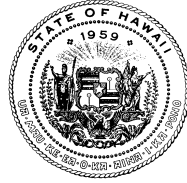


JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'AINA O KA MOKU'AINA 'O HAWAII



KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. BOX 3378
HONOLULU, HI 96801-3378
doh.testimony@doh.hawaii.gov

In reply, please refer to:
File:

**Testimony in SUPPORT of HB0440 HD1
RELATING TO CESSPOOLS**

REPRESENTATIVE DELLA AU BELATTI, CHAIR
HOUSE COMMITTEE ON HEALTH & HOMELESSNESS

Hearing Date: 2/10/2023

Room Number: 329

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's (Department) appropriations and
3 personnel priorities.

4 **Department Testimony:** The Department supports the re-establishment of the cesspool
5 upgrade, conversion, or connection income tax credit program. The Department recognizes that
6 there is a need to provide a variety of financing options to assist residents for cesspool
7 conversions in addition to the program that was established by Act 153, Session Laws of Hawaii
8 2022. The Department also supports the mandatory seller disclosures in real estate transactions
9 to include whether the property has a cesspool, including the date by which state law mandates
10 that the cesspool be upgraded, converted or connected to a sewer system.

11 Thank you for the opportunity to testify.

12 **Offered Amendments:** None.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259

HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 440 H.D.1, Relating to Cesspools

BEFORE THE:

House Committee on Health & Homelessness

DATE: Friday, February 10, 2023

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 329

Chair Belatti, Vice-Chair Takenouchi, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 440, H.D. 1 for your consideration.

Section 2 of H.B.440, H.D. 1 adds a new section to chapter 235, Hawaii Revised Statutes (HRS), to create a nonrefundable income tax credit which: (1) is equal to the qualified expenses of the taxpayer, up to a maximum of \$10,000, for upgrading or converting a qualified cesspool to a director of health approved wastewater system or connecting to a sewerage system; (2) sets an unspecified aggregate cap; (3) tasks the Department of Health with certifying all qualified cesspools and the amount of credit a taxpayer may claim; and (4) requires certain information regarding cesspools on real property to be included in seller mandatory disclosures on real property transactions. This measure has a defective effective date of June 30, 3000.

The Department appreciates that the definition of "qualified expenses" was amended by the Committee on Energy & Environmental Protection and Committee on Water & Land to clarify that the wastewater system will be approved by the Director of Health.

The Department defers to the Department of Health on its ability to certify this credit and administer its aggregate cap, but requests that this certification be maintained,

Department of Taxation Testimony
H.B. 440, H.D. 1
February 10, 2023
Page 2 of 2

as the Department lacks the subject-matter expertise to determine eligibility for and to administer this credit.

The Department further notes that if the defective effective date of the bill is amended, the Department will need time to make the necessary system and form changes. Due to the number of bills with tax law changes that have been introduced this year, the Department may not have the resources to implement all measures passed this session for tax year 2023. The Department will continue to monitor the status of proposed legislation and will advise whether some changes will require a later effective date.

Thank you for the opportunity to provide comments on this measure.



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
House Committee on Health & Homelessness
Friday, February 10, 2023 at 10:00 a.m.

By

Darren T. Lerner, PhD

Director, University of Hawai'i (UH) Sea Grant College Program,
School of Ocean and Earth Science and Technology

And

Thomas Giambelluca

Director, UH Water Resources Research Center

And

Michael Bruno, Provost

University of Hawai'i at Mānoa

HB 440 HD1 – RELATING TO CESSPOOLS

Chair Belatti, Vice Chair Takenouchi, and Members of the Committee:

The University of Hawai'i Sea Grant College Program (Hawai'i Sea Grant) and UH Water Resources Research Center support HB 440 HD1.

This bill would establish an income tax credit to offset the financial difficulties of cesspool conversion and upgrades. The Cesspool Conversion Working Group recently reported that the vast majority of cesspool owners cannot afford the upgrade of their cesspool to an advanced form of wastewater treatment. Because it is critical to both human and environmental health that the state's cesspools be eliminated as soon as possible, it is important that a multitude of mechanisms for financial assistance be created for homeowners.

This bill would require the Department of Health to provide necessary certification related to the tax credit. We support this change, but encourage the support of the Department of Health to carry out this responsibility through increases in their capacity with additional staff support.

