
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 wastewater management planning,
2 individual landowners, the counties, and the department of
3 health currently do not know which cesspools are situated in
4 areas that will eventually be connected with existing and
5 proposed county wastewater facilities, and when those
6 connections can be made. The legislature notes that although
7 the university of Hawaii established the Hawaii cesspool hazard
8 assessment and prioritization tool to prioritize cesspools for
9 connection and conversion, landowners and government agencies
10 are currently unable to identify which priority cesspools are
11 located in areas where wastewater facilities will be expanded.
12 This lack of information makes it difficult for individuals
13 currently served by cesspools to decide whether to invest in
14 cesspool conversions or to wait to connect with existing or
15 proposed county 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 wastewater management plan that
19 substantially meets certain requirements;
- 20 (3) Require the counties to identify specific priority
21 areas in which the county sewer 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 sewer 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 wastewater
2 management plan approved or conditionally approved by the
3 director pursuant to section 342D-H.

4 "Centralized treatment system" means "treatment works" as
5 defined in Hawaii Administrative Rules, title 11, chapter 62.

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

7 "Community-scale package wastewater treatment system" means
8 "treatment works" as defined in Hawaii Administrative Rules,
9 title 11, chapter 62.

10 "County advisory body" means either the county advisory
11 committee appointed under section 342D-C(b) (1) or an existing
12 advisory committee or commission identified under section
13 342D-C(b) (2).

14 "Hawaii cesspool prioritization tool" means the University
15 of Hawaii 2022 Hawaii cesspool prioritization tool.

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

19 "Priority level 2 cesspool" means a cesspool located within
20 an area that is designated as a priority level 2 area by the
21 Hawaii cesspool 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 system.

10 "Sewage" means "sewer" and "sewer system" as defined in
11 Hawaii Administrative Rules, Title 11, Chapter 62.

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

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

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

18 **B. Wastewater Management Plan**

19 **§342D-C Wastewater management plan; establishment;**
20 **development.** (a) By June 30, 2027, each county shall submit to
21 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 proposed wastewater management
4 plan, a county shall establish or identify a county advisory
5 body by 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 proposed
16 wastewater management plan during its preparation, make
17 suggestions, and propose any changes the committee or commission
18 believes are appropriate.

19 (c) The county shall submit the proposed wastewater
20 management plan to the department for review and comment. The
21 department shall provide its comments to the county within



1 ninety calendar days of receiving the proposed wastewater
2 management plan. Following the department's review, the county
3 shall make the proposed wastewater management plan available for
4 public review and comment for a period of no less than sixty
5 calendar days. The county council shall hold at least one
6 public hearing on the proposed wastewater management plan during
7 this period before formally adopting the plan.

8 (d) The adopted wastewater management 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 wastewater
12 management plan or, if it has not been addressed, the reason it
13 was not.

14 **§342D-D State review of county wastewater management plan.**

15 (a) After submitting to the department a wastewater management
16 plan that has been formally adopted by a county council, the
17 department shall review the wastewater management plan and
18 approve, conditionally approve, approve specific elements or
19 components of, or disapprove the wastewater management plan.
20 The department shall have sixty calendar days to render a



1 decision, unless the department gives written notice to the
2 county that additional time is necessary to complete the review.

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

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

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

16 (3) The wastewater management plan accomplishes all of the
17 above in a manner consistent with chapter 226.

18 (c) To expedite and facilitate the wastewater management
19 plan development, review, and adoption process, the department,
20 at the request of the county, may participate directly in the



1 county adoption process by attending public hearings and county
2 council sessions.

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

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

13 (1) The first revised wastewater management plan shall be
14 submitted to the department no later than June 30,
15 2037; and

16 (2) Subsequent revised wastewater management plans shall
17 be submitted to the department once every ten years;
18 provided that an interim status report on the
19 implementation of a revised wastewater management plan
20 shall be submitted five years after every submission



1 of a revised wastewater management plan to the
2 department.

3 All revised wastewater management plans shall be consistent with
4 the requirements of this part.

5 (b) No less than one hundred twenty calendar days before
6 the submission of a revised wastewater management plan to the
7 department, the county shall submit a copy of the proposed
8 revision to the county advisory body for review and comment.

