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## A BILL FOR AN ACT

RELATING TO WASTEWATER.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawaii has  
2 approximately eighty-three thousand cesspools that discharge an  
3 estimated fifty million gallons of untreated sewage into the  
4 State's groundwater and surface waters every day. This  
5 antiquated technology threatens drinking water, increases the  
6 risk of human illness, and causes significant harm to streams  
7 and coastal resources, including coral reefs.

8           The legislature also finds that, although the counties are  
9 responsible for constructing and maintaining wastewater systems,  
10 the State presently does not require the counties to develop  
11 wastewater management plans, nor are the counties required to  
12 identify neighborhoods that could be connected to existing and  
13 planned wastewater treatment facilities. The legislature  
14 further finds that state law requires the counties to develop  
15 plans to manage solid waste and to update those plans every five  
16 years; however, there is no similar requirement for wastewater.



1           Due to this lack of formal planning, individual landowners,  
2 the counties, and the department of health currently do not know  
3 which cesspools are situated in areas that will eventually be  
4 connected with existing and proposed county wastewater  
5 facilities, and when those connections can be made. The  
6 legislature notes that although the university of Hawaii  
7 established the Hawaii cesspool hazard assessment and  
8 prioritization tool to prioritize cesspools for connection and  
9 conversion, landowners and government agencies currently are  
10 unable to identify which priority cesspools are located in areas  
11 where wastewater facilities will be expanded. This lack of  
12 information makes it difficult for individuals currently served  
13 by cesspools to decide whether to invest in cesspool conversions  
14 or to wait to connect with existing or proposed county  
15 wastewater systems.

16           The legislature further finds that residents who live in  
17 neighborhoods that are connected to wastewater systems managed  
18 by a county currently must pay monthly sewer fees, which range  
19 from \$66.50 per month to more than \$100 per month. Residents  
20 living on properties having cesspools do not pay a similar  
21 monthly fee to the county, even though wastewater from these



1 cesspools threatens clean drinking water, stream ecology, and  
2 coastal resources.

3 The legislature also finds that counties will need new  
4 sources of revenue to help pay for new and expanded wastewater  
5 facilities. Moneys are also needed to assist low- and  
6 moderate-income landowners to convert cesspools to an approved  
7 individual wastewater system or to connect to a decentralized or  
8 municipal wastewater system.

9 Therefore, the legislature finds that counties should be  
10 authorized to assess a cesspool pollution fee, develop a program  
11 to administer fees, and determine fee amounts and the use of the  
12 fee revenue.

13 Accordingly, the purpose of this Act is to:

- 14 (1) Require each county to develop and maintain a  
15 wastewater management plan;
- 16 (2) Authorize the director of health to exempt a county  
17 from creating a wastewater management plan if the  
18 county has an existing plan that substantially meets  
19 certain requirements;
- 20 (3) Require the counties to identify specific priority  
21 areas in which the county sewerage system or other



1 centralized treatment system will be expanded or  
2 constructed to reduce or eliminate cesspools before  
3 January 1, 2050, and provide for the designation of  
4 these areas as sewer improvement districts;

5 (4) Authorize each county to assess a monthly cesspool  
6 pollution fee beginning on July 1, 2025, on real  
7 properties containing a cesspool;

8 (5) Authorize the counties to use cesspool pollution fee  
9 revenues for certain activities that eliminate,  
10 reduce, or mitigate the impacts of cesspools,  
11 including the expansion of county sewerage systems and  
12 the issuance of grants and low-interest loans to  
13 property owners; and

14 (6) Make appropriations.

15 SECTION 2. Chapter 342D, Hawaii Revised Statutes, is  
16 amended by adding a new part to be appropriately designated and  
17 to read as follows:

18 "PART . COUNTY CESSPOOL ELIMINATION PLANNING

19 A. General Provisions

20 §342D-A Definitions. As used in this part, unless the  
21 context otherwise requires:



1 "Alternative plan" means an alternative plan approved or  
2 conditionally approved by the director pursuant to  
3 section 342D-H.

4 "Cesspool" has the same meaning as in section 342D-72.

5 "County advisory body" means either the county advisory  
6 committee appointed under section 342D-C(b) (1) or an existing  
7 advisory committee or commission identified under section  
8 342D-C (b) (2) .

9 "Hawaii cesspool hazard assessment and prioritization tool"  
10 means the 2021 Hawaii cesspool hazard assessment and  
11 prioritization tool developed by the university of Hawaii sea  
12 grant college program and water resources research center, as  
13 may be amended.

14 "Priority level 1 cesspool" means a cesspool located within  
15 an area that is designated as a priority level 1 area by the  
16 Hawaii cesspool hazard assessment and prioritization tool.

17 "Priority level 2 cesspool" means a cesspool located within  
18 an area that is designated as a priority level 2 area by the  
19 Hawaii cesspool hazard assessment and prioritization tool.



1 "Properly closed" means a cesspool that has been closed, as  
2 determined by the director, and the wastewater system on the  
3 property on which the cesspool is located has been:

- 4 (1) Connected to an existing sewer system with available  
5 capacity;
- 6 (2) Connected to a new private or public sewer system;
- 7 (3) Connected to a community-scale package wastewater  
8 treatment system; or
- 9 (4) Converted to a director-approved wastewater treatment  
10 system.

11 "Sewer improvement district" means a sewer improvement  
12 district designated pursuant to section 342D-G.

13 "Wastewater management plan" means a wastewater management  
14 plan pursuant to section 342D-C.

15 **§342D-B Rules.** The director may adopt rules pursuant to  
16 chapter 91 for the purposes of this part.

17 **B. Wastewater Management Plan**

18 **§342D-C Wastewater management plan; establishment;**  
19 **development.** (a) By June 30, 2027, each county shall submit to  
20 the department a wastewater management plan that has been



1 formally adopted by the county and is consistent with the  
2 requirements of this part.