Hawai'i Sea Grant and UH Water Resources Research Center further support the disclosure of a cesspool's presence on a property during a real estate transaction. This disclosure would motivate conversion prior to the sale of the property, accelerating the statewide conversion and upgrade of cesspools, and would also prevent the new buyer from the undue burden of conversion.

Thank you for the opportunity to testify on this measure.



STATE OF HAWAII
HAWAII CLIMATE CHANGE MITIGATION & ADAPTATION
COMMISSION
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Co-Chairs:
Chair, DLNR
Director, OPSD

Commissioners:
Chair, Senate AEN
Chair, Senate WTL
Chair, House EEP
Chair, House WAL
Chairperson, HTA
Chairperson, DOA
CEO, OHA
Chairperson, DHHL
Director, DBEDT
Director, DOT
Director, DOH
Chairperson, DOE
Director, C+C DPP
Director, Maui DP
Director, Hawai'i DP
Director, Kaua'i DP
The Adjutant General
Manager, CZM

**Testimony of
Leah Laramée
Coordinator, Hawai'i Climate Change Mitigation and Adaptation Commission**

**Before the House Committee on
HEALTH & HOMELESSNESS**

**Friday, February 10, 2023
10:00 AM**

State Capitol, Via Videoconference, Conference Room 329

**In support of
House Bill 440 House Draft 1
RELATING TO CESSPOOLS**

House Bill 440 House Draft 1 Establishes an income tax credit for the cost of upgrading or converting a qualified cesspool to a director of health-approved wastewater system or connecting to a sewerage system. Requires certain information regarding cesspools on real property to be included in seller mandatory disclosures on real property transactions. **The Hawai'i Climate Change Mitigation and Adaptation Commission (Commission) supports this measure.**

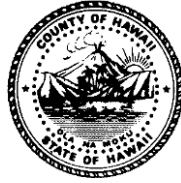
The Hawai'i Climate Change Mitigation and Adaptation Commission consists of a multi-jurisdictional effort between 20 different departments, committees, and counties. Removal of cesspools for all properties within the Sea Level Rise Exposure Area (SLR-XA), is imperative to the health of nearshore waters and for members of the public accessing coastal resources. Removal may not be achievable by 2050 as directed by state law without viable alternatives for replacement. The Commission's 2022 update to the *Sea Level Rise Vulnerability and Adaptation Report* Recommended Action 6.1.1 directs the state to sponsor research and development efforts to expand affordable and actionable conversion options for shoreline property owners. 6.1.1 also counsels that options should account for SLR-XA projections of coastal erosion, associated land loss, and potential failure of onsite sewage treatment systems resulting from sea level rise.

Cesspools on the shoreline and in the coastal zone will be an increasing source of nonpoint source pollution as groundwater rises and coastal erosion accelerates. Recommended Action 6.4 counsels that the state should expand policy directives beyond the existing income tax credits and requirement for removal by 2050. Specifically, policy must address existing cesspools in the coastal zone in relation to enforcement of existing laws and regulations and removal of unpermitted shoreline hardening.

Mahalo for the opportunity to testify in support of this measure.

Mitchell D. Roth
Mayor

Lee Lord
Managing Director



Ramzi I. Mansour
Director

Brenda Iokepa-Moses
Deputy Director

County of Hawai'i

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

345 Kekūanāo'a Street, Suite 41 · Hilo, Hawai'i 96720 · cohdem@hawaiiicounty.gov

Ph: (808) 961-8083 · Fax: (808) 961-8086

February 8, 2023

Rep. Della Au Belatti, Chair, and
Members of the Committee on Health and Homelessness

Chair Belatti and Committee Members,

I am a member of the Cesspool Conversion Working Group. The Department of Environmental Management supports this bill. HB 440 HD1 codifies **Priority A2** of the group's recommendations into statute.

A2. Adopt and implement policies and mechanisms to accelerate cesspool conversions statewide, prioritizing the highest risk areas. Recommendations include:

- Point-of-sale conversion requirements
- **Require a seller's disclosure form for any property sold that has a cesspool**
- **Financial incentives including grants, tax credits, and loans to offset the cost of conversion**

The working group analyzed the financial burdens that these cesspool conversions will impose and identified ways to ameliorate the impacts. Hawai'i County, where many of the cesspools in the State are located, faces significant challenges in meeting the 2050 conversion mandate, and so any assistance that would support compliance with the conversion deadline would be appreciated.

Thank you for the opportunity to provide testimony.