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

11 (1) At least one county public hearing prior to final
12 submission of the revised wastewater management plan
13 to the department for review;

14 (2) Reconsideration and approval by the county advisory
15 body; and

16 (3) Review by the department, where the department shall
17 approve, conditionally approve, approve specific
18 elements or components of, or disapprove the
19 wastewater management plan.

20 In general, any significant changes in policy, program
21 implementation, identification of facilities necessary to



1 accomplish wastewater management plan goals, or funding
2 mechanisms shall be considered substantial revisions. Deadlines
3 for the submittal of substantial revisions shall be pursuant to
4 the schedule outlined in this section.

5 (c) If neither the county advisory body nor the department
6 deems any changes to be substantial, then those changes shall be
7 incorporated immediately into the wastewater management plan.
8 If any member of the public contests a determination of "lack of
9 substantial revision", that person may appeal the determination
10 to the director. The decision of the director shall be final.

11 (d) The department may require a county to modify and
12 submit to the department an entire wastewater management plan or
13 specific elements of a wastewater management plan at a date
14 earlier than the schedule outlined in this section if the
15 county's wastewater management plan:

- 16 (1) Is incomplete;
17 (2) Inadequately addresses any element required under
18 section 342D-F; or
19 (3) Does not address cesspool elimination and mitigation
20 goals.



1 **§342D-F Contents of county wastewater management plans.**

2 (a) Each county wastewater management plan and subsequent
3 revision shall include:

- 4 (1) A program element; and
- 5 (2) A facility capacity and siting element.

6 A county may include additional elements at its discretion.

7 (b) The program element shall incorporate and coordinate
8 existing wastewater management plans, ordinances, and guidelines
9 and, at a minimum, shall:

- 10 (1) Provide an estimate of the total number of:
 - 11 (A) Priority level 1 cesspools;
 - 12 (B) Priority level 2 cesspools; and
 - 13 (C) Total cesspools,
 - 14 in the county by watershed, based on the Hawaii
 - 15 cesspool hazard assessment and prioritization tool;
- 16 (2) Provide any other information that the department may
- 17 prescribe;
- 18 (3) Identify areas that the county has designated or
- 19 intends to designate as a sewer improvement district
- 20 pursuant to section 342D-G and include information
- 21 required by section 342D-G(b);



- 1 (4) Identify areas that are suitable for new alternative
2 treatment processes and receive the department's
3 approval to pilot or use; and
- 4 (5) Identify actions to:
- 5 (A) Facilitate the conversion or connection of
6 cesspools throughout the county pursuant to
7 section 342D-72;
- 8 (B) Manage existing point sources of wastewater
9 pollution;
- 10 (C) Manage onsite individual wastewater systems,
11 including septic tanks;
- 12 (D) Address industrial waste treatment;
- 13 (E) Address procedures for the approval of wastewater
14 systems for new or developing areas;
- 15 (F) Address urban stormwater runoff; and
- 16 (G) Address the recycling and reuse of water for
17 irrigation purposes.
- 18 (c) The facility capacity and siting element shall
19 include, at a minimum:



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

4 (2) A plan to improve and expand existing facilities and
5 construct new facilities to implement actions
6 identified in the program element, including:

7 (A) A description of the specific tasks that are
8 necessary to provide for the development or
9 expansion of the facilities;

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

12 (C) The schedule, estimated costs, and anticipated
13 funding sources for the expansion or construction
14 of facilities.

15 **§342D-G Sewer improvement districts.** (a) Each county
16 shall designate in its wastewater management plan one or more
17 sewer improvement districts; provided that a county that is
18 granted a partial exemption under section 342D-H shall designate
19 sewer improvement districts by ordinance. Each sewer
20 improvement district shall be a specific contiguous or
21 noncontiguous geographic area that:



- 1 (1) Contains properties having cesspools;
- 2 (2) Is not currently connected to a county sewer system;
- 3 and
- 4 (3) Is identified by the county as an area in which the
- 5 county sewer system or other centralized treatment
- 6 system will, before January 1, 2050, be expanded or
- 7 constructed for the purpose of reducing or eliminating
- 8 cesspools within the sewer improvement district.