3 (b) Before preparing a wastewater management plan, a  
4 county shall establish or identify a county advisory body by  
5 either:

6 (1) Forming an advisory committee appointed by the mayor,  
7 which may be composed of representatives from citizen  
8 organizations, the private wastewater industry  
9 operating within the county, other industries,  
10 relevant county officials and employees, or any other  
11 persons deemed appropriate by the mayor; or

12 (2) Identifying an existing county advisory committee or  
13 commission that has a composition similar to the  
14 membership described in paragraph (1).

15 The county advisory body shall review the plan during its  
16 preparation, make suggestions, and propose any changes the  
17 committee believes are appropriate.

18 (c) Before formal adoption by the county, the county shall  
19 submit the proposed wastewater management plan to the department  
20 for review and comment. The department shall provide its  
21 comments to the county within ninety calendar days of receiving



1 the proposed plan. Following the department's review, the  
2 county shall make the proposed plan available for public review  
3 and comment for a period of not less than sixty calendar days.  
4 The county shall hold at least one public hearing on the  
5 proposed plan during this period.

6 (d) Following formal adoption of the wastewater management  
7 plan by the county council, the county shall submit the adopted  
8 plan to the department for review. The adopted plan shall be  
9 accompanied by a document that contains a summary table of  
10 comments received from the State or the public and a response  
11 detailing how the comments have been addressed in the plan or,  
12 if it has not been addressed, the reason it was not.

13 **§342D-D State review of county wastewater management plan.**

14 (a) After submitting to the department a wastewater management  
15 plan that has been formally adopted by a county, the department  
16 shall review the plan and approve, conditionally approve,  
17 approve specific elements or components of, or disapprove the  
18 plan. The department shall have sixty calendar days to render a  
19 decision, unless the department gives written notice to the  
20 county that additional time is necessary to complete the review.





1 (b) The department shall approve any county wastewater  
2 management plan or revised plan that demonstrates to its  
3 satisfaction that:

4 (1) The plan is reasonably complete and accurate,  
5 incorporates United States Environmental Protection  
6 Agency agreements of consent or consent decrees, as  
7 applicable, and is consistent with this chapter and  
8 any applicable laws and rules;

9 (2) The plan provides for the maximum feasible development  
10 and implementation of the program elements described  
11 in section 342D-F(b) (3), (4), and (5), and  
12 demonstrates feasible schedules, funding sources, and  
13 amounts for doing so; and

14 (3) The plan accomplishes all of the above in a manner  
15 consistent with chapter 226.

16 (c) To expedite and facilitate the wastewater management  
17 plan development, review, and adoption process, the department,  
18 at the request of the county, may participate directly in the  
19 county adoption process by attending public hearings and county  
20 council sessions.



1 (d) The department shall notify the public of the  
2 approval, conditional approval, approval of specific elements or  
3 components of, or disapproval of the plan. The director may  
4 hold a public hearing on the plan if the director determines  
5 that a public hearing is in the public interest or at the  
6 request of the county.

7 **§342D-E Submission schedule for revised wastewater**  
8 **management plans.** (a) Each state-approved county wastewater  
9 management plan shall be revised and submitted to the department  
10 on the following schedule:

- 11 (1) The first revised plan shall be submitted to the  
12 department not later than June 30, 2037; and  
13 (2) Subsequent revised plans shall be submitted to the  
14 department once every ten years; provided that an  
15 interim status report on the implementation of a  
16 revised plan shall be submitted five years after every  
17 submission of a revised plan to the department.

18 All revised plans shall be consistent with the requirements of  
19 this part.

20 (b) Not less than one hundred and twenty calendar days  
21 before the submission of a revised wastewater management plan to



1 the department, the county shall submit a copy of the proposed  
2 revision to the county advisory body for review and comment.

3 All revisions determined by the county advisory body or the  
4 department to be substantial revisions shall be subject to:

5 (1) At least one county public hearing prior to final  
6 submission of the revised plan to the department for  
7 review;

8 (2) Reconsideration and approval by the county advisory  
9 body; and

10 (3) Review by the department, where the department shall  
11 approve, conditionally approve, approve specific  
12 elements or components of, or disapprove the plan.

13 In general, any significant changes in policy, program  
14 implementation, the identification of facilities necessary to  
15 accomplish plan goals, or funding mechanisms shall be considered  
16 substantial revisions. Deadlines for the submittal of  
17 substantial revisions shall be pursuant to the schedule outlined  
18 in this section.

19 (c) If neither the county advisory body nor the department  
20 deems any changes to be substantial, then those changes shall be  
21 incorporated immediately into the wastewater management plan.



1 If any member of the public contests a determination of "lack of  
2 substantial revision," that person may appeal the determination  
3 to the director. The decision of the director shall be final.

4 (d) The department may require a county to modify and  
5 submit to the department an entire wastewater management plan or  
6 specific elements of a plan at a date earlier than the schedule  
7 outlined in this section if the county's wastewater management  
8 plan:

- 9 (1) Is incomplete;
- 10 (2) Inadequately addresses section 342D-F; or
- 11 (3) Does not address cesspool elimination and mitigation  
12 goals.

13 **§342D-F Contents of county wastewater management plans.**

14 (a) Each county wastewater management plan and subsequent  
15 revision shall include:

- 16 (1) A program component; and
- 17 (2) A facility capacity and siting element.

18 A county may include additional elements at its discretion.

19 (b) The program element shall incorporate and coordinate  
20 existing plans, ordinances, and guidelines and, at a minimum,  
21 shall:



- 1 (1) Provide an estimate of the total number of:
  - 2 (A) Priority level 1 cesspools;
  - 3 (B) Priority level 2 cesspools; and
  - 4 (C) Total cesspools,
  - 5 in the county by watershed, based on the Hawaii
  - 6 cesspool hazard assessment and prioritization tool;
- 7 (2) Provide any other information that the department may
- 8 prescribe;
- 9 (3) Identify areas that the county has designated or
- 10 intends to designate as a sewer improvement district
- 11 pursuant to section 342D-G, and include information
- 12 required by section 342D-G(b);
- 13 (4) Identify areas that are suitable for new alternative
- 14 treatment processes; and
- 15 (5) Identify actions to:
  - 16 (A) Facilitate the conversion and connection of
  - 17 cesspools throughout the county pursuant to
  - 18 section 342D-72;
  - 19 (B) Manage existing point sources of wastewater
  - 20 pollution;



- 1 (C) Manage onsite residential wastewater treatment
- 2 facilities, including septic tanks;
- 3 (D) Address industrial waste treatment;
- 4 (E) Address procedures for the approval of wastewater
- 5 systems for new or developing areas;
- 6 (F) Address urban stormwater runoff; and
- 7 (G) Address the recycling and reuse of water for
- 8 irrigation purposes.

