
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.

14 Due to this lack of formal wastewater management planning,
15 individual landowners, the counties, and the department of
16 health currently do not know which cesspools are situated in
17 areas that will eventually be connected with existing and



1 proposed county wastewater facilities, and when those
2 connections can be made. The legislature notes that although
3 the university of Hawaii established the Hawaii cesspool
4 prioritization tool to prioritize cesspools for connection and
5 conversion, landowners and government agencies are currently
6 unable to identify which priority cesspools are located in areas
7 where wastewater facilities will be expanded. This lack of
8 information makes it difficult for individuals currently served
9 by cesspools to decide whether to invest in cesspool conversions
10 or to wait to connect with existing or proposed county
11 wastewater systems.

12 The legislature further finds that residents who live in
13 neighborhoods that are connected to wastewater systems managed
14 by a county currently must pay monthly sewer fees, which range
15 from \$66.50 per month to more than \$100 per month. Residents
16 living on properties having cesspools do not pay a similar
17 monthly fee to the county, even though wastewater from these
18 cesspools threatens clean drinking water, stream ecology, and
19 coastal resources.

20 The legislature also finds that counties will need new
21 sources of revenue to help pay for new and expanded wastewater



1 facilities. Moneys are also needed to assist low- and moderate-
2 income landowners to convert cesspools to an approved individual
3 wastewater system or to connect to a decentralized or municipal
4 wastewater system.

5 Therefore, the legislature finds that counties should be
6 authorized to assess a cesspool pollution fee, develop a program
7 to administer fees, and determine fee amounts and the use of the
8 fee revenue and other revenue.

9 Accordingly, the purpose of this Act is to:

- 10 (1) Require the university of Hawaii water resources
11 research center and the university of Hawaii sea grant
12 college program to develop an overlay with the Hawaii
13 cesspool prioritization tool to identify specific
14 priority areas in which the county sewer system or
15 other centralized treatment system could most feasibly
16 be expanded or constructed to reduce or eliminate
17 cesspools before January 1, 2050;
- 18 (2) Authorize the counties to designate sewer improvement
19 districts;



- 1 (3) Beginning July 1, 2025, authorize the counties to
- 2 assess a cesspool pollution fee on real properties
- 3 containing a cesspool;
- 4 (4) Authorize each county to establish a county cesspool
- 5 closure and mitigation special fund;
- 6 (5) Authorize the counties to use cesspool pollution fee
- 7 revenues or other revenues, including real property
- 8 tax revenues, for certain activities that eliminate,
- 9 reduce, or mitigate the impacts of cesspools,
- 10 including the expansion of county sewer systems and
- 11 the issuance of grants and low-interest loans to
- 12 property owners; and
- 13 (6) Make appropriations.

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

17 "PART . IDENTIFYING SEWER DEVELOPMENT OR EXPANSION GOALS

18 A. General Provisions

19 §342D-A Definitions. As used in this part, unless the
 20 context otherwise requires:



1 "Centralized treatment system" means any wastewater
2 treatment unit and its associated collection system and disposal
3 system, excluding individual wastewater systems.

4 "Cesspool" has the same meaning as defined in section
5 342D-72.

6 "Community-scale package wastewater system" means a
7 centralized treatment system that is sized to serve a community,
8 in a smaller area than most county wastewater treatment plants.

9 "Hawaii cesspool prioritization tool" means the University
10 of Hawaii 2022 Hawaii cesspool prioritization tool.

11 "Individual wastewater system" means a facility, such as a
12 septic system, aerobic treatment unit, or cesspool that is not
13 connected to a sewer and is used and designed to receive and
14 dispose of:

15 (1) No more than one thousand gallons per day of domestic
16 wastewater; or

17 (2) Greater than one thousand gallons per day of domestic
18 wastewater from buildings with highly variable flows.

19 "Priority level 1 cesspool" means a cesspool located within
20 an area that is designated as a priority level 1 area by the
21 Hawaii cesspool prioritization tool.



1 "Priority level 2 cesspool" means a cesspool located within
2 an area that is designated as a priority level 2 area by the
3 Hawaii cesspool prioritization tool.

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

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

13 "Sewer" means a pipe or conduit or any other appurtenances
14 that carry wastewater from a building or buildings to a specific
15 point for treatment and disposal.

16 "Sewer system" has the same meaning as "sewerage system" as
17 defined in section 342D-1.

18 "Sewer improvement district" means a sewer improvement
19 district designated pursuant to section 342D-B.

20 "Wastewater system" means the category of all wastewater
21 and wastewater sludge treatment, use, and disposal systems,



1 including all wastewater treatment works, collection systems,
2 wastewater sludge facilities, recycled water systems, and
3 individual wastewater systems.