Ramzi Mansour, Director
Department of Environmental Management
County of Hawai'i

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Tax Credit for Cesspool Upgrade, Conversion, or Connection

BILL NUMBER: HB 440 HD 1

INTRODUCED BY: House Committees on Energy & Environmental Protection and Water & Land.

EXECUTIVE SUMMARY: Establishes an income tax credit for the cost of upgrading or converting a qualified cesspool to a director of health-approved wastewater system or connecting to a sewerage system. Requires certain information regarding cesspools on real property to be included in seller mandatory disclosures on real property transactions. Effective 6/30/3000. (HD1)

SYNOPSIS: Adds a new section to chapter 235, HRS, allowing a nonrefundable income tax credit for a cesspool upgrade, conversion, or connection to a sewer system.

The credit equals the qualified expenses of the taxpayer, up to _____.

For a residential large capacity cesspool that services more than one dwelling, the maximum credit (apparently per taxpayer) is \$10,000 times the number of dwellings connected to the cesspool.

The total amount of tax credits allowed statewide is not to exceed \$5 million. Taxpayers whose credit claims are disallowed because of the cap may claim the credit in the following year.

The Department of Health is tasked with the responsibility of examining and certifying claims for the credit.

Amends sections 23-94 and 23-95, HRS, to allow for a periodic review of the credit by the State Auditor.

Amends section 508D-3.5, HRS, to require the disclosure of cesspools located on the real property if the property is offered for sale and is subject to a recorded declaration.

EFFECTIVE DATE: June 30, 3000.

STAFF COMMENTS: Act 120, SLH 2015, enacted a temporary income tax credit, expiring on December 31, 2020, for 100% of the qualified costs of a cesspool upgrade, conversion, or connection, up to \$10,000. Act 182, SLH 2016, made clarifying amendments.

This measure means to reinstate the credit, which is an extension of the current effort to mitigate the public health hazards caused by cesspools, which release millions of gallons of untreated sewage into the ground. Many houses, especially in rural areas, still have them. Converting them is expensive, hence the credit to encourage homeowners to do so.

Re: HB 440 HD1

Page 2

We question why the disclosure requirement only applies to properties subject to a recorded declaration. It seems that the disclosure requirement should apply to all properties on which there is a cesspool in use.

Digested: 2/8/2023

HB-440-HD-1

Submitted on: 2/8/2023 1:36:58 PM

Testimony for HLT on 2/10/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Mark Wolfendale	Rotary Club Hanelie Bay	Support	Written Testimony Only

Comments:

Aloha,

The Rotary Club of Hanalei Bay has worked with the Hanalei Initiative for over 5 years to address the health hazzard to both visitors and residents when using the Hanalei River for recreation. Last year our current Rotary Club president spent several days in Wilcox for surgery to address a sever infection she received while training with her outrigger team.

Cost is the major obstical for most cesspool owners. Bill HB440 HD1 provides and simple way to mitigate these costs when the property is sold. Request that you support BH440HD1.



To: The Honorable Chair Della Au Belatti, the Honorable Vice Chair Jenna Takenouchi, and Members of the Committee on Health and Homelessness

From: Hawaii Reef and Ocean Coalition (by Ted Bohlen)

Re: **Hearing HB440 RELATING TO CESSPOOLS.**

Hearing: Friday February 10, 2023, 10:00 a.m., room 329

Aloha Chair Au Belatti, Vice Chair Takenouchi, and Members of the Committee on Health and Homelessness:

The Hawai'i Reef and Ocean Coalition (HIROC) is a group of scientists, educators, filmmakers and environmental advocates who have been working since 2017 to protect Hawaii's coral reefs and ocean.

The Hawai'i Reef and Ocean Coalition STRONGLY SUPPORTS HB440!

The recent report of the cesspool conversion working group recommended that we upgrade the cesspools that cause the most pollution by 2030.

This bill would reestablish the cesspool upgrade, conversion, or connection income tax credit that sunset on December 31, 2020. The tax credit would help some homeowners afford the cost of upgrading.

The bill also would require mandatory explicit seller disclosures in real estate transactions, including the date by which the cesspool must be upgraded under law and its priority level under the cesspool hazard assessment and prioritization tool. This is information home buyers should have before purchasing a home.

This bill would help smooth cesspool conversions with an income tax credit for some and appropriate notice to buyers of homes with cesspools.

Please pass this bill!

Mahalo!