9 (c) The facility capacity and siting element shall  
10 include, at a minimum:

11 (1) An existing capacity and future needs component that  
12 identifies existing and future facilities needed by  
13 the county for wastewater management; and

14 (2) A plan to improve and expand existing facilities and  
15 construct new facilities to implement actions  
16 identified in the program element, including:

17 (A) A description of the specific tasks that are  
18 necessary to provide for the development or  
19 expansion of the facilities;

20 (B) The planning, design, funding, staffing, siting,  
21 construction, and operation of each facility; and



1 (C) The schedule, estimated costs, and anticipated  
2 funding sources for the expansion or construction  
3 of facilities.

4 **§342D-G Sewer improvement districts.** (a) Each county  
5 shall designate in its wastewater management plan one or more  
6 sewer improvement districts; provided that a county that is  
7 granted a partial exemption under section 342D-H shall designate  
8 sewer improvement districts by ordinance. Each sewer  
9 improvement district shall be a specific contiguous or  
10 noncontiguous geographic area that:

- 11 (1) Contains properties having cesspools;
- 12 (2) Is not currently connected to a county sewerage  
13 system; and
- 14 (3) Is identified by the county as an area in which the  
15 county sewerage system or other centralized treatment  
16 system will, before January 1, 2050, be expanded or  
17 constructed for the purpose of reducing or eliminating  
18 cesspools within the sewer improvement district.

19 (b) The wastewater management plan or ordinance  
20 designating a sewer improvement district shall include the  
21 following information for each sewer improvement district:



1 (1) An identification of specific improvements that are  
2 necessary to expand or construct the county sewerage  
3 systems or other centralized treatment systems within  
4 the sewer improvement district; and

5 (2) A projected timeline for the construction of the  
6 improvements identified in paragraph (1), including  
7 the estimated date by which all identified  
8 improvements will be completed.

9 (c) In determining which geographic areas are designated  
10 as sewer improvement districts, the county, to the extent  
11 reasonably practicable, shall prioritize locations that contain  
12 priority level 1 cesspools or priority level 2 cesspools.

13 **§342D-H Partial exemption.** (a) A county that already  
14 maintains an alternative plan that substantially addresses the  
15 elements required in a wastewater management plan pursuant to  
16 section 342D-F, except for provisions relating to sewer  
17 improvement districts, may apply to the director for a partial  
18 exemption in a manner prescribed by the director. The partial  
19 exemption shall exempt the county from the requirements of this  
20 subpart, except that the partial exemption shall not apply to  
21 sections 342D-G and 342D-I.





1 (b) The alternative plan shall:

2 (1) Have been published or comprehensively amended no  
3 earlier than ten days before the date on which the  
4 county applies for a partial exemption; and

5 (2) Be updated at least once every ten years.

6 (c) The director shall review the county's alternative  
7 plan and determine whether the plan sufficiently addresses the  
8 elements required by section 342D-F, except for provisions  
9 relating to sewer improvement districts. The determination of  
10 whether an element is sufficiently addressed shall be made by  
11 the director in the director's sole discretion.

12 (d) If the director determines that the alternative plan  
13 sufficiently addresses the elements required under  
14 section 342D-F, then the director shall approve the application  
15 for a partial exemption.

16 (e) If the director determines that one or more required  
17 elements are not sufficiently addressed by the county's  
18 alternative plan, the director may either:

19 (1) Conditionally approve the application for a partial  
20 exemption; provided that the county develops and  
21 submits a supplemental plan to the department that



1 addresses any elements that are not sufficiently  
2 addressed by the county's alternative plan. The  
3 director shall set the requirements of and deadlines  
4 for the supplemental plan; or

5 (2) Deny the application for a partial exemption.

6 The decision to conditionally approve or deny an  
7 application for a partial exemption shall be made at the sole  
8 discretion of the director.

9 **§342D-I Records; reporting.** The department or a county,  
10 by rule or ordinance, may require an operator of a private sewer  
11 system, community-scale package wastewater treatment system, or  
12 other wastewater treatment facility to keep records and report  
13 data to the department or county.

14 **§342D-J Guidelines.** The process of county wastewater  
15 management planning shall be expedited to the greatest extent  
16 possible. Within six months of the effective date of this Act,  
17 the department shall issue guidelines for the development of  
18 county plans. The draft guidelines shall be circulated to the  
19 counties for review and comment not less than ninety calendar  
20 days before their issuance.



1                                   **C. Cesspool Pollution Fee**

2           **§342D-K Cesspool pollution fee.** (a) Beginning July 1,  
3 2025, each county may assess a monthly cesspool pollution fee on  
4 any real property that contains a cesspool.

5           (b) Each county shall set the amount of the cesspool  
6 pollution fee assessed on each applicable real property parcel  
7 to be no less than fifty per cent and no more than one hundred  
8 per cent of the amount of the monthly sewage fee that would be  
9 applicable to the property if the property were connected to the  
10 county's sewerage system; provided that, if a county adjusts the  
11 amount of the applicable sewage fee, the county shall amend the  
12 amount of the relevant cesspool pollution fee to be comparable  
13 to the county sewage fee that would be applicable for a  
14 similar-sized class of property in that county.

15           (c) Each county shall maintain on its website a schedule  
16 of cesspool pollution fees applicable to each class of property  
17 in the county.

