



# UNIVERSITY OF HAWAII SYSTEM

## ‘ŌNAEHANA KULANUI O HAWAII

### Legislative Testimony

### Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the  
Senate Committee on Agriculture and Environment  
Wednesday, February 8, 2023 at 1:00 p.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

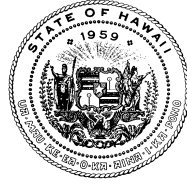
#### SB 777 – RELATING TO CESSPOOLS

Chair Gabbard, Vice Chair Richards, 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 SB 777. 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 provide financial relief to those who are upgrading their cesspools through a temporary income tax credit. This tax credit would offset some of the financial difficulties of cesspool conversion and upgrades. Its temporary nature will hopefully incentivize conversion to occur in the near-term, which benefits human and environmental health outcomes. Because this bill adds responsibilities for the Department of Health related to the certification of cesspools, collection and maintenance of expense records, and tracking the amount of credit each taxpayer may claim, our departments encourage the legislature's support of capacity increases at the Department of Health, specifically within the Wastewater Branch, so that they can effectuate their growing responsibilities related to cesspool conversion.

Thank you for the opportunity to testify on this measure.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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In reply, please refer to:  
File:

**Testimony in SUPPORT of SB0777  
RELATING TO CESSPOOLS**

SENATOR MIKE GABBARD, CHAIR  
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT  
Hearing Date: 2/8/2023 Room Number: 224

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 this measure as long as it does not impact  
5 the priorities requested in the Executive Budget. Cesspools are a major source of pollution to  
6 Hawaii's waters. There are approximately 83,000 cesspools in the State, discharging millions of  
7 gallons of untreated sewage into the groundwater every day. The sewage polluted groundwater  
8 flows into drinking water sources, streams and the ocean, harming public health and the  
9 environment, including beaches and coral reefs. Ninety-five percent of all drinking water in  
10 Hawaii comes from groundwater sources. Cesspools should be phased out to eliminate threats to  
11 drinking water and recreational waters. The Department supports the establishment of a cesspool  
12 upgrade, conversion, or connection income tax credit program. The Department recognizes that  
13 there is a need to provide a variety of financing options to assist residents for cesspool  
14 conversions in addition to the grant program that was established by Act 153, Session Laws of  
15 Hawaii 2022.

16 Thank you for the opportunity to testify.

17 **Offered Amendments:** None.

JOSH GREEN M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TAXATION

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GARY S. SUGANUMA  
DIRECTOR

KRISTEN M.R. SAKAMOTO  
DEPUTY DIRECTOR

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

**TESTIMONY ON THE FOLLOWING MEASURE:**

S.B. No. 777, Relating to Cesspools

**BEFORE THE:**

Senate Committee on Agriculture and Environment

**DATE:** Wednesday, February 8, 2023

**TIME:** 1:00 p.m.

**LOCATION:** State Capitol, Room 224

Chair Gabbard, Vice-Chair Richards, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 777 for your consideration.

S.B. 777 adds a new section to chapter 235, Hawaii Revised Statutes (HRS), to create a nonrefundable income tax credit for "qualified expenses," up to an unspecified amount for upgrade, conversion, or connection of a "qualified cesspool" to an "approved wastewater system" or connecting a qualified cesspool to a "sewerage system." The bill sets an unspecified aggregate cap and requires the Department of Health to certify all qualified cesspools for the credit.

This bill is effective upon approval and applies to taxable years beginning after December 31, 2023 and shall be repealed on December 31, 2028.

First, the Department defers to the Department of Health on its ability to certify this credit and administer its aggregate cap, but respectfully requests that the third-party certification requirement be maintained, as the Department lacks subject-matter expertise to determine eligibility for and to administer this credit.

Department of Taxation Testimony

S.B. 777

February 8, 2023

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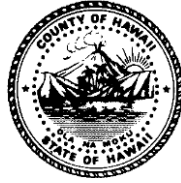
Second, as currently drafted, the measure provides definitions for all quoted terms in this testimony, however, the measure's definition of "qualified expenses" refers to "the appropriate government agency." To avoid ambiguity for which agency will approve the wastewater system, the Department recommends amending the definition of "qualified expenses" by replacing "appropriate government agency" with "Department of Health."

Finally, the Department further notes that it is able to administer this bill by the current effective date.

Thank you for the opportunity to provide comments on 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

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February 6, 2023

Sen. Mike Gabbard  
Members of the Committee on Agriculture and Environment

Chair Gabbard and Committee Members,

I am a member of the Cesspool Conversion Working Group. The Department of Environmental Management supports this bill. SB 777 supports codifying **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.