9 (b) The wastewater management plan or ordinance
10 designating a sewer improvement district shall include the
11 following information for each sewer improvement district:

- 12 (1) An identification of specific improvements that are
- 13 necessary to expand or construct the county sewer
- 14 systems or other centralized treatment systems within
- 15 the sewer improvement district; and
- 16 (2) A projected timeline for the construction of the
- 17 improvements identified in paragraph (1), including
- 18 the estimated date by which all identified sewer
- 19 improvements will be completed.

20 (c) In determining which geographic areas are designated
21 as sewer improvement districts, the county, to the extent



1 reasonably practicable, shall prioritize locations that contain
2 priority level 1 cesspools or priority level 2 cesspools.

3 **§342D-H Alternative plan; partial exemption.** (a) A
4 county that already maintains an alternative wastewater
5 management plan that substantially addresses the elements
6 required in a wastewater management plan pursuant to section
7 342D-F, except for provisions relating to sewer improvement
8 districts, may apply to the director for a partial exemption in
9 a manner prescribed by the director. The partial exemption
10 shall exempt the county from the requirements of this subpart,
11 except that the partial exemption shall not apply to sections
12 342D-G and 342D-I.

- 13 (b) The alternative wastewater management plan shall:
- 14 (1) Have been published or comprehensively amended no
15 earlier than ten days before the date on which the
16 county applies for a partial exemption; and
 - 17 (2) Be updated at least once every ten years.

18 (c) The director shall review the county's alternative
19 wastewater management plan and determine whether the plan
20 substantially addresses the elements required by section 342D-F,
21 except for provisions relating to sewer improvement districts.



1 The determination of whether an element is substantially
2 addressed shall be made by the director in the director's sole
3 discretion.

4 (d) If the director determines that the alternative
5 wastewater management plan substantially addresses the elements
6 required under section 342D-F, then the director shall approve
7 the application for a partial exemption.

8 (e) If the director determines that one or more required
9 elements are not substantially addressed by the county's
10 alternative wastewater management plan, the director may either:

11 (1) Conditionally approve the application for a partial
12 exemption; provided that the county develops and
13 submits a supplemental wastewater management plan to
14 the department that addresses any elements that are
15 not substantially addressed by the county's
16 alternative wastewater management plan. The director
17 shall set the requirements of and deadlines for the
18 supplemental wastewater management plan; or

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



1 The decision to conditionally approve or deny an
2 application for a partial exemption shall be made at the sole
3 discretion of the director.

4 **§342D-I Records; reporting.** The department or a county,
5 by rule or ordinance, may require an operator of a private sewer
6 system, community-scale package wastewater treatment system, or
7 other wastewater treatment facility to keep records and report
8 data to the department or county.

9 **C. Cesspool Pollution Fee**

10 **§342D-J Cesspool pollution fee.** (a) Beginning July 1,
11 2025, each county may assess a monthly cesspool pollution fee on
12 any real property that contains a cesspool.

13 (b) Each county shall set the amount of the cesspool
14 pollution fee assessed on each applicable real property parcel
15 to be no less than fifty per cent and no more than one hundred
16 per cent of the amount of the monthly sewage fee that would be
17 applicable to the property if the property were connected to the
18 county's sewer system; provided that, if a county adjusts the
19 amount of the applicable sewage fee, the county shall amend the
20 amount of the relevant cesspool pollution fee to be comparable



1 to the county sewage fee that would be applicable for a
2 similar-sized class of property in that county.

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

6 (d) The cesspool pollution fee shall not be assessed on
7 any property containing a cesspool that has been properly
8 closed.

9 (e) If all cesspools on a property that is subject to the
10 cesspool pollution fee are properly closed, the property owner
11 shall provide notice of the cesspool's or cesspools' proper
12 closure, as-built drawings, and construction inspection report
13 to the director. Upon receipt of these documents from the
14 property owner, the director shall verify that all cesspools on
15 the property are properly closed. If the director confirms that
16 all cesspools are properly closed, the director shall issue an
17 approval-to-use letter. The county in which the property is
18 located shall waive future payment of the cesspool pollution fee
19 beginning from the date of the cesspool's proper closure;
20 provided that nothing in this subsection shall relieve the



1 property owner of any obligations that were incurred prior to
2 the date of the cesspool's proper closure.