18           (d) The cesspool pollution fee shall not be assessed on  
19 any property containing a cesspool that has been properly  
20 closed.



1           (e) If all cesspools on a property that is subject to the  
2 cesspool pollution fee are properly closed, the property owner  
3 shall provide notice of the cesspool's or cesspools' closure,  
4 as-built drawings, and construction inspection report to the  
5 director. Upon receipt of these documents from the property  
6 owner, the director shall verify that all cesspools on the  
7 property are properly closed. If the director confirms that all  
8 cesspools are properly closed, the director shall issue an  
9 approval-to-use letter. The county in which the property is  
10 located shall waive future payment of the cesspool pollution fee  
11 beginning from the date of the cesspool's proper closure;  
12 provided that nothing in this subsection shall relieve the  
13 property owner of any obligations that were incurred prior to  
14 the date of the cesspool's proper closure.

15           (f) Each county shall be responsible for collecting the  
16 cesspool pollution fee from the owners of affected properties  
17 within the county's jurisdiction. All fee revenues shall be  
18 deposited into the special fund established by the county  
19 pursuant to section 342D-L. The penalty for nonpayment of the  
20 cesspool pollution fee shall be determined by each county.



1 (g) Each cesspool pollution fee billing statement or  
2 account statement shall include:

3 (1) A conspicuous notice to the property owner that the  
4 proper closure of all cesspools on the property will  
5 relieve the property owner of future payments of the  
6 cesspool pollution fee; and

7 (2) Instructions on how to provide notice to the director  
8 that all cesspools on a property are properly closed.

9 **§342D-L County cesspool closure and mitigation special**

10 **funds; authorized.** (a) Each county, by ordinance, may  
11 establish a cesspool closure and mitigation special fund, into  
12 which shall be deposited:

13 (1) All cesspool pollution fee revenues collected by the  
14 county pursuant to section 342D-K;

15 (2) All moneys received as repayments of loans pursuant to  
16 section 342D-M, including any interest on those loans;

17 (3) All real property tax revenues designated for the  
18 special fund;

19 (4) Gifts, donations, and grants from any source  
20 designated for the special fund; and



1 (5) Any interest earned or accrued on moneys deposited in  
2 the special fund.

3 (b) The fund shall be administered by the respective  
4 county and shall be expended in a manner that is consistent with  
5 subsection (c) and the county's wastewater management plan or an  
6 alternative plan approved by the director pursuant to  
7 section 342D-H, including any required supplemental plans.

8 (c) A county may use cesspool closure and mitigation  
9 special fund moneys for:

- 10 (1) Any costs associated with the establishment and  
11 maintenance of a sewer improvement district;
- 12 (2) The conversion of cesspools outside of sewer  
13 improvement districts to a wastewater system approved  
14 by the director;
- 15 (3) The establishment of new sewerage systems or  
16 community-scale package wastewater treatment systems;
- 17 (4) Costs associated with the connection of a property  
18 having a cesspool to an existing sewerage system  
19 having available capacity; a new private or public  
20 sewerage system; or a community-scale package  
21 wastewater treatment system that meet the minimum



1 wastewater treatment standards established by the  
2 United States Environmental Protection Agency;

3 (5) The expansion of county sewerage systems, including  
4 costs for plans, land acquisition, design,  
5 construction, and equipment;

6 (6) Compliance with any planning or permitting  
7 requirements relating to the activities described in  
8 paragraphs (1) through (5), including costs to comply  
9 with chapter 343 and other requirements;

10 (7) Projects that mitigate the impacts of cesspools on the  
11 environment;

12 (8) Grants and low-interest loans as provided in  
13 section 342D-M;

14 (9) Community engagement relating to the activities  
15 described in paragraphs (1) through (8); and

16 (10) Costs to administer this part.

17 **§342D-M Grants and loans.** (a) A county may offer grants  
18 or low-interest loans to pay for costs, in whole or in part,  
19 associated with the conversion of a cesspool to a  
20 director-approved wastewater system or the connection of a  
21 property having a cesspool to a public or private sewerage



1 system or a community-scale package wastewater treatment system  
2 that meets the minimum wastewater treatment standards  
3 established by the United States Environmental Protection  
4 Agency.

5 (b) To be eligible for a grant under this section, a  
6 property owner shall:

- 7 (1) Be part of a household having an income that does not  
8 exceed eighty per cent of the area median income as  
9 determined by the United States Department of Housing  
10 and Urban Development;
- 11 (2) Agree to use any grant funds received exclusively for  
12 the purposes described in subsection (a);
- 13 (3) Comply with all applicable federal, state, and local  
14 laws;
- 15 (4) Indemnify and hold harmless the State and any  
16 subdivision thereof and their officers, agents, and  
17 employees from and against any and all claims arising  
18 out of or resulting from activities carried out or  
19 projects undertaken with funds provided under this  
20 section;





1 (5) Agree to make available any records the grantee may  
2 have relating to the grant to allow the department to  
3 monitor the grantee's compliance with this section;  
4 and

5 (6) Comply with any other requirements that the department  
6 may prescribe.

7 (c) To be eligible for a loan under this section, a  
8 property owner shall:

9 (1) Be part of a household having an income that:

10 (A) Is at least eighty per cent of the area median  
11 income; and

12 (B) Does not exceed one hundred twenty per cent of  
13 the area median income,

14 as determined by the United States Department of  
15 Housing and Urban Development;

16 (2) Agree to use any loan funds received exclusively for  
17 the purposes described in subsection (a);

18 (3) Comply with all applicable federal, state, and local  
19 laws;

20 (4) Indemnify and hold harmless the State and any  
21 subdivision thereof and their officers, agents, and



1 employees from and against any and all claims arising  
2 out of or resulting from activities carried out or  
3 projects undertaken with funds provided under this  
4 section;

5 (5) Agree to make available any records the grantee may  
6 have relating to the loan to allow the department to  
7 monitor the grantee's compliance with this section;  
8 and

9 (6) Comply with any other requirements that the department  
10 may prescribe.

11 (d) The county shall set the interest rate and term of a  
12 loan issued under this section. Loan repayments, including any  
13 interest thereon, shall be deposited into the cesspool closure  
14 and mitigation special fund and may be used to provide new  
15 grants or loans pursuant to this section.

16 (e) The liability of a loan issued under this section  
17 shall run with the property and future owners of the affected  
18 property shall be liable for on-bill payments until the loan is  
19 fully repaid.



1 (f) The county may create an on-bill financing option to  
2 facilitate the repayment of a loan under this section  
3 concurrently with the property owner's real property tax bill.

4 **§342D-N Reports.** (a) No later than November 1 of each  
5 year, each county that assesses a cesspool pollution fee shall  
6 submit a report to the department of health that includes:

7 (1) The amount of cesspool pollution fee revenue collected  
8 by the county;

9 (2) A summary of the county's expenditure of cesspool  
10 closure and mitigation special fund moneys, including:

11 (A) A summary of the projects funded under  
12 section 342D-L(c) (1) to (7); and

13 (B) The number of:

14 (i) Priority level 1 cesspools;

15 (ii) Priority level 2 cesspools; and

16 (iii) Total cesspools,

17 closed in the county due to projects funded under  
18 section 342D-L(c) (1) to (7);

19 (C) The number of grants and loans issued in the  
20 county pursuant to section 342D-L(c) (8);



- 1 (D) The amount of moneys used for grants and loans in  
2 the county pursuant to section 342D-L(c) (8); and  
3 (E) The number of:  
4 (i) Priority level 1 cesspools;  
5 (ii) Priority level 2 cesspools; and  
6 (iii) Total cesspools,  
7 closed in the county due to grants and loans  
8 issued under section 342D-L(c) (8);  
9 (3) The number of:  
10 (A) Priority level 1 cesspools;  
11 (B) Priority level 2 cesspools; and  
12 (C) Total cesspools,  
13 in the county that have not yet been closed; and  
14 (4) Any findings and recommendations, including any  
15 proposed legislation.  
16 (b) No later than twenty days prior to the convening of  
17 each regular session, the department shall submit an annual  
18 report to the legislature that includes:  
19 (1) Data aggregated from the county reports submitted  
20 pursuant to subsection (a); and



1           (2) Any findings and recommendations, including any  
2           proposed legislation."

3           SECTION 3. Section 46-1.5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "**§46-1.5 General powers and limitation of the counties.**

6 Subject to general law, each county shall have the following  
7 powers and shall be subject to the following liabilities and  
8 limitations:

9           (1) Each county shall have the power to frame and adopt a  
10 charter for its own self-government that shall  
11 establish the county executive, administrative, and  
12 legislative structure and organization, including but  
13 not limited to the method of appointment or election  
14 of officials, their duties, responsibilities, and  
15 compensation, and the terms of their office;

16           (2) Each county shall have the power to provide for and  
17 regulate the marking and lighting of all buildings and  
18 other structures that may be obstructions or hazards  
19 to aerial navigation, so far as may be necessary or  
20 proper for the protection and safeguarding of life,  
21 health, and property;



1           (3) Each county shall have the power to enforce all claims  
2           on behalf of the county and approve all lawful claims  
3           against the county, but shall be prohibited from  
4           entering into, granting, or making in any manner any  
5           contract, authorization, allowance payment, or  
6           liability contrary to the provisions of any county  
7           charter or general law;

8           (4) Each county shall have the power to make contracts and  
9           to do all things necessary and proper to carry into  
10          execution all powers vested in the county or any  
11          county officer;

12          (5) Each county shall have the power to:  
13                (A) Maintain channels, whether natural or artificial,  
14                including their exits to the ocean, in suitable  
15                condition to carry off storm waters;  
16                (B) Remove from the channels, and from the shores and  
17                beaches, any debris that is likely to create an  
18                unsanitary condition or become a public nuisance;  
19                provided that, to the extent any of the foregoing  
20                work is a private responsibility, the



1 responsibility may be enforced by the county in  
2 lieu of the work being done at public expense;

3 (C) Construct, acquire by gift, purchase, or by the  
4 exercise of eminent domain, reconstruct, improve,  
5 better, extend, and maintain projects or  
6 undertakings for the control of and protection  
7 against floods and flood waters, including the  
8 power to drain and rehabilitate lands already  
9 flooded;

10 (D) Enact zoning ordinances providing that lands  
11 deemed subject to seasonable, periodic, or  
12 occasional flooding shall not be used for  
13 residence or other purposes in a manner as to  
14 endanger the health or safety of the occupants  
15 thereof, as required by the Federal Flood  
16 Insurance Act of 1956 (chapter 1025, Public Law  
17 1016); and

18 (E) Establish and charge user fees to create and  
19 maintain any stormwater management system or  
20 infrastructure; provided that no county shall  
21 charge against or collect user fees from the



1 department of transportation in excess of  
2 \$1,500,000 in the aggregate per year; provided  
3 further that no services shall be denied to the  
4 department of transportation by reason of  
5 nonpayment of the fees;

6 (6) Each county shall have the power to exercise the power  
7 of condemnation by eminent domain when it is in the  
8 public interest to do so;

9 (7) Each county shall have the power to exercise  
10 regulatory powers over business activity as are  
11 assigned to them by chapter 445 or other general law;

12 (8) Each county shall have the power to fix the fees and  
13 charges for all official services not otherwise  
14 provided for;

15 (9) Each county shall have the power to provide by  
16 ordinance assessments for the improvement or  
17 maintenance of districts within the county;

18 (10) Except as otherwise provided, no county shall have the  
19 power to give or loan credit to, or in aid of, any  
20 person or corporation, directly or indirectly, except  
21 for a public purpose;