I refer to our report (DC175) for the importance of passing this bill:

“The working group further recommends the adoption of policies and mechanisms that will facilitate this acceleration and the need for an iterative process as new findings are established.”

Thank you for the opportunity to provide testimony.

Ramzi Mansour, Director

February 7, 2023

**The Honorable Mike Gabbard, Chair**

Senate Committee on Agriculture and Environment  
State Capitol, Conference Room 224 & Videoconference

**RE: Senate Bill 777, Relating to Cesspools**

**HEARING: Wednesday, February 8, 2023, at 1:00 p.m.**

Aloha Chair Gabbard, Vice Chair Richards, 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** Senate Bill 777, which for taxable years beginning after 12/31/2023, provides a temporary income tax credit for the cost of upgrading or converting a qualified cesspool to a wastewater system approved by the Director of Health, or connecting to a sewerage system. Sunsets 12/31/2028.

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 priorities<sup>1</sup> 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.

Affordability and financial planning are key. The Cesspool Conversion Working Group conducted an affordability analysis<sup>2</sup> 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. 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.

For the foregoing reasons, Hawai'i REALTORS® supports this measure. Mahalo for the opportunity to testify.

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

<sup>2</sup> 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>

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

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

BILL NUMBER: SB 777

INTRODUCED BY: DECOITE, CHANG, KANUHA, KEITH-AGARAN, KEOHOKALOLE, MCKELVEY, RICHARDS, Kidani, Kim, Moriwaki

EXECUTIVE SUMMARY: For taxable years beginning after 12/31/2023, provides a temporary income tax credit for the cost of upgrading or converting a qualified cesspool to a wastewater system approved by the Director of Health, or connecting to a sewerage system. Sunsets 12/31/2028.

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 100% of 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 \$\_\_\_\_\_ times the number of dwellings connected to the cesspool.

Defines “qualified expenses” as costs that are necessary and directly incurred by the taxpayer for upgrading or converting a qualified cesspool into a wastewater system approved by the director of health, or connecting a qualified cesspool to a sewerage system, and that are certified as such by the appropriate government agency.

The total amount of tax credits allowed statewide is not to exceed \$\_\_\_\_\_. 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.

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.

Lawmakers need to keep in mind two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount.

The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as generous about the expenditure of these funds when our kids are roasting in the public school classrooms, there isn't enough money for social service programs, or our state hospitals are on the verge of collapse?

If lawmakers want to subsidize the conversion of cesspools, then a direct appropriation would be more accountable and transparent.

Furthermore, the additional credit would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive in amount. A direct appropriation may be a far less costly method to accomplish the same thing.

Digested: 2/6/2023





## Environmental Caucus of The Democratic Party of Hawai'i

To: The Honorable Senator Mike Gabbard, Chair  
The Honorable Senator Herbert M. “Tim” Richards, III, Vice Chair  
Members of the Committee on Agriculture and Environmental

Re: **SB 777 – RELATING TO CESSPOOLS**

Hearing: Wednesday, February 8, 2023, 1:00 p.m., Conference 224, via videoconference

Position: **Strong Support**

Aloha, Chair Gabbard, Vice Chair Richards and Members of the Committee on Agriculture and Environment:

The Environmental Caucus of the Democratic Party of Hawai'i stands in strong support of SB 777. For taxable years beginning after 12/31/2023, this measure provides a temporary income tax credit for the cost of upgrading or converting a qualified cesspool to a wastewater system approved by the Director of Health, or connecting to a sewerage system. This measure sunsets 12/31/2028.

As provided in the Democratic Party of Hawai'i Platform adopted at the DPH State Convention on May 28, 2022, our policy is to “protect and preserve Hawai'i's environment and achieve energy sustainability, advance measures to re-establish a healthy climate and environment for humans and fellow species, including actions to urgently address climate change, and work towards 100% renewable energy goals.

We believe that all people have the right to live in a clean, healthy and safe environment. We believe that the preservation of our natural environment and its ecological well-being is essential to ensuring a safe, healthy, bountiful life for future generations in Hawai'i. We support policies that create a more sustainable society. We support the restoration, preservation, and protection of native ecosystems.

We believe in the resource management principles outlined in the Public Trust doctrine of [Article XI, Section 1 of the] Hawai'i State Constitution.”