4 **§342D-B Sewer improvement districts.** (a) Each county may
5 designate one or more sewer improvement districts by ordinance.
6 Each sewer improvement district shall be a specific contiguous
7 or noncontiguous geographic area that:

- 8 (1) Contains properties having cesspools; and
- 9 (2) Is identified by the county as an area in which the
10 county sewer system or other centralized treatment
11 system will, before January 1, 2050, be expanded or
12 constructed.

13 (b) The ordinance designating a sewer improvement district
14 shall include the following information for each sewer
15 improvement district:

- 16 (1) An identification of specific improvements that are
17 necessary to expand or construct the county sewer
18 systems or other centralized treatment systems within
19 the sewer improvement district; and
- 20 (2) A projected timeline for the construction of the
21 improvements identified in paragraph (1), including



1 the estimated date by which all identified sewer
2 improvements will be completed.

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

7 **§342D-C Records; reporting.** The department or a county,
8 by rule or ordinance, may require an operator of a private sewer
9 system, community-scale package wastewater system, or other
10 wastewater treatment facility to keep records and report data to
11 the department or county.

12 **B. Cesspool Pollution Fee**

13 **§342D-D Cesspool pollution fee.** (a) Beginning July 1,
14 2025, each county may assess a cesspool pollution fee, monthly
15 or otherwise, on any real property that contains a cesspool.

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

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



1 (d) 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' proper
4 closure, as-built drawings, and construction inspection report
5 to the director. Upon receipt of these documents from the
6 property owner, the director shall verify that all cesspools on
7 the property are properly closed. If the director confirms that
8 all 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 (e) 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-E. The counties are authorized to
20 determine penalty assessments for nonpayment of the cesspool
21 pollution fee.



1 (f) 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-E 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-D;

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

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

20 (4) Gifts, donations, and grants from any source
21 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).

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

8 (1) Any costs associated with the establishment and
9 maintenance of a sewer improvement district;

10 (2) The conversion of cesspools outside of sewer
11 improvement districts to an individual wastewater
12 system approved by the director;

13 (3) The establishment of new sewer systems or community-
14 scale package wastewater systems;

15 (4) Costs associated with the connection of a property
16 having a cesspool to an existing sewer system having
17 available capacity; a new private or public sewer
18 system; or a community-scale package wastewater system
19 that meets the minimum wastewater treatment standards
20 established by the department;



- 1 (5) The expansion of county sewer systems, including costs
- 2 for plans, land acquisition, design, construction, and
- 3 equipment;
- 4 (6) Compliance with any planning or permitting
- 5 requirements relating to the activities described in
- 6 paragraphs (1) through (5), including costs to comply
- 7 with chapter 343 and other requirements;
- 8 (7) Projects that mitigate the impacts of cesspools on the
- 9 environment;
- 10 (8) Grants and low-interest loans as provided in section
- 11 342D-F;
- 12 (9) Community engagement relating to the activities
- 13 described in paragraphs (1) through (8);
- 14 (10) Repaying obligations incurred in receiving monies to
- 15 fund the operation of the cesspool closure and
- 16 mitigation special fund program; and
- 17 (11) Costs to administer this part.

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



1 property having a cesspool to a public or private sewer system
2 or a community-scale package wastewater system that meets the
3 minimum wastewater treatment standards established by the
4 department.

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 or county and
16 any subdivision thereof and their officers, agents,
17 and employees from and against any and all claims
18 arising out of or resulting from activities carried
19 out or projects undertaken with funds provided under
20 this 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 county may
6 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 or county and
21 any subdivision thereof and their officers, agents,



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

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

9 (6) Comply with any other requirements that the county may
10 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 county may create an on-bill financing option to
17 facilitate the repayment of a loan under this section
18 concurrently with the property owner's real property tax bill.

19 (f) The liability of a loan issued under this section
20 shall run with the property, and future owners of the affected



1 property shall be liable for any on-bill payments until the loan
2 is fully repaid.

3 **§342D-G Reports.** (a) No later than September 30 of each
4 year, each county that assesses a cesspool pollution fee shall
5 submit a report to the legislature and the department that
6 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 section
12 342D-E(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 properly closed in the county due to projects
18 funded under section 342D-E(c)(1) to (7);

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



1 (D) The amount of moneys used for grants and loans in
2 the county pursuant to section 342D-E(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-E(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) The department shall submit a report of its findings
17 and recommendations, including any proposed legislation, to the
18 legislature no later than twenty days prior to the convening of
19 each regular session."