3 (f) Each county shall be responsible for collecting the
4 cesspool pollution fee from the owners of affected properties
5 within the county's jurisdiction. All fee revenues shall be
6 deposited into the special fund established by the county
7 pursuant to section 342D-K. The penalty for nonpayment of the
8 cesspool pollution fee shall be determined by each county.

9 (g) Each cesspool pollution fee billing statement or
10 account statement shall include:

11 (1) A conspicuous notice to the property owner that the
12 proper closure of all cesspools on the property will
13 relieve the property owner of future payments of the
14 cesspool pollution fee; and

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

17 **§342D-K County cesspool closure and mitigation special**

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



- 1 (1) All cesspool pollution fee revenues collected by the
2 county pursuant to section 342D-J;
- 3 (2) All moneys received as repayments of loans pursuant to
4 section 342D-L, including any interest on those loans;
- 5 (3) All real property tax revenues designated for the
6 special fund;
- 7 (4) Gifts, donations, and grants from any source
8 designated for the special fund; and
- 9 (5) Any interest earned or accrued on moneys deposited in
10 the special fund.
- 11 (b) The fund shall be administered by the respective
12 county and shall be expended in a manner that is consistent with
13 subsection (c) and the county's wastewater management plan or an
14 alternative plan approved by the director pursuant to
15 section 342D-H, including any required supplemental wastewater
16 management plans.
- 17 (c) A county may use cesspool closure and mitigation
18 special fund moneys for:
- 19 (1) Any costs associated with the establishment and
20 maintenance of a sewer improvement district;



- 1 (2) The conversion of cesspools outside of sewer
2 improvement districts to an individual wastewater
3 system approved by the director;
- 4 (3) The establishment of new sewer systems or community-
5 scale package wastewater treatment systems;
- 6 (4) Costs associated with the connection of a property
7 having a cesspool to an existing sewer system having
8 available capacity; a new private or public sewer
9 system; or a community-scale package wastewater
10 treatment system that meets the minimum wastewater
11 treatment standards established by the department;
- 12 (5) The expansion of county sewer systems, including costs
13 for plans, land acquisition, design, construction, and
14 equipment;
- 15 (6) Compliance with any planning or permitting
16 requirements relating to the activities described in
17 paragraphs (1) through (5), including costs to comply
18 with chapter 343 and other requirements;
- 19 (7) Projects that mitigate the impacts of cesspools on the
20 environment;



1 (8) Grants and low-interest loans as provided in
2 section 342D-L;

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

5 (10) Costs to administer this part.

6 **§342D-L Grants and loans.** (a) A county may offer grants
7 or low-interest loans to pay for costs, in whole or in part,
8 associated with the conversion of a cesspool to a
9 director-approved wastewater system or the connection of a
10 property having a cesspool to a public or private sewer system
11 or a community-scale package wastewater treatment system that
12 meets the minimum wastewater treatment standards established by
13 the department.

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

16 (1) Be part of a household having an income that does not
17 exceed eighty per cent of the area median income as
18 determined by the United States Department of Housing
19 and Urban Development;

20 (2) Agree to use any grant funds received exclusively for
21 the purposes described in subsection (a);



1 (3) Comply with all applicable federal, state, and local
2 laws;

3 (4) Indemnify and hold harmless the State or county and
4 any subdivision thereof and their officers, agents,
5 and employees from and against any and all claims
6 arising out of or resulting from activities carried
7 out or projects undertaken with funds provided under
8 this section;

9 (5) Agree to make available any records the grantee may
10 have relating to the grant to allow the department to
11 monitor the grantee's compliance with this section;
12 and

13 (6) Comply with any other requirements that the county may
14 prescribe.

