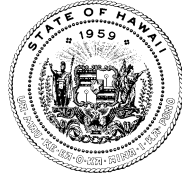


DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

SHAN S. TSUTSUI
LT. GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

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 SENATE COMMITTEES ON HAWAIIAN AFFAIRS AND
COMMERCE, CONSUMER PROTECTION & HEALTH**

IN SUPPORT WITH AMENDMENT OF

SB 2717 RELATING TO CESSPOOLS

February 13, 2018

Aloha Chairs Shimabukuro & Baker and members of the Committee:

Thank you for the opportunity to testify on Senate Bill 2717. 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 as long as it doesn't affect the priorities identified in the Governor's Executive budget request.

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.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2717, RELATING TO CESSPOOLS.

BEFORE THE:

SENATE COMMITTEE ON HAWAIIAN AFFAIRS AND ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Tuesday, February 13, 2018 **TIME:** 1:15 p.m.

LOCATION: State Capitol, Room 016

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

Chairs Shimabukuro and Baker and Members of the Committees:

The Department of the Attorney General provides the following comments.

S.B. No. 2717 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 (USDOI), any amendment to the HHCA triggers the USDOI'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.

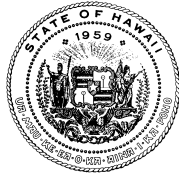
Second, this bill uses several terms that should be defined for clarity. The terms in need of definitions can be found on page 1, lines 9-13, of the bill; they are "cesspool," "septic system," "aerobic treatment unit system," and "sewerage system." Sections 235-16.5 and 342D-72, HRS, both provide identical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



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 SB2717
RELATING TO CESSPOOLS**

SENATOR MAILE S.L. SHIMABUKURO, CHAIR
SENATE COMMITTEE ON HAWAIIAN AFFAIRS

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Hearing Date: February 13, 2018
Time: 1:15 p.m.

Room Number: 016

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.

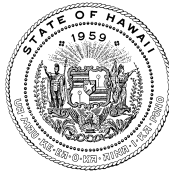
15 During the most recent regular Legislative session, Act 125 was passed, requiring the replacement
16 of all cesspools by 2050. The Legislature has taken important actions to address Hawaii's
17 cesspools. There is an urgent need to protect the public health and environment with cesspool
18 upgrades 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.

- 1 The cost of upgrades will be high, averaging \$20,000 to \$30,000. The Department is open to
- 2 various forms and strategies of financial support for homeowners who upgrade. Expanded tax
- 3 credits and grants are two possible options that would help homeowners afford the phasing out of
- 4 cesspools.

- 5 This bill addresses a small part of the overall cesspools problem with Department of Hawaiian
- 6 Homelands properties, but is one step in the right direction.

- 7 Thank you for the opportunity to testify on this measure.

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 SENATE COMMITTEES ON HAWAIIAN AFFAIRS AND COMMERCE,
CONSUMER PROTECTION, AND HEALTH
ON
SENATE BILL NO. 2717

**February 13, 2018
1:15 p.m.
Room 016**

RELATING TO CESSPOOLS

Senate Bill No. 2717 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 Senate Bill No. 2717, 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 and Legislature'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.

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
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 Maile S.L. Shimabukuro, Chair
and Members of the Senate Committee on Hawaiian Affairs

The Honorable Rosalyn H. Baker, Chair
and Members of the Senate Committee on Commerce, Consumer Protection, and
Health

Date: Tuesday, February 13, 2018
Time: 1:15 P.M.
Place: Conference Room 016, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 2717, Relating to Cesspools

The Department of Taxation (Department) defers to the Department of Health and the Department of Hawaiian Home Lands (DHHL) on the merits of the measure and provides the following comments regarding S.B. 2717 for your consideration. S.B. 2717 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, applies to taxable years beginning after December 31, 2017 with funding for the program effective July 1, 2018.

The Department requests that DHHL and the Department be authorized to periodically share information regarding the grant recipients and their tax identification numbers so that Department can make sure that the recipients are not also claiming the tax credit. Such information is considered confidential taxpayer information, and disclosure of any such information would be prohibited under HRS section 235-116.

Thank you for the opportunity to provide comments.

SB-2717

Submitted on: 2/7/2018 10:12:45 PM

Testimony for HWN on 2/13/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Testifying on behalf of Ho`omana Pono, LLC	Support	Yes

Comments:

SB-2717

Submitted on: 2/7/2018 10:06:28 PM

Testimony for HWN on 2/13/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Testifying on behalf of Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

SB-2717

Submitted on: 2/12/2018 12:52:45 PM

Testimony for HWN on 2/13/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying on behalf of OCC Legislative Priorities Committee	Support	No

Comments: