earth in such a way that future generations will

benefit from the practices of our generation. We support the restoration, preservation, and protection of our native ecosystems on each island. We believe in integrated approaches, practices, and support public policies that create and maintain a sustainable way of life in Hawai'i.

We believe in supporting best management practices in sustaining our environment and in increased citizen involvement. We support programs that encourage sustainable clean, efficient, creative and environmentally friendly modes of transportation, recycling and waste reduction.

The conservation, preservation and restoration of Hawai'i's natural resources are connected to the health and welfare of our people; therefore, we support the conservation and protection of our natural environment, which includes reducing our carbon footprint for the benefit of current and future generations.

We support the protection of our 'aina against destruction by corporate, government, or military usage and expect full restoration and reparation of environmental damage. To handle current and future demands for water, we must assess the current condition of our aquifers and take appropriate actions to secure our freshwater resources.

We believe in the vigorous enforcement of our environmental laws and increased public-private stewardships and citizen involvement in protecting our resources.

We know that climate change is a real threat to our islands and the world. We strongly urge our candidates and elected officials to take immediate action to mitigate and adapt to the consequences of climate change. This includes funding adaption measures including coastal retreat, effective participation of indigenous peoples in climate change governance, and recognition that indigenous, local, and traditional ecological knowledge is key in climate change adaptation solutions." (Platform of the DPH, P. 8, Lines 406-425, 432-439 (2016)).

Given that **SB2567 SD2** requires cesspools located in priority upgrade areas and identified as priority level 1, 2, or 3 to be upgraded within an unspecified number of days after the sale of the property on which the cesspool is located; allows the Director of Health to issue exemptions; allows cesspools located in additional priority upgrade areas and identified as priority level 4 to be required to be upgraded within an unspecified number of days after the sale of the property on which the cesspool is located, upon determination of the Director of Health; designates the presence of a cesspool as a material fact for the purposes of a residential real property seller's mandatory disclosure; and requires realtors to advise their clients with respect to the requirements of this Act, it is the position of the OCC Legislative Priorities Committee to strongly support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

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

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i

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March 12, 2018

Representative Chris Lee, Chair
Committee on Energy and Environmental Protection
Hawai'i State Capitol, Room 325
Honolulu, HI 96813

Dear Chair Lee and Committee Members:

Re: SB 2567, SD 2 Relating to Requiring Cesspool Conversion when Property is Sold
Hearing Date: 03-13-18 – 8:30 am; House Conference Room 325

At a time when home ownership, or perhaps any housing, is financially out of reach for many in Hawai'i, I would urge the Legislature to avoid imposing new obligations that could boost the price of our housing stock. The County of Hawai'i (COH) will be impacted disproportionately, since our priority areas 2 & 3 contain approximately 25,000 cesspools and both Kona and Hilo are in those designations. Therefore, I would urge a "No" vote on SB 2567, SD 2.

The "No" position is further justified, in my opinion, by the fact that there is ongoing controversy concerning what individual wastewater systems (IWS) are appropriate for a cesspool replacement. It is clear that encouraging homeowners to connect to sewers can occur only where there are sewers. With COH's large land area, coupled with the nature of its substrate (lava), sewerage COH is not a financially viable option.

This fact makes the identification and availability of appropriate IWS of paramount importance for the future of this program. The most cost effective, Department of Health (DOH) approved, alternative to cesspools in Hawai'i is a septic system. Requiring the replacement of one ineffective IWS (cesspools) with a different IWS that is not effective (septic tanks) will result in a doubly negative economic impact on the citizens of this State, because the only realistic replacement system (septic tanks) does not improve our environment. This topic was discussed when the DOH presented the cesspool report to the Energy and Environment Committee in Honolulu on January 10, 2018. The fact that septic systems do not remove nutrients from the waste stream, a critical problem where coral and ocean waters require protection, constitutes one major issue with septic system replacements for cesspools.

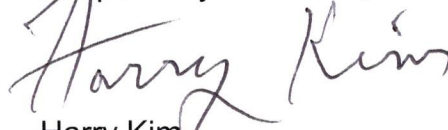
A separate issue is that having SB 2567, SD 2 become effective at an early date would not provide either DOH or an existing homeowner time to adequately prepare for this new requirement. The process of establishing administrative rules for exemptions or to establish financial aid legislation or rules, within a few months, or even a few years, would be inadequate and would result in a negative impact on low and middle income families. Such an imposition on current homeowners ought not to occur for at least 10 years, so if this proposed legislation is enacted, it is strongly urged that it take effect no earlier than December 31, 2028. A delay would allow DOH to investigate alternative IWS and appropriate treatment standards for home IWS replacements for cesspools.