Hawaii currently has an official goal to replace all its cesspools with better sewage treatment systems that cause less harm to the local environment and public health by 2050; however, as many as 83,000 cesspools release about 53 million gallons of untreated sewage into the islands' soil, streams and nearshore waters daily making the 2050 deadline too late to prevent substantial harm.

In the Report of the [Cesspool Conversion Working Group](#), nearly 14,000 of the worst Hawaii cesspools – the ones that would potentially cause the most damage based on their location – are to be removed by 2030; followed by more than 12,000 “priority two” cesspools to be removed by 2035; and the remaining “priority three” 55,000 cesspools are to be removed by the original 2050 deadline.

“There are no benefits to human health or the environment if homeowners wait or postpone conversion until closer to the 2050 ... deadline,” the 17-member task force of scientists, public health officials, private industry representatives, elected leaders and environmental advocates wrote in a new

1,182-page report to the Legislature. [Microsoft Word - Cesspool Conversion Plan Draft Final-copy-blue wave-FINAL use this one \(hawaii.gov\)](#)

For taxable years beginning after 12/31/2023, this measure provides a temporary income tax credit for the cost of upgrading or converting a qualified cesspool to a wastewater system approved by the Director of Health, or connecting to a sewerage system is consistent with the Public Trust Doctrine and the policies of the Democratic Party of Hawaii as cesspools continue to threaten a healthy climate for humans and the environment unless converted and a tax credit would definitely assist owners in making the necessary conversion.

/s/ Melodie Aduja and Alan Burdick, Co-Chairs, DPH Environmental Caucus

**SB-777**

Submitted on: 2/7/2023 9:31:41 AM

Testimony for AEN on 2/8/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lauren Blickley	Testifying for Surfrider Foundation	Support	Written Testimony Only

Comments:

Surfrider Foundation strongly supports SB777. In order to remedy the environmental and public health issues with the state's 88,000 cesspools, we need to provide tools, support, and incentives to homeowners to upgrade their cesspools. SB777 is an important tool to get us to our goal of upgrading Priority 1 cesspools by 2035.

Surfrider Foundation is a nonprofit, coastal advocacy organization dedicated to protecting our ocean, waves, and beaches. We run a volunteer-based water quality monitoring program called the Blue Water Task Force. Results from this program show high incidence of fecal indicator bacteria in coastal areas where cesspools are present and in high concentrations. We desperately need bills like SB777 to ensure that our communities are able to recreate in waters that are clean and that our terrestrial and marine ecosystems are protected.

Mahalo,

Lauren Blickley

Hawai'i Regional Manager

Surfrider Foundation



Feb. 7, 2023

In Support of **SB777** Relating to Cesspools  
Senate Committees on Agriculture & the Environment (AEN)  
Hearing on Feb. 8, 1:00pm, Rm. 224

Aloha, Chair Gabbard, Vice Chair Richards and Members of the Committee:

On behalf of the non-profit WAI: Wastewater Alternatives & Innovations, I am writing in **strong support of SB777**. This bill will 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.

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. This tax credit 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

**SB-777**

Submitted on: 2/5/2023 2:19:42 PM

Testimony for AEN on 2/8/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
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 for a cesspool upgrade, conversion, or connection tax credit. Please support SB777.

**SB-777**

Submitted on: 2/6/2023 3:45:05 PM

Testimony for AEN on 2/8/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
sydney smith	Individual	Support	Written Testimony Only

Comments:

We own a farm in upcountry Maui. We already upgraded our cesspool to septic last year. The bill won't help me, but it could help other upcountry families.

Our cesspool was permitted and built according to the current code and requirements at the time. Converting was a tremendous financial hardship for us. We felt that many of the newer technologies available to residents on the mainland should have been available to us. And we felt the corruption that was highly publicized and resulted in this conversion legislation should have been investigated.

But I do support tax benefits for other citizens who put off their conversion.

Sydney Smith

Maliko Estate Coffee Farm

Makawao, Maui

**SB-777**

Submitted on: 2/6/2023 8:27:04 PM

Testimony for AEN on 2/8/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Rosie F Davis	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support bill SB 777.

Mahalo nui Rosie

**SB-777**

Submitted on: 2/7/2023 10:42:38 AM

Testimony for AEN on 2/8/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marion K A Kapuniaia	Individual	Support	Written Testimony Only

Comments:

Aloha!

Fair!

Thank you,

M Kapuniaia



**SB-777**

Submitted on: 2/7/2023 5:24:22 PM

Testimony for AEN on 2/8/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

support