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



1 "§46-1.5 General powers and limitation of the counties.

2 Subject to general law, each county shall have the following
3 powers and shall be subject to the following liabilities and
4 limitations:

- 5 (1) Each county shall have the power to frame and adopt a
6 charter for its own self-government that shall
7 establish the county executive, administrative, and
8 legislative structure and organization, including but
9 not limited to the method of appointment or election
10 of officials, their duties, responsibilities, and
11 compensation, and the terms of their office;
- 12 (2) Each county shall have the power to provide for and
13 regulate the marking and lighting of all buildings and
14 other structures that may be obstructions or hazards
15 to aerial navigation, so far as may be necessary or
16 proper for the protection and safeguarding of life,
17 health, and property;
- 18 (3) Each county shall have the power to enforce all claims
19 on behalf of the county and approve all lawful claims
20 against the county, but shall be prohibited from
21 entering into, granting, or making in any manner any



1 contract, authorization, allowance payment, or
2 liability contrary to the provisions of any county
3 charter or general law;

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

8 (5) Each county shall have the power to:

9 (A) Maintain channels, whether natural or artificial,
10 including their exits to the ocean, in suitable
11 condition to carry off storm waters;

12 (B) Remove from the channels, and from the shores and
13 beaches, any debris that is likely to create an
14 unsanitary condition or become a public nuisance;
15 provided that, to the extent any of the foregoing
16 work is a private responsibility, the
17 responsibility may be enforced by the county in
18 lieu of the work being done at public expense;

19 (C) Construct, acquire by gift, purchase, or by the
20 exercise of eminent domain, reconstruct, improve,
21 better, extend, and maintain projects or



1 undertakings for the control of and protection
2 against floods and flood waters, including the
3 power to drain and rehabilitate lands already
4 flooded;

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

13 (E) Establish and charge user fees to create and
14 maintain any stormwater management system or
15 infrastructure; provided that no county shall
16 charge against or collect user fees from the
17 department of transportation in excess of
18 \$1,500,000 in the aggregate per year; provided
19 further that no services shall be denied to the
20 department of transportation by reason of
21 nonpayment of the fees;



- 1 (6) Each county shall have the power to exercise the power
2 of condemnation by eminent domain when it is in the
3 public interest to do so;
- 4 (7) Each county shall have the power to exercise
5 regulatory powers over business activity as are
6 assigned to them by chapter 445 or other general law;
- 7 (8) Each county shall have the power to fix the fees and
8 charges for all official services not otherwise
9 provided for;
- 10 (9) Each county shall have the power to provide by
11 ordinance assessments for the improvement or
12 maintenance of districts within the county;
- 13 (10) Except as otherwise provided, no county shall have the
14 power to give or loan credit to, or in aid of, any
15 person or corporation, directly or indirectly, except
16 for a public purpose;
- 17 (11) Where not within the jurisdiction of the public
18 utilities commission, each county shall have the power
19 to regulate by ordinance the operation of motor
20 vehicle common carriers transporting passengers within



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



- 1 (13) Each county shall have the power to enact ordinances
2 deemed necessary to protect health, life, and
3 property, and to preserve the order and security of
4 the county and its inhabitants on any subject or
5 matter not inconsistent with, or tending to defeat,
6 the intent of any state statute where the statute does
7 not disclose an express or implied intent that the
8 statute shall be exclusive or uniform throughout the
9 State;
- 10 (14) Each county shall have the power to:
- 11 (A) Make and enforce within the limits of the county
12 all necessary ordinances covering all:
- 13 (i) Local police matters;
- 14 (ii) Matters of sanitation;
- 15 (iii) Matters of inspection of buildings;
- 16 (iv) Matters of condemnation of unsafe
17 structures, plumbing, sewers, dairies, milk,
18 fish, and morgues; and
- 19 (v) Matters of the collection and disposition of
20 rubbish and garbage;



- 1 (B) Provide exemptions for homeless facilities and
- 2 any other program for the homeless authorized by
- 3 part XVII of chapter 346, for all matters under
- 4 this paragraph;
- 5 (C) Appoint county physicians and sanitary and other
- 6 inspectors as necessary to carry into effect
- 7 ordinances made under this paragraph, who shall
- 8 have the same power as given by law to agents of
- 9 the department of health, subject only to
- 10 limitations placed on them by the terms and
- 11 conditions of their appointments; and
- 12 (D) Fix a penalty for the violation of any ordinance,
- 13 which penalty may be a misdemeanor, petty
- 14 misdemeanor, or violation as defined by general
- 15 law;
- 16 (15) Each county shall have the power to provide public
- 17 pounds; to regulate the impounding of stray animals
- 18 and fowl, and their disposition; and to provide for
- 19 the appointment, powers, duties, and fees of animal
- 20 control officers;



