



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

**Testimony in SUPPORT of SB3142 SD2
RELATING TO WATER INFRASTRUCTURE**

REPRESENTATIVE LINDA ICHIYAMA, CHAIR
HOUSE COMMITTEE ON WATER & LAND

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Hearing Date: 3/14/2024

Room Number: 325

- 1 **Fiscal Implications:** No impact to State funds. This affects federal moneys only.
- 2 **Department Testimony:** The Department of Health (Department) strongly supports this
- 3 measure which would give the Department the authority to transfer up to 33% of any year's
- 4 grant between the Drinking Water Treatment Revolving Loan Fund (also known as the Drinking
- 5 Water State Revolving Fund [DWSRF]) and the Water Pollution Control Revolving Fund (also
- 6 known as the Clean Water State Revolving Fund [CWSRF]).
- 7 Based on review and consultation with the Department of the Attorney General and
- 8 federal agencies, the need for conforming amendments after this measure was submitted to the
- 9 Governor was revealed. The conflicts proposed for correction include:
- 10 1) The requirement that validation by the attorney general for the ability to transfer funds
- 11 need only be certified on the initial transfer. (Title 40 Code of Federal Regulations
- 12 (40 CFR) §35.3530(c)(1)(i))
- 13 2) Designate the authority to transfer to the Governor and not the director of health
- 14 (although the Governor may elect to delegate to another state authority of their selection).
- 15 (40 CFR §35.3530(c))
- 16 3) Clarify that the transfer limit of funds between programs and in either direction, is
- 17 calculated on the basis of 33% of the value of the Drinking Water Treatment Revolving
- 18 Loan Fund (DWTRLF) received (40 CFR §35.3530(c)(5)).

1 The Department currently administers these two low interest loan programs for the
2 improvement of public drinking water systems and wastewater treatment and distribution
3 systems in Hawaii. These loan programs are funded principally by capitalization grants
4 provided by the U.S. Environmental Protection Agency (EPA). Previously, these grants
5 provided approximately \$8 million per year to each program. From federal fiscal year 2022 to
6 2026, the Bipartisan Infrastructure Law capitalization grants will provide the largest
7 capitalization grants into both programs since their establishment. At the present time, these
8 grants provide approximately \$66 million per year to the DWSRF program and \$25 million per
9 year to the CWSRF program. This measure would allow the Department to direct loan monies
10 more efficiently towards the drinking water or wastewater infrastructure needs across the State,
11 including for the recovery of the Maui water and wastewater infrastructure, resulting in the
12 greatest benefit to public health or environmental protection.

13 This measure will help ensure the continued and consistent award of these two annual
14 capitalization grants. The EPA oversees the State's implementation of the DWSRF and
15 CWSRF programs and can withhold or delay future capitalization grants whenever a program is
16 struggling to expeditiously disburse their funds. The ability to move funds between programs
17 and direct them towards projects that are ready to proceed will help facilitate timely
18 disbursements.

19 This measure would also bring the state program in line with 40 CFR §35.3530(c)
20 Drinking Water State Revolving Funds: Transfers, which already allows this transfer authority.
21 Revisions to Section 2 and Section 3 of the measure are offered for consistency with 40 CFR
22 §35.3530(c).

23 **Offered Amendments:** The Department respectfully suggests the following revisions to the
24 proposed HRS amendments. Additions appear as underlined and deletions appear as strikeouts.

25 SECTION 2, Page 3, lines 4-20 and Page 4, lines 1-6: “§340E- Drinking water treatment
26 revolving loan fund; transfers. The ~~director~~Governor, or a state official acting pursuant to an
27 authorization from the Governor, may transfer an amount up to or equal to thirty-three per cent,
28 calculated on the basis of a fiscal year’s drinking water treatment revolving loan fund
29 capitalization grant amount, from the drinking water treatment revolving loan fund to the water
30 pollution control revolving fund established under section 342D-83, or an equivalent dollar

1 amount from the water pollution control revolving fund to the drinking water treatment revolving
2 loan fund, established under section 340E-35. The following conditions shall apply:

3 (1) ~~Each year in which the director transfers~~When the state initially decides to
4 transfer funds pursuant to this section:

5 (A) The attorney general, or someone designated by the attorney general's
6 ~~designee, shall certify in writing, must sign or concur in a certification for~~
7 the drinking water treatment revolving loan fund and water pollution
8 control revolving fund that state law permits the ~~director~~state to transfer
9 funds ~~between the drinking water treatment revolving loan fund and water~~
10 ~~pollution control revolving fund~~; and

11 (B) The ~~director shall amend the~~ operating agreements or other parts of the
12 capitalization grant agreements for the drinking water treatment revolving
13 loan fund and water pollution control revolving fund must be amended to
14 ~~document~~ detail the method the state will used to transfer funds;”

15 SECTION 3, Page 5, lines 1-20 and Page 6, lines 1-6: “§342D- Water pollution control
16 revolving fund; transfers. The ~~director~~Governor, or a state official acting pursuant to an
17 authorization from the Governor, may transfer an amount up to or equal to thirty-three per cent,
18 calculated on the basis of a fiscal year's water pollution control drinking water treatment
19 revolving loan fund capitalization grant amount, from the water pollution control revolving fund
20 to the drinking water treatment revolving loan fund established under section 340E-35, or an
21 equivalent dollar amount from the drinking water treatment revolving loan fund to the water
22 pollution control revolving fund established under section 342D-83. The following conditions
23 shall apply:

24 (1) ~~Each year in which the director transfers~~When the state initially decides to
25 transfer funds pursuant to this section:

26 (A) The attorney general, or someone designated by the attorney general's
27 ~~designee, shall certify in writing, must sign or concur in a certification for~~
28 the drinking water treatment revolving loan fund and water pollution
29 control revolving fund that state law permits the ~~director~~state to transfer

1 funds ~~between drinking water treatment revolving loan fund and water~~
2 ~~pollution control revolving fund;~~ and;

- 3 (B) The ~~director shall amend the~~ operating agreements or other parts of the
4 capitalization grant agreements for the drinking water treatment revolving
5 loan fund and water pollution control revolving fund must be amended to
6 ~~document detail~~ the method the state will used to transfer funds;”

7 SECTION 3, Page 6, lines 13-18: “(4) Funds may be transferred on a net basis between
8 the water pollution control revolving fund and drinking water treatment revolving loan fund;
9 provided that the thirty-three per cent transfer allowance associated with ~~water pollution control~~
10 ~~revolving~~drinking water treatment revolving loan fund capitalization grants received is not
11 exceeded.”

12 Thank you for the opportunity to testify.



Email: communications@ulupono.com

HOUSE COMMITTEES ON WATER & LAND AND ENERGY & ENVIRONMENTAL PROTECTION
Thursday, March 14, 2024 — 8:32 a.m.

Ulupono Initiative supports SB 3142 SD2, Relating to Water Infrastructure.

Dear Chair Ichiyama, Chair Lowen, and Members of the Committees:

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

Ulupono supports SB 3142 SD2, which authorizes the Department of Health (DOH) to transfer federal capitalization grant funds between the Water Pollution Control Revolving Fund (CWSRF) and the Drinking Water Treatment Revolving Fund (DWSRF), in accordance with title 40 Code of Federal Regulations section 35.3530(c).

The DOH currently administers these two low-interest loan programs for the improvement of public drinking water systems and wastewater treatment and distribution systems in Hawai'i. These loan programs are funded principally by capitalization grants provided by the U.S. Environmental Protection Agency.

SB 3142 does not require any state funding. Rather, it provides DOH the authority to transfer up to 33% of any year's capitalization grants between the CWSRF and the DWSRF, allowing DOH to direct loan monies more efficiently towards the drinking water or wastewater infrastructure, according to community needs across the State. This provides DOH with another tool to respond to a crisis, such as the Red Hill fuel spill or the Maui fires.

This measure would also bring the state program in line with the Code of Federal Regulations, which already allows this transfer authority.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i