Hawaii Reef and Ocean Coalition (by Ted Bohlen)



Email: communications@ulupono.com

HOUSE COMMITTEE ON HEALTH & HOMELESSNESS
Friday, February 10, 2023 — 10:00 a.m.

Ulupono Initiative supports HB 440 HD1, Relating to Cesspools.

Dear Chair Belatti and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food, renewable energy and clean transportation choices, and better management of freshwater resources.

Ulupono supports HB 440 HD1, which establishes an income tax credit for the cost of upgrading or converting a qualified cesspool to a director of health-approved wastewater system or connecting to a sewerage system; and requires certain information regarding cesspools on real property to be included in seller mandatory disclosures on real property transactions.

Ulupono supports statewide cesspool conversion working toward a more sustainable and environmentally sound approach to waste management and water security. Hawai'i has more than 88,000 cesspools statewide that discharge more than 53 million gallons of untreated sewage into the state's waters each day. This poses major health and environmental risks to our drinking water, groundwater, streams, and shore waters.

State support of cesspool transition, through policies such as these, will help meet our conversion goal by 2050. An income tax credit, coupled with disclosure, can be a helpful tool to support our local communities remain sustainable and responsible with our water resources.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i



Feb. 9, 2023

In Support of **HB440 HD1** Relating to Cesspools
House Committee on Health (HLT)
Hearing on Feb. 10, 10:00am, Rm. 329

Aloha, Chair Au Bellati, Vice-Chair Takenouchi and Members of the Committee:

On behalf of the non-profit WAI: Wastewater Alternatives & Innovations, I am writing in **strong support of HB440 HD1**. This bill will require mandatory disclosures of cesspools on a property in real estate transactions and establish an income tax credit for the cost of upgrading or converting a cesspool to a qualified wastewater system. Converting cesspools to new technologies is expensive, and this bill would help homeowners with the costs of conversion. By including disclosures, the bill will also protect realtors, sellers and buyers by making sure all parties are aware of the cesspool during the property sale and transaction process.

Hawaii has more than 83,000 cesspools across the state, discharging 52 million gallons of raw sewage each day into Hawaii's waters. That's similar to a massive sewage spill every day! The people of Hawaii need this law to make sure their wastewater systems aren't polluting the groundwater or nearby surface waters. As a member of the State's Cesspool Conversion Working Group over the last four years, we believe that bringing back economic incentives like the \$10,000 tax credits that expired in 2020 are important to jumpstart the conversion process.

WAI is dedicated to protecting our drinking water, groundwater and near-shore ecosystems by reducing sewage pollution from cesspools and failing septic systems. Our goal is to help find more innovative, affordable, and eco-friendly solutions to wastewater management. Better sanitation systems reduce sewage pollution and make properties more valuable, while also protecting our groundwater, streams and the health of our coral reefs and coastal areas.

Hawaii is struggling with serious sewage pollution problems, and the state has a mandate to make sure all cesspools are converted in the next three decades. Without earlier deadlines and a clear mandate, the previous tax credit didn't work as well. But with mandatory disclosure of cesspools on a property during real estate transactions, the \$10,000 tax break will have more appeal and effectiveness.

Although this bill will primarily benefit people with larger tax burdens, it is a good companion to HB2195 / Act 153 (2022), which will focus on giving up to \$20,000 in rebates to lower-mid income homeowners. It will also help the state meet the mandate to convert all cesspools by 2050. Mahalo for your leadership on this issue and support of this bill.

Aloha,

Stuart Coleman

Stuart H. Coleman, Executive Director

February 10, 2023

The Honorable Della Au Belatti, Chair

House Committee on Health & Homelessness
State Capitol, Conference Room 329 & Videoconference

RE: House Bill 440, HD1, Relating to Cesspools

HEARING: Friday, February 10, 2023, at 10:00 a.m.

Aloha Chair Belatti, Vice Chair Takenouchi, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **supports** and **offers amendments** on House Bill 440, HD1, which establishes an income tax credit for the cost of upgrading or converting a qualified cesspool to a director of health-approved wastewater system or connecting to a sewerage system. Requires certain information regarding cesspools on real property to be included in seller mandatory disclosures on real property transactions.

Hawai'i REALTORS® supports the goal of protecting our drinking water, streams, ground water, and ocean resources. We recognize that cesspool conversion is important to preserve our environment. There are approximately 83,000 cesspools divided into three priorities¹ across the State (48,596 on Hawai'i Island; 14,300 on Kauai; 11,038 on Maui; 1,400 on Molokai; and 7,491 on O'ahu) with only 27 years to meet the state's mandate to convert all cesspools to a Director of Health approved wastewater system. To convert 83,000 cesspools by 2050, at least 3,000 cesspools would need to be converted per year.

