

STAND. COM. REP. NO.

266

Honolulu, Hawaii

FEB 16 2021

RE: S.B. No. 964
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Agriculture and Environment, to which was referred S.B. No. 964 entitled:

"A BILL FOR AN ACT RELATING TO WASTE MANAGEMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish a class of artisan-scale composting operations exempt from Department of Health regulations to divert organic materials from Hawaii's landfills;
- (2) Broaden the definition of food waste as used in integrated solid waste management; and
- (3) Exclude facilities designed primarily for composting organic material from the requirement that waste facilities shall not be constructed or modified without establishing a buffer zone.

Your Committee received testimony in support of this measure from one member of the Kaua'i County Council, Kūpuna for the Mo'opuna, Pele Lani Farm LLC, Environmental Caucus of the Democratic Party of Hawai'i, Kauai Climate Action Coalition, Kōkua Hawai'i Foundation, West Maui Green Cycle, Zero Waste Maui, and twelve individuals. Your Committee received comments on this



measure from the Department of Health, County of Kaua'i Department of Public Works, and the Hawai'i Farm Bureau.

Your Committee finds that the use of composted organics with their vast stores of macro- and micro- nutrients greatly improves the health of all soils in ways that protect and enhance natural systems, while imported, petroleum-based, and energy-intensive fertilizers destabilize a healthy soil microbiome. This measure furthers the State's waste management goals and ensures progress toward managing the State's waste by addressing the urgent need to expand the State's capacity for capturing and processing the organic waste its residents and visitors generate.

Your Committee further finds that organics constitute the largest single component of Hawaii's waste stream and the diversion of waste organics into composting programs is the least costly and most direct method for the State to meet its solid waste reduction goals. This measure proposes to create a class of artisan-scale composting operations that are exempt from Department of Health regulations and easily established by farmers and others to divert organic materials from Hawaii's landfills and sequester atmospheric carbon.

Your Committee considered the concerns that composting at schools rarely occurs on land zoned agricultural or industrial lands because these facilities are often located on land zoned as mixed use or residential. Individuals who seek to stage zero waste events must obtain a permit for small scale activities that place an unreasonable burden on teachers, communities, and event organizers. Given these longstanding issues with the Department of Health and individuals who seek to compost, your Committee considered requesting evidence to show that composting for small scale activities poses a public health hazard. Your Committee also considered the need to expand artisan scale composting to lands zoned in commercial or residential lands.

Your Committee notes the concerns of the Department of Health that removing the Department's authority over permitting of federal municipal solid waste landfills places the State in noncompliance of 40 C.F.R. Part 239. The loss of a federal approved program will no longer afford other municipal solid waste landfills in the State, which are currently all owned by the counties, the ability to design, operate, monitor, and close their



counties, the ability to design, operate, monitor, and close their landfill using alternative designs or methods to the federal standard that could be more suitable for local site conditions and more cost-effective.

The Department of Health also provided comments that it currently has a tiered solid waste permitting program for relatively small composting facilities. The Department voiced concerns that there are no proposed restrictions on the use and distribution for artisan scale facilities, which could lead to the Department's inability to be protective of human health and the environment through the release of waste that could be a source of pathogenic contamination. Additionally, exemption of state regulations regarding the National Pollutant Discharge Elimination System (NPDES) permit program will not absolve the composters' responsibility of complying with federal NPDES permitting requirements.

Your Committee has amended this measure by:

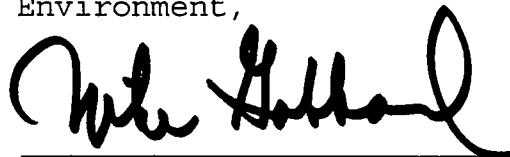
- (1) Removing the extraneous wording "waste or" from the term "waste or disposal facility" in section 342H-52, Hawaii Revised Statutes;
- (2) Repealing the exclusion of individual, state certified, non-industrial redemption centers from the term "disposal facility", to indicate that composting facilities are already excluded from buffer zones;
- (3) Inserting language to restore the Department of Health's authority over federal facilities;
- (4) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Agriculture and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 964, as amended herein, and recommends that it pass



Second Reading in the form attached hereto as S.B. No. 964,
S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Agriculture and
Environment,



MIKE GABBARD, Chair