Finally, I recognize and appreciate that SB 2567, SD 2 provides for a waiver of the conversion requirement under certain circumstances. However, if it is determined that this bill must move forward, I would ask that it be amended to require conversion only in those geographic areas where there has been a determination that drinking water, public recreation, or coral reefs are at imminent risk of harm. A slightly different approach would be to add to the "legitimate reasons" for a waiver:

(5) No finding by DOH that drinking water, public recreation, or coral reefs are at imminent risk of harm.

Thank you for your consideration.

Respectfully submitted,

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

Harry Kim
Mayor, County of Hawai'i

DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707
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DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:
WAS 18-95

March 12, 2018

The Honorable Chris Lee, Chair
and Members of the Committee on Energy & Environmental Protection
House of Representatives
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Lee and Members:

Subject: Senate Bill 2567 SD2, Relating to Cesspools

The City and County of Honolulu's (City) Department of Environmental Services supports the long term conversion of cesspools to other waste disposal options as suggested in SB2567, SD2.

SB2567, SD2, would require conversion of cesspools to other wastewater treatment options at the sale of a property with a cesspool. This is a possible approach to needed conversions, but we are concerned with the resultant piecemeal conversions. We believe it is important to take a community by community approach to determine what type of cesspool conversion is appropriate to prevent those piecemeal conversions which would limit later willingness, and dollars, to switch to a community wide approach.

Additionally, while important, only addressing cesspool conversions may not fully address the groundwater and nearshore water pollution issues which generated the recent cesspool report. Consideration should be given to using resources to address the major sources of impact rather than just focusing on cesspools.

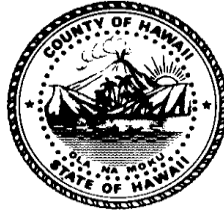
Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori M.K. Kahikina", is written over the typed name and title.

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

Eileen O'Hara
Council Member
Council District 4



Phone: (808) 965-2712
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Chair: Environmental
Management Committee

Vice Chair: Planning Committee and
Agriculture, Water & Energy
Sustainability Committee

County of Hawaii

Hawaii County Council

25 Aupuni Street, Suite 1402 • Hilo, Hawaii 96720

Representative Chris Lee
Chair, House Committee on Energy & Environmental Protection
Hawaii State House of Representatives

March 12, 2018

Re: In Support of Senate Bill 2567, from Hawai'i County Council District 4
To be heard by EEP on Tuesday, 03-13-18 8:30AM in House conference room 325

Aloha Chair Lee and Committee Members:

I'm writing to express my support of Senate Bill 2567, which amends Chapter 342D of the Hawai'i Revised Statutes to require cesspools to be connected or upgraded within 180 days of the sale of the property on which the cesspool is located. It also allows the Director of Health to issue exemptions. To take effect on 12/31/2018.

Hawai'i's stream, ocean, and ground waters are being polluted by outdated cesspools. Since water is such an essential resource used for so many aspects of life, when it is no longer safe, the resulting problems span far and wide. Not having clean drinking water forces people to spend time and money hauling or buying safe water. Additionally, polluted ocean water will have a negative impact on our marine life and fishing. Finally, polluted swimming areas (sometimes very close to cesspools, like the Wai'opae Tidepools in my District of Puna) will eventually turn away tourists and the money they bring to the state. Quality of life suffers for all when water is not clean.

Please consider the positive impact this Bill will have on our environment, health, and economy, and contact me if you have any questions about my support or knowledge of the subject.

Sincerely,

Eileen O'Hara
Council Member
Council District 4

SB-2567-SD-2

Submitted on: 3/12/2018 1:20:22 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
William Spence	Maui Planning Department	Oppose	No

Comments:

As Planning Director for Maui County, I STRONGLY OPPOSE this bill as it will add a severe financial burden on the owners of our limited affordable housing stock. This bill mostly affects "upcountry" Maui, an area (1) with a significant amount of our affordable housing stock, and (2) where it is very expensive to make such improvements. Owners in the upcountry area report the cost of upgrading to septic to be \$40,000, to \$100,000 to upgrade, with no exaggeration. This means the cost could make a once-affordable home to an unaffordable one, and the equity built over decades could be entirely wiped out with such a required upgrade.

To replace all of our cesspools will cummulatively cost hundreds of millions, born by our long term residents and retirees who can least afford it. As upcountry's water supply comes predominantly from surface water, the cesspools have no effect on water quality except for two privately-owned wells that will serve approximatley 100 people in "fake farm" subdivisions.. It would be much more cost effective to finance the treatment of those wells than it would be to require the upgrades.

I do not believe the exceptions listed will resolve the burden. If this law passes, there must be an exception for financial burden.

SB-2567-SD-2

Submitted on: 3/11/2018 3:07:12 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Bishop	Friends of Hanauma Bay	Support	Yes

Comments:

To: House Committee on Energy and Environmental Protection

Chris Lee, Chair

Nicole Lowen, Vice Chair

Re: SB2567 SD1 RELATING TO CESSPOOLS

Hearing: Tuesday, March 13, 2018, 8:30 am, Room 325

Position: STRONG SUPPORT

Aloha Chair Lee, Vice Chair Lowen, and other Committee members, thank you for the opportunity to testify in SUPPORT of SB2567 SD1.

Cesspools are a major source of pollution to our groundwater, surface waters and drinking water and must be upgraded as soon as possible if we are to protect Hawaii's public health and the health of our environment.

Since upgrades to cesspools run in the range of \$20,000.00, it makes sense to upgrade cesspools at a time when homeowners have just sold their homes and can afford it.

This approach has been successfully used in many other jurisdictions, so we respectfully request for your support of SB2567 SD1.

Sincerely,

Lisa Bishop

President

Friends of Hanauma Bay



SIERRA CLUB OF HAWAI'I
MĀLAMA I KA HONUA. *Cherish the Earth.*

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Tuesday, March 13, 2018 8:30AM Conference Room 325

In SUPPORT of SB 2977 SD2 Relating to greenhouse gas emissions

Aloha Chair Lee, Vice Chair Lowen and members of the Committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i, a member of the Common Good Coalition, **supports SB 2567 SD2**, which requires cesspools located in priority upgrade areas identified as priority level 1, 2, or 3 be upgraded upon sale of property. The Department of Health would be charged with issuing exemptions. The bill also designates the presence of a cesspool to be part of mandatory disclosure upon sale by the seller.

The Sierra Club of Hawai'i, dedicated to exploring, enjoying, and protecting these unique and beautiful islands we call home, have engaged in decades-long efforts to keep valuable public areas free of pollution and environmental contaminants. We support measures that seek to ensure public health and safety, concurrent with protecting our nearshore waters and finite freshwater resources.

The concentration of cesspools is an urgent issue for many areas in Hawai'i. The Department of Health's Environmental Management Division released a Report¹ to the legislature in December 2017 regarding cesspools and the prioritization for replacement across the islands (hereby referred to as "The Report"). The Report notes that Hawai'i has far more cesspools than any other state and is the last state in the nation to implement a ban. It emphasizes that cesspools pose significant threats to many areas throughout the islands, putting tens of millions of gallons of raw sewage into the environment each day, often contaminating groundwater and sometimes drinking water. Cesspools present health risks to residents and visitors who swim in contaminated waters and cause significant harm to streams and nearshore ecosystems, including damage to fragile coral reefs.

Decades of poor infrastructure planning and implementation have led to a dangerous concentration of cesspools many areas across Hawai'i, especially in areas designated as priority 1, 2, and 3. The Report identifies 14 critical areas that should receive priority for replacement, which is about half of the 88,000 cesspools that exist in the state.

1

<https://health.hawaii.gov/opppd/files/2017/12/Act-125-HB1244-HD1-SD3-CD1-29th-Legislature-Cesspool-Report.pdf>

We understand the complexity of this issue and encourage collaborative efforts from the communities, counties, the Legislature, and private entities to solve it. Solutions must be location- and situation-specific. Importantly, funding and financing mechanisms must be identified to achieve the replacements in an economically feasible way.

We must continue to take steps to protect our drinking water, public health, and the environment and encourage the Committee to pass SB 2567 SD2.

Mahalo for the opportunity to provide testimony on this important matter.

HAWAI'I REEF AND OCEAN COALITION

**To: House Committee on Energy & Environmental Protection
Rep. Chris Lee, Chair
Rep. Nicole E. Lowen, Vice Chair**

**House Committee on Health and Human Services
Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair**

**House Committee on Finance
Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair**

Re: SB 2567, SD 2 re CESSPOOLS

Hearing: Tuesday, March 13, 2018, 8:30 p.m., Room 325

Position: SUPPORT

The HAWAI'I REEF AND OCEAN COALITION – HIROC – was formed last year by coral reef scientists, educators, local Hawai'i environmental organizations, elected officials, and others to address a crisis facing Hawaii's coral reefs and ocean. We are currently asking the Legislature to pass a handful of very important bills to save our coral reefs – they are bills relating to sunscreens – this bill; plus bills on oxybenzone and other harmful sunscreen chemicals; Styrofoam; plastic straws, bottles and other marine debris; and sea level rise.

