

Honolulu, Hawaii

MAR 24 2023

RE: H.B. No. 1101
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committees on Water and Land and Agriculture and Environment, to which was referred H.B. No. 1101, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO STORMWATER FEES,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Exempt the State and its departments and agencies that maintain or operate a stormwater management system that is interconnected to a county stormwater system from county stormwater user fees; and
- (2) Prohibit each county from denying services to the State or its departments or agencies by reason of nonpayment of user fees.

Your Committees received testimony in support of this measure from the Department of Transportation; Matson Navigation Company, Inc.; and Hawai'i Harbors Users Group. Your Committees received testimony in opposition to this measure from the Department of Facility Maintenance of the City and County of Honolulu; Hawai'i Community Foundation; Building Owners and Managers Association of Hawai'i; and one individual. Your Committees received comments on this measure from the Tax Foundation of Hawaii.



Your Committees find that the Department of Transportation, City and County of Honolulu, and County of Maui each manage their own Municipal Separate Storm Sewer Systems (MS4). Your Committees also find that at certain locations, the facilities of the Department of Transportation -- as well other departments and agencies -- will connect with storm drains belonging to the counties, and vice versa. Your Committees further find that, over the past three years, the City and County of Honolulu has undertaken a comprehensive program to develop its own stormwater fee pursuant to Act 42, Session Laws of Hawaii 2015 (codified as section 46-1.5(5)(E), Hawaii Revised Statutes), and intends to eventually charge and collect user fees from the State.

Your Committees find that the Department of Transportation already pays approximately \$24,000,000 annually to maintain its MS4, which also supports counties at certain locations at no cost. Thus, your Committees believe that preempting the counties' ability to charge the State stormwater user fees -- or potentially and irresponsibly deny stormwater services to the State altogether due to nonpayment -- will help manage taxpayer costs and promote better coordination between the State and the counties. Therefore, this measure will exempt the State from county stormwater user fees and help prevent any future unintended consequences that might result from inter-jurisdictional rivalry over an important and critical segment of public infrastructure.

Notwithstanding, your Committees have heard the testimony of the Department of Transportation, expressing that, in the interest of compromise, the Department is open to paying county stormwater user fees so long as a reasonable aggregate fee cap amount is provided. Therefore, your Committees have amended this measure by:

- (1) Establishing a fee cap amount for county stormwater user fees that may be charged against or collected from the Department of Transportation of \$1,500,000 in the aggregate per year;
- (2) Prohibiting each county from denying services to the Department of Transportation by reason of nonpayment of user fees, as opposed to the original proposed language,



which would have prohibited the denial of service to the State or its departments or agencies; and

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

As affirmed by the records of votes of the members of your Committees on Water and Land and Agriculture and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1101, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1101, H.D. 1, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Water and Land
and Agriculture and
Environment,



MIKE GABBARD, Chair




LORRAINE R. INOUE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* HB1101, HD1	Committee Referral: WTL/AEN, JDC/WAM	Date: 3/22/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
INOUYE, Lorraine R. (C)	✓			
ELEFANTE, Brandon J.C. (VC)	✓			
CHANG, Stanley	✓			
MCKELVEY, Angus L.K.				✓
FEVELLA, Kurt				✓
TOTAL	3	0	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Agriculture and Environment
AEN

Bill / Resolution No.:*	Committee Referral:	Date:
HB1101, HD1	WTL/AEN, JDL/WAM	03-22-23

The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
GABBARD, Mike (C)	X			
RICHARDS, III, Herbert M. "Tim" (VC)		X		
DECOITE, Lynn	X			
RHOADS, Karl	X			
AWA, Brenton			X	
TOTAL	3	1	1	

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature: 

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