

Honolulu, Hawaii

MAR 18 , 2022

RE: S.B. No. 2752  
S.D. 2  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Water & Land, to which was referred S.B. No. 2752, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ABANDONED WELLS,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish an income tax credit for taxpayers who are required to seal abandoned wells on their real property;
- (2) Clarify the definition of the term "abandoned well";
- (3) Require sellers of real property to disclose the existence of wells on the property;
- (4) Require an owner or prior owner of an abandoned well to seal the well at the owner's or prior owner's expense; and
- (5) Appropriate funds for three full-time equivalent (3.0 FTE) positions under the Commission on Water Resource Management.



Your Committee received testimony in support of this measure from the Department of Land and Natural Resources. Your Committee received testimony in opposition to this measure from the Hawai'i Association of REALTORS® and one individual. Your Committee received comments on this measure from the Department of Taxation, Department of Budget and Finance, and Tax Foundation of Hawaii.

Your Committee finds that wells in a state of disuse or disrepair can become conduits for contaminants to be introduced into ground water. Abandoned wells can also become receptacles for the disposal of waste, potentially resulting in additional contamination and associated risk to public health and the environment. Your Committee further finds that the Commission on Water Resource Management has developed minimum standards relating to water wells, including their sealing and abandonment, in order to protect the quality and quantity of the State's ground water resources.

Your Committee notes that under chapter 508D, Hawaii Revised Statutes, sellers are required to disclose all material facts that are within the knowledge or control of the seller or can be observed from visible, accessible areas. Unless a seller seals a well on the seller's own, the seller could have no knowledge of the presence of a well that was abandoned by a prior owner because it would be hidden from view, such as on large tracts of land in certain parts of Hawaii. Furthermore, your Committee finds that this measure may place an unreasonable duty of disclosure upon a seller who has no knowledge of the existence of an abandoned well and may unreasonably impose liability on the seller for the costs of filling and sealing a well of which the seller had no knowledge. Your Committee further notes that years could pass before the existence of an abandoned well is discovered and the property may have changed ownership multiple times. In that case, determining liability could be extremely difficult.

Accordingly, your Committee has amended this measure by:


- (1) Removing the requirement that sellers of real property disclose the existence of wells on the property;
- (2) Removing the liability of owners of real property who transfer ownership of the property to another person without first reporting and repairing or sealing the abandoned well, under certain circumstances; and



- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Water & Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2752, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2752, S.D. 2, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.

Respectfully submitted on  
behalf of the members of the  
Committee on Water & Land,



---

DAVID A. TARNAS, Chair