We support SB 2571, SD 2, which would require the upgrade of cesspools on properties within certain periods of time after sales thereof. By linking upgrade requirements to date of sale of properties, there is an expectation that funds will be available for the upgrades.


We recognize that there is opposition to this measure because of the costs involved. However, Hawai'i currently has more cesspools than anywhere else in the United States, and it is a serious hazard in terms of public health and the environment.


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

Alan B. Burdick, for HIROC
Burdick808@gmail.com/486-1018



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 | 1259 A'ala Street, Suite 300
Honolulu, HI 96817

March 13, 2018

The Honorable Chris Lee, Chair

House Committee on Energy & Environmental Protection

State Capitol, Room 325

Honolulu, Hawaii 96813

RE: S.B. 2567, SD2, Relating to Cesspools

HEARING: Tuesday, March 13, 2018, at 8:30 a.m.

Aloha Chair Lee, Vice Chair Lowen and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its over 9,500 members. HAR **opposes** S.B. 2567, SD2 which requires cesspools located in priority upgrade areas and identified as priority level 1, 2, or 3 to be upgraded within an unspecified number of days after the sale of the property on which the cesspool is located. Allows the Director of Health to issue exemptions. Allows cesspools located in additional priority upgrade areas and identified as priority level 4 to be required to be upgraded within an unspecified number of days after the sale of the property on which the cesspool is located, upon determination of the Director of Health. Designates the presence of a cesspool as a material fact for the purposes of a residential real property seller's mandatory disclosure. Requires realtors to advise their clients with respect to the requirements of this Act.

HAR supports the goal of protecting Hawaii's drinking water, streams, ground water and ocean resources. HAR further recognizes the threat cesspools pose to our public health and natural resources and the important responsibilities the State has to control and reduce water pollution from cesspools.

However, this measure shifts responsibilities related to pollution control by imposing a difficult burden upon REALTORS® to, "advise their client as to the client's rights and responsibilities under this section and under any rule making conducted pursuant to this section." The rights and responsibilities contemplated by this measure includes a duty for purchasers of property located within a priority upgrade area identified as priority level 1,2 or 3 as determined by the Department of Health to upgrade their cesspool within an undetermined time period. Properties located in a level 4 priority level area shall also be required to upgrade upon determination of the director of the Department of Health.

It is illegal for real estate licensees to provide advice outside their area of expertise. For example, it is a misdemeanor, punishable by up to a year imprisonment to provide legal advice without a license to practice law. Similarly, real estate licensees cannot provide civil



engineering, soil engineering or environmental engineering advice. Unfortunately, this measure requires real estate practitioners to provide legal and engineering advice regarding mandatory cesspool upgrades that is far beyond the scope of a real estate sales person or broker license.

HAR would note that it could take years or a property owner may never sell their property. As such, point of sale requirements are not a practical solution in addressing the issue of upgrading cesspools in high risk and priority areas.

Turning to our second concern, this measure seeks to add cesspools specifically to the definition of "material fact". This is concerning for two reasons.

First, the current definition already covers cesspools as a, "fact, defect or condition, past or present, that would be expected to measurably affect the value to a reasonable person of the residential property being offered for sale." This broad definition of material fact easily encompasses cesspools (a fact, defect or condition that affects the value of the property) and specifically naming cesspools is unnecessary and redundant.

Second, and more importantly, specifying cesspools to the exclusion of hundreds of other possible material facts related to any given property begs the question as to whether the Legislature meant that other facts, defects or conditions are not important because they are not particularly enumerated. The result is unnecessary ambiguity, confusion and possible unforeseen consequences, results or interpretations. It is a much better course of action to rely upon the clear, consistent and broad definition currently contained in HRS508D that can be comfortably applied to the wide range of circumstances that arise in real estate transactions.

To be clear, there is much to like in this measure, as it provides for a means to inform consumers of their rights and responsibilities via an outreach program to provide cesspool owners with information on cesspool upgrades and opportunities for financial assistance. However, the two sections cited above create legal and licensing conflicts that undermine its ultimate goal and imposes improper duties upon REALTORS®.

HAR would also note that REALTOR® is a registered collective trademark to denote our members who adhere to a strict Code of Ethics. Under Hawai'i Revised Statutes §467, reference to REALTOR® in this measure should instead be real estate broker or salesperson.