1 (16) Each county shall have the power to purchase and
2 otherwise acquire, lease, and hold real and personal
3 property within the defined boundaries of the county
4 and to dispose of the real and personal property as
5 the interests of the inhabitants of the county may
6 require, except that:

7 (A) Any property held for school purposes may not be
8 disposed of without the consent of the
9 superintendent of education;

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

12 (C) All proceeds from the sale of park lands shall be
13 expended only for the acquisition of property for
14 park or recreational purposes;

15 (17) Each county shall have the power to provide by charter
16 for the prosecution of all offenses and to prosecute
17 for offenses against the laws of the State under the
18 authority of the attorney general of the State;

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



- 1 (A) Community promotion and public celebrations;
- 2 (B) The entertainment of distinguished persons as may
- 3 from time to time visit the county;
- 4 (C) The entertainment of other distinguished persons,
- 5 as well as, public officials when deemed to be in
- 6 the best interest of the community; and
- 7 (D) The rendering of civic tribute to individuals
- 8 who, by virtue of their accomplishments and
- 9 community service, merit civic commendations,
- 10 recognition, or remembrance;
- 11 (19) Each county shall have the power to:
- 12 (A) Construct, purchase, take on lease, lease,
- 13 sublease, or in any other manner acquire, manage,
- 14 maintain, or dispose of buildings for county
- 15 purposes, sewers, sewer systems, pumping
- 16 stations, waterworks, including reservoirs,
- 17 wells, pipelines, and other conduits for
- 18 distributing water to the public, lighting
- 19 plants, and apparatus and appliances for lighting
- 20 streets and public buildings, and manage,
- 21 regulate, and control the same;



- 1 (B) Regulate and control the location and quality of
- 2 all appliances necessary to the furnishing of
- 3 water, heat, light, power, telephone, and
- 4 telecommunications service to the county;
- 5 (C) Acquire, regulate, and control any and all
- 6 appliances for the sprinkling and cleaning of the
- 7 streets and the public ways, and for flushing the
- 8 sewers; and
- 9 (D) Open, close, construct, or maintain county
- 10 highways or charge toll on county highways;
- 11 provided that all revenues received from a toll
- 12 charge shall be used for the construction or
- 13 maintenance of county highways;
- 14 (20) Each county shall have the power to regulate the
- 15 renting, subletting, and rental conditions of property
- 16 for places of abode by ordinance;
- 17 (21) Unless otherwise provided by law, each county shall
- 18 have the power to establish by ordinance the order of
- 19 succession of county officials in the event of a
- 20 military or civil disaster;



- 1 (22) Each county shall have the power to sue and be sued in
2 its corporate name;
- 3 (23) Each county shall have the power to:
 - 4 (A) Establish and maintain waterworks and sewer
5 works;
 - 6 (B) Implement a sewer monitoring program that
7 includes the inspection of sewer laterals that
8 connect to county sewers, when those laterals are
9 located on public or private property, after
10 providing a property owner not less than ten
11 calendar days' written notice, to detect leaks
12 from laterals, infiltration, and inflow, any
13 other law to the contrary notwithstanding;
 - 14 (C) Compel an owner of private property upon which is
15 located any sewer lateral that connects to a
16 county sewer to inspect that lateral for leaks,
17 infiltration, and inflow and to perform repairs
18 as necessary;
 - 19 (D) Collect rates for water supplied to consumers and
20 for the use of sewers;



1 (E) Install water meters whenever deemed expedient;
2 provided that owners of premises having vested
3 water rights under existing laws appurtenant to
4 the premises shall not be charged for the
5 installation or use of the water meters on the
6 premises;

7 (F) Take over from the State existing waterworks
8 systems, including water rights, pipelines, and
9 other appurtenances belonging thereto, and sewer
10 systems, and to enlarge, develop, and improve the
11 same; [and]

12 (G) Assess cesspool pollution fees and expend fee
13 revenues and other revenues, including real
14 property tax revenues, as provided in sections
15 342D-E and 342D-F; and

16 [~~(G)~~] (H) For purposes of subparagraphs (B) and (C):
17 (i) "Infiltration" means groundwater, rainwater,
18 and saltwater that enters the county sewer
19 system through cracked, broken, or defective
20 sewer laterals; and



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

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

16 (B) Each county by ordinance may provide for the
17 addition of any unpaid civil fines, ordered by
18 any court of competent jurisdiction, to any
19 taxes, fees, or charges, with the exception of
20 fees or charges for water for residential use and
21 sewer charges, collected by the county. Each



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



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



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

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



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

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



1 amount of the accrued fines, the county agency
2 may consider:

3 (i) The nature and egregiousness of the
4 violation;

5 (ii) The duration of the violation;

6 (iii) The number of recurring and other similar
7 violations;

8 (iv) Any effort taken by the violator to correct
9 the violation;

10 (v) The degree of involvement in causing or
11 continuing the violation;

12 (vi) Reasons for any delay in the completion of
13 the appeal; and

14 (vii) Other extenuating circumstances.