- 1           (11) Where not within the jurisdiction of the public  
2           utilities commission, each county shall have the power  
3           to regulate by ordinance the operation of motor  
4           vehicle common carriers transporting passengers within  
5           the county and adopt and amend rules the county deems  
6           necessary for the public convenience and necessity;
- 7           (12) Each county shall have the power to enact and enforce  
8           ordinances necessary to prevent or summarily remove  
9           public nuisances and to compel the clearing or removal  
10          of any public nuisance, refuse, and uncultivated  
11          undergrowth from streets, sidewalks, public places,  
12          and unoccupied lots. In connection with these powers,  
13          each county may impose and enforce liens upon the  
14          property for the cost to the county of removing and  
15          completing the necessary work where the property  
16          owners fail, after reasonable notice, to comply with  
17          the ordinances. The authority provided by this  
18          paragraph shall not be self-executing, but shall  
19          become fully effective within a county only upon the  
20          enactment or adoption by the county of appropriate and  
21          particular laws, ordinances, or rules defining "public



1 nuisances" with respect to each county's respective  
2 circumstances. The counties shall provide the  
3 property owner with the opportunity to contest the  
4 summary action and to recover the owner's property;

5 (13) Each county shall have the power to enact ordinances  
6 deemed necessary to protect health, life, and  
7 property, and to preserve the order and security of  
8 the county and its inhabitants on any subject or  
9 matter not inconsistent with, or tending to defeat,  
10 the intent of any state statute where the statute does  
11 not disclose an express or implied intent that the  
12 statute shall be exclusive or uniform throughout the  
13 State;

14 (14) Each county shall have the power to:  
15 (A) Make and enforce within the limits of the county  
16 all necessary ordinances covering all:  
17 (i) Local police matters;  
18 (ii) Matters of sanitation;  
19 (iii) Matters of inspection of buildings;



- 1                   (iv) Matters of condemnation of unsafe
- 2                               structures, plumbing, sewers, dairies, milk,
- 3                               fish, and morgues; and
- 4                   (v) Matters of the collection and disposition of
- 5                               rubbish and garbage;
- 6           (B) Provide exemptions for homeless facilities and
- 7                       any other program for the homeless authorized by
- 8                       part XVII of chapter 346, for all matters under
- 9                       this paragraph;
- 10           (C) Appoint county physicians and sanitary and other
- 11                       inspectors as necessary to carry into effect
- 12                       ordinances made under this paragraph, who shall
- 13                       have the same power as given by law to agents of
- 14                       the department of health, subject only to
- 15                       limitations placed on them by the terms and
- 16                       conditions of their appointments; and
- 17           (D) Fix a penalty for the violation of any ordinance,
- 18                       which penalty may be a misdemeanor, petty
- 19                       misdemeanor, or violation as defined by general
- 20                       law;



1           (15) Each county shall have the power to provide public  
2                   pounds; to regulate the impounding of stray animals  
3                   and fowl, and their disposition; and to provide for  
4                   the appointment, powers, duties, and fees of animal  
5                   control officers;

6           (16) Each county shall have the power to purchase and  
7                   otherwise acquire, lease, and hold real and personal  
8                   property within the defined boundaries of the county  
9                   and to dispose of the real and personal property as  
10                  the interests of the inhabitants of the county may  
11                  require, except that:

12                   (A) Any property held for school purposes may not be  
13                          disposed of without the consent of the  
14                          superintendent of education;

15                   (B) No property bordering the ocean shall be sold or  
16                          otherwise disposed of; and

17                   (C) All proceeds from the sale of park lands shall be  
18                          expended only for the acquisition of property for  
19                          park or recreational purposes;

20           (17) Each county shall have the power to provide by charter  
21                   for the prosecution of all offenses and to prosecute



1 for offenses against the laws of the State under the  
2 authority of the attorney general of the State;

3 (18) Each county shall have the power to make  
4 appropriations in amounts deemed appropriate from any  
5 moneys in the treasury, for the purpose of:

6 (A) Community promotion and public celebrations;

7 (B) The entertainment of distinguished persons as may  
8 from time to time visit the county;

9 (C) The entertainment of other distinguished persons,  
10 as well as, public officials when deemed to be in  
11 the best interest of the community; and

12 (D) The rendering of civic tribute to individuals  
13 who, by virtue of their accomplishments and  
14 community service, merit civic commendations,  
15 recognition, or remembrance;

16 (19) Each county shall have the power to:

17 (A) Construct, purchase, take on lease, lease,  
18 sublease, or in any other manner acquire, manage,  
19 maintain, or dispose of buildings for county  
20 purposes, sewers, sewer systems, pumping  
21 stations, waterworks, including reservoirs,



1 wells, pipelines, and other conduits for  
2 distributing water to the public, lighting  
3 plants, and apparatus and appliances for lighting  
4 streets and public buildings, and manage,  
5 regulate, and control the same;

6 (B) Regulate and control the location and quality of  
7 all appliances necessary to the furnishing of  
8 water, heat, light, power, telephone, and  
9 telecommunications service to the county;

10 (C) Acquire, regulate, and control any and all  
11 appliances for the sprinkling and cleaning of the  
12 streets and the public ways, and for flushing the  
13 sewers; and

14 (D) Open, close, construct, or maintain county  
15 highways or charge toll on county highways;  
16 provided that all revenues received from a toll  
17 charge shall be used for the construction or  
18 maintenance of county highways;

19 (20) Each county shall have the power to regulate the  
20 renting, subletting, and rental conditions of property  
21 for places of abode by ordinance;



1 (21) Unless otherwise provided by law, each county shall  
2 have the power to establish by ordinance the order of  
3 succession of county officials in the event of a  
4 military or civil disaster;

5 (22) Each county shall have the power to sue and be sued in  
6 its corporate name;

7 (23) Each county shall have the power to:

8 (A) Establish and maintain waterworks and sewer  
9 works;

10 (B) Implement a sewer monitoring program that  
11 includes the inspection of sewer laterals that  
12 connect to county sewers, when those laterals are  
13 located on public or private property, after  
14 providing a property owner not less than ten  
15 calendar days' written notice, to detect leaks  
16 from laterals, infiltration, and inflow, any  
17 other law to the contrary notwithstanding;