Mahalo for the opportunity to testify in opposition to this measure.



LATE

March 12, 2018

Support for SB 2567 SD1: Relating to Cesspools

Committee: Energy & Environmental Protection (EEP)

Hearing: March 13, 2018, 8:30am, Rm. 325

Dear Chair Lee, Vice Chair Lowen and Members of the EEP Committee,

As the Hawaii Manager of the Surfrider Foundation, I am writing in strong support of SB2567. Surfrider is also part of the Hawaii Reef & Ocean Coalition (HIROC), and we believe this bill will reduce the number of cesspools and improve water quality by requiring homeowners to upgrade them within 180 days of the sale of their property. The Hawaii Chapters have supported bills to upgrade cesspools to better septic systems and aerobic treatment units (ATU), and this bill would spur homeowners into action when they are selling their properties.

Non-point source discharge from cesspools in Hawaii is a serious threat to our water quality, and the suggested amendments in this bill offer a sensible, overdue solution. With about 88,000 across the state, Hawaii has the highest number of cesspools in the country, and many pose a threat to water resources. These substandard wastewater systems leach untreated human waste, harmful pathogens and nutrient loads into nearby waters. Cesspools are a leading source of water pollution, and their effluent can contaminate drinking water sources, streams and oceans with disease-causing pathogens, algae-causing nutrients and other harmful substances.

In monitoring the water quality of North Shore beaches on Kauai, the Chapter has seen improvement after the replacement of cesspools at Kauai County beach parks and along the Hanalei River, where enterococcus counts at the beach at the Pavilion and estuary decreased approximately 56% between 2004 and 2013. Where sewer connections are not available, septic systems and ATU's are a big step forward in protecting public health and the environment. We helped pass Act 120 to give homeowners tax credits for upgrading their cesspools within 400 feet of the shoreline, waterways or wells because they are the most dangerous. We hope they will make sure the replacements have some form of aerobic digestion.

Unfortunately, we recognize that the \$10,000 tax credit does not cover the full cost of new septic systems, which can be as much as \$20,000. So we support the amendments to require the conversion within 180 days of the sale of a property when they have more money to do so. This in turn will increase the value & safety of the property.

Because cesspools pose serious public health and environmental problems, the proposed amendments are needed to make sure that Act 120 and the cesspool upgrade tax credits are successful. Mahalo for your consideration and leadership in dealing with these water quality issues.

Aloha,

Stuart Coleman



Stuart H. Coleman, Hawaii Manager



O'ahu
Chapter

[Surfrider Foundation O'ahu Chapter](#)

Web: oahu.surfrider.org

[Contact: rbergstrom@surfrider.org](mailto:rbergstrom@surfrider.org)

Mail: P.O. BOX 283092 Honolulu, HI, 96828

LATE

SB 2567: In Support

DATE: Tuesday, March 13, 2018

TIME: 8:30 A.M.

PLACE: Conference Room 325

Aloha Chair Lee & House Committee on EEP,

As the O'ahu Chapter Coordinator of the Surfrider Foundation, I am writing in strong support of Sb2567, a bill requiring a Cesspool upgrades within unspecified amount of days after point of sale. Since the passage of Act 120 two years ago, there have only been a handful of cesspool upgrades, and we are working with the Hawaii Dept. of Health (DOH) to improve their public outreach and community involvement. While we understand that amendments were made to further work out the appropriate time-frame for requiring upgrades, Surfrider supports the fastest possible equitable time frame to address this major pollution issue now.

Non-point source discharge from cesspools in Hawaii is a serious threat to our water quality, and this bill would create a working group to come up with the best ways to do cesspool upgrades, conversions or connections to sewer lines. With about 88,000 across the state, Hawaii has the highest number of cesspools in the country, and many pose a threat to water resources. These substandard wastewater systems leach untreated human waste, harmful pathogens and nutrient loads into nearby waters. Cesspools are a leading source of water pollution, and their effluent can contaminate drinking water sources, streams and oceans with disease-causing pathogens, algae-causing nutrients and other harmful substances.

In monitoring the water quality of North Shore beaches on Kauai, the Surfrider Chapter there has seen improvement after the replacement of cesspools at Kauai County beach parks and along the Hanalei River, where enterococcus counts at the beach at the Pavilion and estuary decreased approximately 56% between 2004 and 2013. Where sewer connections are not available, septic systems and ATU's are a big step forward in protecting public health and the environment. We helped pass the bill to give homeowners tax credits for upgrading their cesspools within 400 feet of the shoreline, waterways or wells because they are the most dangerous. We hope they will make sure the replacements have some form of aerobic digestion.

We support the diversified solution perspective being presented at this year's State legislature. Tax credits and grant programs are an important mechanism, but having some more stringent demands that place responsibility on residents buying into an archaic infrastructure system is also an important step in making sure we move towards a more sustainable State. While we understand that the issue is complicating because of the heavy cost of upgrades, the situation is also of pressing need. Our marine resources and public health are at stake. Ultimately,



**O'ahu
Chapter**

[Surfrider Foundation O'ahu Chapter](#)

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the science already exists to prove the problem and the precedent has already been set – no other State allows these archaic infrastructure pieces to be used. The reasons are very simple, the uncontrolled release of untreated human waste into our freshwater and nearshore ocean waters is a detriment to all levels of the health spectrum.

Mahalo for your time and effort working on this important issue.

With Aloha,

Rafael Bergstrom
O'ahu Chapter Coordinator, Surfrider Foundation.

SB-2567-SD-2

Submitted on: 3/9/2018 5:47:47 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

SB-2567-SD-2

Submitted on: 3/9/2018 10:29:05 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
janice palma-glennie	Individual	Support	No

Comments:

SB-2567-SD-2

Submitted on: 3/10/2018 12:43:41 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rene Umberger	Individual	Support	No

Comments:

SB-2567-SD-2

Submitted on: 3/10/2018 4:32:53 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Erica Scott	Individual	Support	No

Comments:

SB-2567-SD-2

Submitted on: 3/11/2018 5:17:50 AM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mio Chee	Individual	Support	No

Comments:

SB-2567-SD-2

Submitted on: 3/11/2018 5:24:23 AM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dyson Chee	Individual	Support	No

Comments:

SB-2567-SD-2

Submitted on: 3/11/2018 5:30:56 AM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Micah Chee	Individual	Support	No

Comments:

SB-2567-SD-2

Submitted on: 3/11/2018 5:38:53 AM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David Chee	Individual	Support	No

Comments:

SB-2567-SD-2

Submitted on: 3/11/2018 2:34:07 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
tom wallace	Individual	Support	No

Comments:

Please support SB2567. It is a small step towards doing what should be done. Cesspools that are not up to code are literally spreading their shit around. This is a common-sense bill that should be passed.

Warm regards,

Tom Wallace

Hawaii Kai

SB-2567-SD-2

Submitted on: 3/11/2018 2:49:50 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
De Austin	Individual	Support	No

Comments:

Honorable committee members:

I am a Maui resident, parent, voter and educator.

Cesspools are a major source of pollution to our groundwater, surface waters and even some drinking waters. Cesspools must be upgraded as soon as practicable in order to protect public health and environment.

Upgrades are expensive, averaging \$20,000. This bill provides a way to upgrade many cesspools at a time when homeowners can afford it: after the sale of the home which provides proceeds, an approach that has been used in other jurisdictions. I would even go so far as to suggest that if a home has a cesspool, that the sale price of that home should be required to cover the cost of the upgrade.

Please pass this bill. Mahalo!

SB-2567-SD-2

Submitted on: 3/11/2018 2:55:51 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Wallace	Individual	Support	No

Comments:

It is crucial for our environment and for tourism that all cesspools that need upgrading are upgraded. .

SB-2567-SD-2

Submitted on: 3/11/2018 6:31:42 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Randy Ching	Individual	Support	No

Comments:

SB-2567-SD-2

Submitted on: 3/11/2018 7:13:20 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Nandoskar	Individual	Support	No

Comments:

Please support this bill! Cesspools are a major source of pollution to ground, surface and some drinking water as well as part of the lethal cocktail in some areas that despoils our near shore marine ecosystem and harms our precious coral reefs. Upgrading cesspools is extremely important but the high cost (\$20K on average) can be prohibitive. This bill offers a solution to the high cost, by factoring it in after the sale of the home when homeowners can afford it. This model has been used successfully in other states and should be adopted here as a viable option to move forward with the elimination of cesspools.

Mahalo for your consideration.

SB-2567-SD-2

Submitted on: 3/11/2018 9:52:32 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sean O'Keefe	Individual	Oppose	No

Comments:

I respectfully request that you hold SB 2567, SB2.

This bill will impose unreasonable costs upon home owners to upgrade their cesspools in areas where no environmental harm from these cesspools has been documented or is even likely to occur.