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

20 (E) After completion of a review of the amount of
21 accrued civil fine by the county agency that



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

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

18 (25) Any law to the contrary notwithstanding, any county
19 mayor, by executive order, may exempt donors, provider
20 agencies, homeless facilities, and any other program
21 for the homeless under part XVII of chapter 346 from



1 real property taxes, water and sewer development fees,
2 rates collected for water supplied to consumers and
3 for use of sewers, and any other county taxes,
4 charges, or fees; provided that any county may enact
5 ordinances to regulate and grant the exemptions
6 granted by this paragraph;

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

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

11 SECTION 4. (a) The university of Hawaii water resources
12 research center and the university of Hawaii sea grant college
13 program shall develop an overlay with the Hawaii cesspool
14 prioritization tool to identify specific priority areas in which
15 the county sewer system or other centralized treatment system
16 could most feasibly be expanded or constructed to reduce or
17 eliminate cesspools before January 1, 2050.

18 (b) In developing the overlay pursuant to this section,
19 the university of Hawaii water resources research center and the
20 university of Hawaii sea grant college program shall:

21 (1) Consult with relevant stakeholders; and



1 (2) Consider factors such as density of development,
2 proximity to wastewater infrastructure, exiting county
3 plans, timing, cost, and any other factors deemed
4 relevant and necessary.

5 SECTION 5. In accordance with section 9 of article VII, of
6 the Constitution of the State of Hawaii and sections 37-91 and
7 37-93, Hawaii Revised Statutes, the legislature has determined
8 that the appropriations contained in this Act will cause the
9 state general fund expenditure ceiling for fiscal year 2024-2025
10 to be exceeded by \$, or per cent. The reasons
11 for exceeding the general fund expenditure ceiling are that the
12 appropriations made in this Act are necessary to serve the
13 public interest and to meet the needs provided for by this Act.

14 SECTION 6. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so
16 much thereof as may be necessary for fiscal year 2024-2025 for
17 the university of Hawaii water resources research center and the
18 university of Hawaii sea grant college program to develop an
19 overlay with the Hawaii cesspool prioritization tool to identify
20 specific priority areas in which the county sewer system or
21 other centralized treatment system could most feasibly be



1 expanded or constructed to reduce or eliminate cesspools before
2 January 1, 2050.

3 The sum appropriated shall be expended by the university of
4 Hawaii for the purposes of this Act; provided that the moneys
5 appropriated shall not lapse at the end of the fiscal biennium
6 for which the appropriation is made; provided further that all
7 moneys from the appropriation unencumbered as of June 30, 2026,
8 shall lapse as of that date.

9 SECTION 7. In codifying the new sections added by
10 section 2 and referenced in section 3 of this Act, the revisor
11 of statutes shall substitute appropriate section numbers for the
12 letters used in designating the new sections in this Act.

13 SECTION 8. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 9. This Act shall take effect on July 1, 3000.



Report Title:

DOH; UH; Counties; Cesspools; Wastewater; Hawaii Cesspool
Prioritization Tool; Sewer Improvement Districts; Cesspool
Pollution Fee; Grants; Low-Interest Loans; Expenditure Ceiling;
Appropriation

Description:

Requires the University of Hawaii Water Resources Research Center and the University of Hawaii Sea Grant College Program to develop an overlay with the Hawaii Cesspool Prioritization Tool to identify specific priority areas in which the county sewer system or other centralized treatment system could most feasibly be expanded or constructed to reduce or eliminate cesspools before 1/1/2050. Authorizes the counties to designate sewer improvement districts. Beginning July 1, 2025, authorizes the counties to assess a cesspool pollution fee on real properties containing a cesspool. Authorizes each county to establish a county cesspool closure and mitigation special fund. Authorizes the counties to use cesspool pollution fee revenues or other revenues, including real property tax revenues, for certain activities that eliminate, reduce, or mitigate the impacts of cesspools, including the expansion of county sewer systems and the issuance of grants and low-interest loans to property owners. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation. Takes effect 7/1/3000.
(SD1)

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