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

- 17 (1) Be part of a household having an income that:
- 18 (A) Is at least eighty per cent of the area median
19 income; and
 - 20 (B) Does not exceed one hundred twenty per cent of
21 the area median income,



1 as determined by the United States Department of
2 Housing and Urban Development;

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

5 (3) Comply with all applicable federal, state, and local
6 laws;

7 (4) Indemnify and hold harmless the State or county and
8 any subdivision thereof and their officers, agents,
9 and employees from and against any and all claims
10 arising out of or resulting from activities carried
11 out or projects undertaken with funds provided under
12 this section;

13 (5) Agree to make available any records the borrower may
14 have relating to the loan to allow the department to
15 monitor the borrower's compliance with this section;
16 and

17 (6) Comply with any other requirements that the county may
18 prescribe.

19 (d) The county shall set the interest rate and term of a
20 loan issued under this section. Loan repayments, including any
21 interest thereon, shall be deposited into the cesspool closure



1 and mitigation special fund and may be used to provide new
2 grants or loans pursuant to this section.

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

6 (f) The liability of a loan issued under this section
7 shall run with the property, and future owners of the affected
8 property shall be liable for any on-bill payments until the loan
9 is fully repaid.

10 **§342D-M Reports.** (a) No later than September 30 of each
11 year, each county that assesses a cesspool pollution fee shall
12 submit a report to the department that includes:

13 (1) The amount of cesspool pollution fee revenue collected
14 by the county;

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

17 (A) A summary of the projects funded under
18 section 342D-K(c)(1) to (7); and

19 (B) The number of:

20 (i) Priority level 1 cesspools;

21 (ii) Priority level 2 cesspools; and



- 1 (iii) Total cesspools,
- 2 properly closed in the county due to projects
- 3 funded under section 342D-K(c) (1) to (7);
- 4 (C) The number of grants and loans issued in the
- 5 county pursuant to section 342D-K(c) (8);
- 6 (D) The amount of moneys used for grants and loans in
- 7 the county pursuant to section 342D-K(c) (8); and
- 8 (E) The number of:
- 9 (i) Priority level 1 cesspools;
- 10 (ii) Priority level 2 cesspools; and
- 11 (iii) Total cesspools,
- 12 closed in the county due to grants and loans
- 13 issued under section 342D-K(c) (8);
- 14 (3) The number of:
- 15 (A) Priority level 1 cesspools;
- 16 (B) Priority level 2 cesspools; and
- 17 (C) Total cesspools,
- 18 in the county that have not yet been closed; and
- 19 (4) Any findings and recommendations, including any
- 20 proposed legislation.



1 (b) No later than twenty days prior to the convening of
2 each regular session, the department shall submit an annual
3 report to the legislature that includes:

4 (1) Data aggregated from the county reports submitted
5 pursuant to subsection (a); and

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

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

10 **"§46-1.5 General powers and limitation of the counties.**

11 Subject to general law, each county shall have the following
12 powers and shall be subject to the following liabilities and
13 limitations:

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



- 1 (2) Each county shall have the power to provide for and
2 regulate the marking and lighting of all buildings and
3 other structures that may be obstructions or hazards
4 to aerial navigation, so far as may be necessary or
5 proper for the protection and safeguarding of life,
6 health, and property;
- 7 (3) Each county shall have the power to enforce all claims
8 on behalf of the county and approve all lawful claims
9 against the county, but shall be prohibited from
10 entering into, granting, or making in any manner any
11 contract, authorization, allowance payment, or
12 liability contrary to the provisions of any county
13 charter or general law;
- 14 (4) Each county shall have the power to make contracts and
15 to do all things necessary and proper to carry into
16 execution all powers vested in the county or any
17 county officer;
- 18 (5) Each county shall have the power to:
- 19 (A) Maintain channels, whether natural or artificial,
20 including their exits to the ocean, in suitable
21 condition to carry off storm waters;



- 1 (B) Remove from the channels, and from the shores and
2 beaches, any debris that is likely to create an
3 unsanitary condition or become a public nuisance;
4 provided that, to the extent any of the foregoing
5 work is a private responsibility, the
6 responsibility may be enforced by the county in
7 lieu of the work being done at public expense;
- 8 (C) Construct, acquire by gift, purchase, or by the
9 exercise of eminent domain, reconstruct, improve,
10 better, extend, and maintain projects or
11 undertakings for the control of and protection
12 against floods and flood waters, including the
13 power to drain and rehabilitate lands already
14 flooded;
- 15 (D) Enact zoning ordinances providing that lands
16 deemed subject to seasonable, periodic, or
17 occasional flooding shall not be used for
18 residence or other purposes in a manner as to
19 endanger the health or safety of the occupants
20 thereof, as required by the Federal Flood



- 1 Insurance Act of 1956 (chapter 1025, Public Law
2 1016); and
- 3 (E) Establish and charge user fees to create and
4 maintain any stormwater management system or
5 infrastructure; provided that no county shall
6 charge against or collect user fees from the
7 department of transportation in excess of
8 \$1,500,000 in the aggregate per year; provided
9 further that no services shall be denied to the
10 department of transportation by reason of
11 nonpayment of the fees;
- 12 (6) Each county shall have the power to exercise the power
13 of condemnation by eminent domain when it is in the
14 public interest to do so;
- 15 (7) Each county shall have the power to exercise
16 regulatory powers over business activity as are
17 assigned to them by chapter 445 or other general law;
- 18 (8) Each county shall have the power to fix the fees and
19 charges for all official services not otherwise
20 provided for;



- 1 (9) Each county shall have the power to provide by
2 ordinance assessments for the improvement or
3 maintenance of districts within the county;
- 4 (10) Except as otherwise provided, no county shall have the
5 power to give or loan credit to, or in aid of, any
6 person or corporation, directly or indirectly, except
7 for a public purpose;
- 8 (11) Where not within the jurisdiction of the public
9 utilities commission, each county shall have the power
10 to regulate by ordinance the operation of motor
11 vehicle common carriers transporting passengers within
12 the county and adopt and amend rules the county deems
13 necessary for the public convenience and necessity;
- 14 (12) Each county shall have the power to enact and enforce
15 ordinances necessary to prevent or summarily remove
16 public nuisances and to compel the clearing or removal
17 of any public nuisance, refuse, and uncultivated
18 undergrowth from streets, sidewalks, public places,
19 and unoccupied lots. In connection with these powers,
20 each county may impose and enforce liens upon the
21 property for the cost to the county of removing and



1 completing the necessary work where the property
2 owners fail, after reasonable notice, to comply with
3 the ordinances. The authority provided by this
4 paragraph shall not be self-executing, but shall
5 become fully effective within a county only upon the
6 enactment or adoption by the county of appropriate and
7 particular laws, ordinances, or rules defining "public
8 nuisances" with respect to each county's respective
9 circumstances. The counties shall provide the
10 property owner with the opportunity to contest the
11 summary action and to recover the owner's property;

12 (13) Each county shall have the power to enact ordinances
13 deemed necessary to protect health, life, and
14 property, and to preserve the order and security of
15 the county and its inhabitants on any subject or
16 matter not inconsistent with, or tending to defeat,
17 the intent of any state statute where the statute does
18 not disclose an express or implied intent that the
19 statute shall be exclusive or uniform throughout the
20 State;

21 (14) Each county shall have the power to:



- 1 (A) Make and enforce within the limits of the county
- 2 all necessary ordinances covering all:
- 3 (i) Local police matters;
- 4 (ii) Matters of sanitation;
- 5 (iii) Matters of inspection of buildings;
- 6 (iv) Matters of condemnation of unsafe
- 7 structures, plumbing, sewers, dairies, milk,
- 8 fish, and morgues; and
- 9 (v) Matters of the collection and disposition of
- 10 rubbish and garbage;
- 11 (B) Provide exemptions for homeless facilities and
- 12 any other program for the homeless authorized by
- 13 part XVII of chapter 346, for all matters under
- 14 this paragraph;
- 15 (C) Appoint county physicians and sanitary and other
- 16 inspectors as necessary to carry into effect
- 17 ordinances made under this paragraph, who shall
- 18 have the same power as given by law to agents of
- 19 the department of health, subject only to
- 20 limitations placed on them by the terms and
- 21 conditions of their appointments; and



1 (D) Fix a penalty for the violation of any ordinance,
2 which penalty may be a misdemeanor, petty
3 misdemeanor, or violation as defined by general
4 law;

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

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

16 (A) Any property held for school purposes may not be
17 disposed of without the consent of the
18 superintendent of education;