Of particular concern is that the Department of Health has designated certain cesspools as "Priority 1", triggering their replacement (upon sale of the property) under this bill, with insufficient justification. Specifically, ALL cesspools in Upcountry Maui (a total of 7,400 cesspools) have been designated as Priority 1 for replacement. Many of these cesspools, especially in Kula, have no demonstrated impacts on groundwater resources and are unlikely to impact any sources of drinking water. (The vast majority of Upcountry Maui receives its drinking water from surface water sources in East Maui, far away from any cesspools. However, new drinking water wells are being drilled or proposed to serve limited areas where agricultural land is being converted to residential use for so-called "agricultural subdivisions".)

The Department of Health has greatly overstated the potential for many cesspools to impact groundwater quality by significantly overestimating the wastewater flows into these cesspools and the corresponding nutrient inputs to the environment. In the case of Upcountry Maui, flows have been overestimated by more than double. Specifically, DOH has estimated that 4.4 million gallons of wastewater are discharged daily into the 7,400 Priority 1 cesspools in Upcountry Maui. This is approximately equivalent to the wastewater generated daily in dwellings by 44,000 persons. Yet the population of ALL Upcountry Maui communities combined is only about 25,000 persons. This population estimate includes persons living in Upcountry communities but outside of the boundaries of the Priority 1 area. It also includes at least 3,000 Upcountry residents being served by wastewater treatment plants at Pukalani and Haliimaile. And it includes all Upcountry residents whose homes are being served by septic systems (DOH estimates that there are at least 3,000 septic systems in these communities, though not all are residential systems). Thus, based on population data, the maximum daily flow into Upcountry cesspools is likely less 2.0 million gallons per day (assuming up to 100 gallons of wastewater per person per day). Rather than estimating the existing flows

and existing environmental impacts from cesspools in Upcountry Maui, DOH has instead estimated the impacts that would occur if the population served by cesspools Upcountry was more than double what it actually is. As a result, nutrient fluxes and modeled environmental impacts from these cesspools have been grossly overstated.

In designating ALL Upcountry Maui cesspools as Priority 1, DOH has also relied upon limited data indicating that elevated nitrate levels are present in two Upcountry wells. One of these wells in Pukalani is used solely for irrigation and is located at a golf course that is irrigated with reclaimed wastewater from the Pukalani Wastewater Treatment Plant. The second well is intended to provide drinking water to a new agricultural subdivision in Haliimaile and was sited less than 1,500 feet from unlined wastewater ponds that are part of a low-tech rural wastewater treatment facility serving approximately 950 people in Haliimaile. DOH has admitted that they have not ruled out, or even investigated, the possibility that these two wells are being impacted by wastewater from these two wastewater treatment facilities rather than by cesspools. Additionally, data indicate that nitrate levels in all other Upcountry wells investigated by DOH average less than half of the levels allowed under the Safe Drinking Water Act.

The justification for designating Upcountry Maui cesspools as Priority 1 is clearly flawed, and additional work is needed to evaluate the potential environmental impacts from these cesspools. Only after the potential environmental impacts have been accurately assessed can the appropriate corrective action, if any, be determined. Cesspools should not be designated as Priority 1, 2, or 3 without a sound scientific basis, which is lacking at present. Since this bill relies upon those designations to force homeowners to replace their cesspools, the bill should be held until flaws in the supporting research have been addressed.

Thank you for the opportunity to testify.

Sean M. O'Keefe

Kula, Maui

SB-2567-SD-2

Submitted on: 3/11/2018 11:17:47 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Philipp LaHaela Walter	Individual	Support	No

Comments:

SB-2567-SD-2

Submitted on: 3/12/2018 8:16:00 AM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bob Kern	Individual	Support	No

Comments:

Cesspools are a major source of pollution to our groundwater, surface waters and even some drinking waters. Cesspools must be upgraded as soon as practicable in order to protect the public health and environment. Upgrades are expensive, averaging \$20,000. This bill provides a way to upgrade many cesspools at a time when homeowners can afford it: after sale of home provides proceeds, an approach that has been used in other jurisdictions. Please pass this bill. Mahalo!

Micki Stash

SB-2567-SD-2

Submitted on: 3/12/2018 10:43:04 AM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
june chee	Individual	Support	No

Comments:

SB-2567-SD-2

Submitted on: 3/12/2018 11:15:29 AM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
R. Kinslow	Individual	Support	No

Comments:

It's time we cleaned up our nearshore, our waste disposal by requiring landowners to responsibly dispose of human and animal waste. Do it now.