18 (C) Compel an owner of private property upon which is  
19 located any sewer lateral that connects to a  
20 county sewer to inspect that lateral for leaks,



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- 1                   infiltration, and inflow and to perform repairs  
2                   as necessary;
- 3                   (D) Collect rates for water supplied to consumers and  
4                   for the use of sewers;
- 5                   (E) Install water meters whenever deemed expedient;  
6                   provided that owners of premises having vested  
7                   water rights under existing laws appurtenant to  
8                   the premises shall not be charged for the  
9                   installation or use of the water meters on the  
10                  premises;
- 11                  (F) Take over from the State existing waterworks  
12                  systems, including water rights, pipelines, and  
13                  other appurtenances belonging thereto, and sewer  
14                  systems, and to enlarge, develop, and improve the  
15                  same; [~~and~~]
- 16                  (G) Assess cesspool pollution fees and expend fee  
17                  revenues and real property tax revenues as  
18                  provided in section 342D-L; and
- 19                  [~~(G)~~] (H) For purposes of subparagraphs (B) and (C):  
20                           (i) "Infiltration" means groundwater, rainwater,  
21                           and saltwater that enters the county sewer





1 system through cracked, broken, or defective  
2 sewer laterals; and

3 (ii) "Inflow" means non-sewage entering the  
4 county sewer system via inappropriate or  
5 illegal connections;

6 (24) (A) Each county may impose civil fines, in addition  
7 to criminal penalties, for any violation of  
8 county ordinances or rules after reasonable  
9 notice and requests to correct or cease the  
10 violation have been made upon the violator. Any  
11 administratively imposed civil fine shall not be  
12 collected until after an opportunity for a  
13 hearing under chapter 91. Any appeal shall be  
14 filed within thirty days from the date of the  
15 final written decision. These proceedings shall  
16 not be a prerequisite for any civil fine or  
17 injunctive relief ordered by the circuit court;

18 (B) Each county by ordinance may provide for the  
19 addition of any unpaid civil fines, ordered by  
20 any court of competent jurisdiction, to any  
21 taxes, fees, or charges, with the exception of



1 fees or charges for water for residential use and  
2 sewer charges, collected by the county. Each  
3 county by ordinance may also provide for the  
4 addition of any unpaid administratively imposed  
5 civil fines, which remain due after all judicial  
6 review rights under section 91-14 are exhausted,  
7 to any taxes, fees, or charges, with the  
8 exception of water for residential use and sewer  
9 charges, collected by the county. The ordinance  
10 shall specify the administrative procedures for  
11 the addition of the unpaid civil fines to the  
12 eligible taxes, fees, or charges and may require  
13 hearings or other proceedings. After addition of  
14 the unpaid civil fines to the taxes, fees, or  
15 charges, the unpaid civil fines shall not become  
16 a part of any taxes, fees, or charges. The  
17 county by ordinance may condition the issuance or  
18 renewal of a license, approval, or permit for  
19 which a fee or charge is assessed, except for  
20 water for residential use and sewer charges, on  
21 payment of the unpaid civil fines. Upon



1 recordation of a notice of unpaid civil fines in  
2 the bureau of conveyances, the amount of the  
3 civil fines, including any increase in the amount  
4 of the fine which the county may assess, shall  
5 constitute a lien upon all real property or  
6 rights to real property belonging to any person  
7 liable for the unpaid civil fines. The lien in  
8 favor of the county shall be subordinate to any  
9 lien in favor of any person recorded or  
10 registered prior to the recordation of the notice  
11 of unpaid civil fines and senior to any lien  
12 recorded or registered after the recordation of  
13 the notice. The lien shall continue until the  
14 unpaid civil fines are paid in full or until a  
15 certificate of release or partial release of the  
16 lien, prepared by the county at the owner's  
17 expense, is recorded. The notice of unpaid civil  
18 fines shall state the amount of the fine as of  
19 the date of the notice and maximum permissible  
20 daily increase of the fine. The county shall not  
21 be required to include a social security number,



1 state general excise taxpayer identification  
2 number, or federal employer identification number  
3 on the notice. Recordation of the notice in the  
4 bureau of conveyances shall be deemed, at such  
5 time, for all purposes and without any further  
6 action, to procure a lien on land registered in  
7 land court under chapter 501. After the unpaid  
8 civil fines are added to the taxes, fees, or  
9 charges as specified by county ordinance, the  
10 unpaid civil fines shall be deemed immediately  
11 due, owing, and delinquent and may be collected  
12 in any lawful manner. The procedure for  
13 collection of unpaid civil fines authorized in  
14 this paragraph shall be in addition to any other  
15 procedures for collection available to the State  
16 and county by law or rules of the courts;

17 (C) Each county may impose civil fines upon any  
18 person who places graffiti on any real or  
19 personal property owned, managed, or maintained  
20 by the county. The fine may be up to \$1,000 or  
21 may be equal to the actual cost of having the



1           damaged property repaired or replaced. The  
2           parent or guardian having custody of a minor who  
3           places graffiti on any real or personal property  
4           owned, managed, or maintained by the county shall  
5           be jointly and severally liable with the minor  
6           for any civil fines imposed hereunder. Any such  
7           fine may be administratively imposed after an  
8           opportunity for a hearing under chapter 91, but  
9           such a proceeding shall not be a prerequisite for  
10          any civil fine ordered by any court. As used in  
11          this subparagraph, "graffiti" means any  
12          unauthorized drawing, inscription, figure, or  
13          mark of any type intentionally created by paint,  
14          ink, chalk, dye, or similar substances;

15           (D) At the completion of an appeal in which the  
16          county's enforcement action is affirmed and upon  
17          correction of the violation if requested by the  
18          violation, the case shall be reviewed by the  
19          county agency that imposed the civil fines to  
20          determine the appropriateness of the amount of  
21          the civil fines that accrued while the appeal



1 proceedings were pending. In its review of the  
2 amount of the accrued fines, the county agency  
3 may consider:

- 4 (i) The nature and egregiousness of the  
5 violation;
- 6 (ii) The duration of the violation;
- 7 (iii) The number of recurring and other similar  
8 violations;
- 9 (iv) Any effort taken by the violator to correct  
10 the violation;
- 11 (v) The degree of involvement in causing or  
12 continuing the violation;
- 13 (vi) Reasons for any delay in the completion of  
14 the appeal; and
- 15 (vii) Other extenuating circumstances.