Supporting Financial Assistance to Homeowners and Communities

Affordability and financial planning are key. The Cesspool Conversion Working Group conducted an affordability analysis² for homeowners. Based on the analysis, 97% of homeowners would be financially burdened by cesspool conversion costs. Equally concerning, even with a \$10,000 rebate 82% of homeowners would still be financially burdened. Costs will vary depending on resources, labor, property terrain, permitting delays, and other issues. Most homeowners will not be able to afford to do this alone. As such, tax credits can be a beneficial tool in helping homeowners convert their cesspools to a Director of Health approved wastewater system. We believe that providing tax credits is a step in the right direction; however, most homeowners will need additional assistance to ensure that they can meet the mandate to convert.

¹ University of Hawai'i Sea Grant College Program. *Hawai'i Cesspool Prioritization Tool*. <https://seagrant.soest.hawaii.edu/cesspools-tool/>

² Cesspool Conversion Working Group. (2022). *Final Report to the 2023 Regular Session Legislature*. State of Hawai'i Department of Health. <https://health.hawaii.gov/opppd/files/2022/12/Act-170-SLH-2019-Nov-2022.pdf>

Requesting Amendments for Seller Disclosure Requirements

We respectfully request the following amendments to Section 5, as Hawai'i Revised Statutes ("HRS") 508D-3.5 requires sellers of residential real property to furnish *documents*, such as condominium by-laws; whereas, **HRS § 508D-15** is the appropriate section for the seller to furnish *information*. Therefore, we suggest replacing the language in Section 5 with our suggested amendments as follows:

Section 5. Section 508D-15, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) When residential real property contains a cesspool and the cesspool is identified by the maps in the University of Hawaii 2022 Hawaii cesspool hazard assessment and prioritization tool, subject to the availability of the maps, the seller shall include the material fact information in the disclosure statement provided to the buyer subject to this chapter. The maps shall identify the cesspool priority level and the date, established by law, by which the cesspool is required to be upgraded or converted to a director of health-approved wastewater system or connected to a sewerage system."

~~[(e)]~~ (d) Except as required under subsections (a), ~~[and]~~ (b), ~~and~~ (c) and as required under section 508D-3.5, the seller shall have no duty to examine any public record when preparing a disclosure statement."

Thank you for your consideration of our amendments on this measure. Mahalo for the opportunity to testify.

HB-440-HD-1

Submitted on: 2/8/2023 5:26:29 PM

Testimony for HLT on 2/10/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Mark Hixon	Individual	Support	Written Testimony Only

Comments:

Aloha. It is well-documented that the many cesspools in Hawaii leak waste into coastal waters, and nutrients from that waste fertilize seaweeds, allowing them to overgrow and smother corals. No coral = no reef = no fisheries, no tourism, and no coastal protection. We must solve the cesspool issue before we lose our reefs. Please pass this bill. Mahalo.

HB-440-HD-1

Submitted on: 2/8/2023 5:58:55 PM

Testimony for HLT on 2/10/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Daniela Escontrela	Individual	Support	Written Testimony Only

Comments:

I am in **STRONG** support of this bill. We deserve clean groundwater, drinking water and near shore coastal waters. Clean waters are also important for Hawaii's nearshore ecosystems such as coral reefs which are imperative for Hawaii's tourism economy. Please pass this bill

HB-440-HD-1

Submitted on: 2/8/2023 7:48:12 PM

Testimony for HLT on 2/10/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Cynthia Punihaole Kennedy	Individual	Support	Written Testimony Only

Comments:

Aloha

I approve.

Establishes an income tax credit for the cost of upgrading or converting a qualified cesspool to a director of health-approved wastewater system or connecting to a sewerage system

HB-440-HD-1

Submitted on: 2/8/2023 9:19:03 PM

Testimony for HLT on 2/10/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Hawai'i has more than 80,000 cesspools that release more than 50 million gallons of raw sewage into the state's groundwater and surface waters every day. Cesspools are an antiquated technology for the disposal of untreated sewage that can pollute drinking water, streams, coastal waters, and coral reefs, posing a significant threat to the environment and to human health. There is a clear need to reinstate the cesspool upgrade, conversion, or connection tax credit that expired at the end of 2020. Please support HB440 HD1.