LATE

SB-2567-SD-2

Submitted on: 3/12/2018 4:50:48 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Katherine Yoder	Individual	Oppose	No

Comments:

I am a resident of the Kula Orchards subdivision in Kula, Maui.

I have a 600 sq.ft., 1 bathroom cottage with 1 cesspool that sits on a blue rock ledge. On the same property I have a 900 sq. ft., 1 bedroom home with 1 cesspool.

If I was required to negotiate at sale the price for 2 cesspools for essentially a total of 1,500 sq.ft/2 bathrooms living space, it would be ridiculous. The cost for 2 systems, especially with blue rock, will be exorbitant.

My property is perfect for a young family starting out. Maui needs these kind of properties to pass on to the the next generation. This bill would kill it. I am also confident that my 2 cesspools, in my area, are not harming the drinking water.

Please truly think of the future young families that want to stay on Maui and need housing to start their lives in, therefore, please reassess the areas of concern and pinpoint the true problem areas.

This bill is not only affecting the current homeowners, but the young families in the future, looking for affordable housing to make Maui their home, like their parents did.

Thank you for consideration,

Katherine Yoder

LATE

SB-2567-SD-2

Submitted on: 3/12/2018 6:37:20 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ken Stover	Individual	Support	No

Comments:

LATE

SB-2567-SD-2

Submitted on: 3/12/2018 7:30:54 PM
Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew King	Individual	Oppose	No

Comments:

Aloha,

There are several lots in Makawao and Up Country, Mau area that can not fit a septic tank system into their lot. There are others who could fit a septic tank system on their lot that got estimates ranging from \$40,000 to upwards of \$115,000. I don't believe that the \$20,000 average is accurate based upon hearing from neighbors and relatives the cost estimates that they received. Forcing residents to pay for this mandate is simply, not right.

There are 88,000 cesspools that would be affected by this bill. Each one would have to upgrade their system at a cost of around \$75,000. This would cost tax payers a grand total of around \$6,600,000,000. Even if you use the unrealistic average cost of \$20,000, the total would be \$1,760,000,000. For this amount of money, the state should be able to treat contaminated water or come up with a better [long-term](#) solution. You can't put the burden of this cost on the backs of hard working residents.

By design cesspools push water down into the ground to get filtered. They don't leech upwards onto the top layer of soil. Since 95% of our drinking water comes from ground water and not wells, how can you justify that cesspools is the issue that needs to be resolved.

Septic systems also do not provide any additional safety measures. The waste water still gets put into the ground, just in a different form. There needs to be a better solution than just kicking the can down the road a few more years with this mandate. This solution would not be a final fix, we would need to address this issue again in 2070. Let's come up with a better solution that takes the cost off of hard working Hawaii residents and creates a greater long-term solution and plan.

A hui hou!

~Matt King

LATE

SB-2567-SD-2

Submitted on: 3/12/2018 10:26:54 PM

Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
James and Jamie Fry	Individual	Oppose	No

Comments:

This bill forces hardship onto homeowners in the Upcountry Maui area that is unbearable and financially destructive. The County of Maui issues permits for a cesspool, all criteria are met by the landowner and approved by Maui County and then 30 years later COM changes their mind and needs the whole system revamped at the expense of the homeowner???. This bill needs to be put down and never brought up again. You are putting an undo burden on the citizens who have followed your requirements when they built their homes. It just isn't right and this should not even be considered as a solution. There has got to be a better answer.

LATE

SB-2567-SD-2

Submitted on: 3/12/2018 10:46:31 PM
Testimony for EEP on 3/13/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jef Fry	Individual	Oppose	No

Comments:

Obviously no one wants a baby to turn blue or be endangered in any way. Have there been any such cases? It's important to realize when protecting the health and safety of HI residents that great harm is done to people like myself approaching retirement when they are saddled with a \$100,000.00 bill for two new septic systems. I have heard no mention of human coliform bacteria being found in the drinking water which to me is the most telling evidence of a failed cesspool or septic system. People like myself are just trying to figure out how we can live out our years in the Islands without having to eat catfood, and you come up with this. Certainly you realize there will be a class action lawsuit coming your way if this mandate goes forward. I further suspect that there are a lot of wealthy landowners hoping to subdivide via the drilling of a new well. I am sure they would like to be able to say, "The water contamination problem has been solved, we got rid of all the cesspools." To me your data is suspect, I don't buy it. The contamination you are finding is a result of over 100 years of agriculture. Finally, I would like to thank you for considering this aspect of the problem and I hope you'll see fit to allow the existing cesspools, which I believe are working, to be grandfathered in.