16 The civil fine that is imposed by administrative  
17 order after this review is completed and the  
18 violation is corrected shall be subject to  
19 judicial review, notwithstanding any provisions  
20 for administrative review in county charters;



1 (E) After completion of a review of the amount of  
2 accrued civil fine by the county agency that  
3 imposed the fine, the amount of the civil fine  
4 determined appropriate, including both the  
5 initial civil fine and any accrued daily civil  
6 fine, shall immediately become due and  
7 collectible following reasonable notice to the  
8 violator. If no review of the accrued civil fine  
9 is requested, the amount of the civil fine, not  
10 to exceed the total accrual of civil fine prior  
11 to correcting the violation, shall immediately  
12 become due and collectible following reasonable  
13 notice to the violator, at the completion of all  
14 appeal proceedings; and

15 (F) If no county agency exists to conduct appeal  
16 proceedings for a particular civil fine action  
17 taken by the county, then one shall be  
18 established by ordinance before the county shall  
19 impose the civil fine;

20 (25) Any law to the contrary notwithstanding, any county  
21 mayor, by executive order, may exempt donors, provider



1 agencies, homeless facilities, and any other program  
2 for the homeless under part XVII of chapter 346 from  
3 real property taxes, water and sewer development fees,  
4 rates collected for water supplied to consumers and  
5 for use of sewers, and any other county taxes,  
6 charges, or fees; provided that any county may enact  
7 ordinances to regulate and grant the exemptions  
8 granted by this paragraph;

9 (26) Any county may establish a captive insurance company  
10 pursuant to article 19, chapter 431; and

11 (27) Each county shall have the power to enact and enforce  
12 ordinances regulating towing operations."

13 SECTION 4. In accordance with section 9 of article VII, of  
14 the Constitution of the State of Hawaii and sections 37-91 and  
15 37-93, Hawaii Revised Statutes, the legislature has determined  
16 that the appropriations contained in this Act will cause the  
17 state general fund expenditure ceiling for fiscal year 2024-2025  
18 to be exceeded by \$ , or per cent. The reasons  
19 for exceeding the general fund expenditure ceiling are that the  
20 appropriations made in this Act are necessary to serve the  
21 public interest and to meet the needs provided for by this Act.





1 SECTION 5. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so  
3 much thereof as may be necessary for fiscal year 2024-2025 for  
4 the department of health to perform duties required pursuant to  
5 section 2 of this Act; provided that:

6 (1) \$80,000 shall be expended to establish one permanent,  
7 full-time equivalent (1.0 FTE) program specialist V  
8 (SR-24) position; and

9 (2) \$71,000 shall be expended to establish one permanent,  
10 full-time equivalent (1.0 FTE) planner IV (SR-22)  
11 position;

12 provided further that the positions established by this section  
13 shall implement the cesspool compliance pilot grant project  
14 established by Act 153, Session Laws of Hawaii 2022, and perform  
15 other duties relating to the conversion of cesspools.

16 The sum appropriated shall be expended by the department of  
17 health for the purposes of this Act; provided that the moneys  
18 appropriated shall not lapse at the end of the fiscal biennium  
19 for which the appropriation is made; provided further that all  
20 moneys from the appropriation unencumbered as of June 30, 2026,  
21 shall lapse as of that date.



1 SECTION 6. There is appropriated out of the general  
 2 revenues of the State of Hawaii the sum of \$ or so  
 3 much thereof as may be necessary for fiscal year 2024-2025 to  
 4 assist the counties in implementing section 2 of this Act:

5	County of Hawaii	\$
6	County of Kauai	\$
7	County of Maui	\$
8	City and county of Honolulu	\$
9	Total	\$

10 The sums appropriated shall constitute the State's share of  
 11 the cost of the mandated program under article VIII, section 5,  
 12 of the state constitution.

13 The sums appropriated shall be expended by the respective  
 14 county for the purposes of this Act.

15 SECTION 7. In codifying the new sections added by  
 16 section 2 and referenced in section 3 of this Act, the revisor  
 17 of statutes shall substitute appropriate section numbers for the  
 18 letters used in designating the new sections in this Act.

19 SECTION 8. Statutory material to be repealed is bracketed  
 20 and stricken. New statutory material is underscored.



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1 SECTION 9. This Act shall take effect on July 1, 2024.

2

INTRODUCED BY: *William K. Miller*  
JAN 24 2024



# H.B. NO. 2743

**Report Title:**

DOH; Counties; Cesspools; Wastewater; Sewer Improvement Districts; Wastewater Management Plan; Cesspool Pollution Fee; Grants; Low-Interest Loans; General Fund Expenditure Ceiling Exceeded; Appropriations

**Description:**

Requires each county to develop and maintain a wastewater management plan. Specifies the requirements of the wastewater management plan. Authorizes the Director of Health to exempt a county from creating a wastewater management plan if the county has an existing plan that substantially meets certain requirements. Requires the counties to identify specific priority areas in which the county sewerage system or other centralized treatment system will be expanded or constructed to reduce or eliminate cesspools before 1/1/2050. Provides for the designation of these priority areas as sewer improvement districts. Authorizes each county to assess a monthly cesspool pollution fee beginning in 7/1/2025 on real properties containing a cesspool. Authorizes the counties to use fee revenues for certain activities that eliminate, reduce, or mitigate the impacts of cesspools, including the expansion of county sewerage systems and the issuance of grants and low-interest loans to property owners. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025. Makes appropriations.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