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



1 (C) All proceeds from the sale of park lands shall be
2 expended only for the acquisition of property for
3 park or recreational purposes;

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

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

11 (A) Community promotion and public celebrations;

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

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

17 (D) The rendering of civic tribute to individuals
18 who, by virtue of their accomplishments and
19 community service, merit civic commendations,
20 recognition, or remembrance;

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



- 1 (A) Construct, purchase, take on lease, lease,
2 sublease, or in any other manner acquire, manage,
3 maintain, or dispose of buildings for county
4 purposes, sewers, sewer systems, pumping
5 stations, waterworks, including reservoirs,
6 wells, pipelines, and other conduits for
7 distributing water to the public, lighting
8 plants, and apparatus and appliances for lighting
9 streets and public buildings, and manage,
10 regulate, and control the same;
- 11 (B) Regulate and control the location and quality of
12 all appliances necessary to the furnishing of
13 water, heat, light, power, telephone, and
14 telecommunications service to the county;
- 15 (C) Acquire, regulate, and control any and all
16 appliances for the sprinkling and cleaning of the
17 streets and the public ways, and for flushing the
18 sewers; and
- 19 (D) Open, close, construct, or maintain county
20 highways or charge toll on county highways;
21 provided that all revenues received from a toll



- 1 charge shall be used for the construction or
2 maintenance of county highways;
- 3 (20) Each county shall have the power to regulate the
4 renting, subletting, and rental conditions of property
5 for places of abode by ordinance;
- 6 (21) Unless otherwise provided by law, each county shall
7 have the power to establish by ordinance the order of
8 succession of county officials in the event of a
9 military or civil disaster;
- 10 (22) Each county shall have the power to sue and be sued in
11 its corporate name;
- 12 (23) Each county shall have the power to:
- 13 (A) Establish and maintain waterworks and sewer
14 works;
- 15 (B) Implement a sewer monitoring program that
16 includes the inspection of sewer laterals that
17 connect to county sewers, when those laterals are
18 located on public or private property, after
19 providing a property owner not less than ten
20 calendar days' written notice, to detect leaks



- 1 from laterals, infiltration, and inflow, any
2 other law to the contrary notwithstanding;
- 3 (C) Compel an owner of private property upon which is
4 located any sewer lateral that connects to a
5 county sewer to inspect that lateral for leaks,
6 infiltration, and inflow and to perform repairs
7 as necessary;
- 8 (D) Collect rates for water supplied to consumers and
9 for the use of sewers;
- 10 (E) Install water meters whenever deemed expedient;
11 provided that owners of premises having vested
12 water rights under existing laws appurtenant to
13 the premises shall not be charged for the
14 installation or use of the water meters on the
15 premises;
- 16 (F) Take over from the State existing waterworks
17 systems, including water rights, pipelines, and
18 other appurtenances belonging thereto, and sewer
19 systems, and to enlarge, develop, and improve the
20 same; [~~and~~]



1 (G) Assess cesspool pollution fees and expend fee
 2 revenues and real property tax revenues as
 3 provided in section 342D-K; and

4 [~~(G)~~] (H) For purposes of subparagraphs (B) and (C):

5 (i) "Infiltration" means groundwater, rainwater,
 6 and saltwater that enters the county sewer
 7 system through cracked, broken, or defective
 8 sewer laterals; and

9 (ii) "Inflow" means non-sewage entering the
 10 county sewer system via inappropriate or
 11 illegal connections;

12 (24) (A) Each county may impose civil fines, in addition
 13 to criminal penalties, for any violation of
 14 county ordinances or rules after reasonable
 15 notice and requests to correct or cease the
 16 violation have been made upon the violator. Any
 17 administratively imposed civil fine shall not be
 18 collected until after an opportunity for a
 19 hearing under chapter 91. Any appeal shall be
 20 filed within thirty days from the date of the
 21 final written decision. These proceedings shall



1 not be a prerequisite for any civil fine or
2 injunctive relief ordered by the circuit court;
3 (B) Each county by ordinance may provide for the
4 addition of any unpaid civil fines, ordered by
5 any court of competent jurisdiction, to any
6 taxes, fees, or charges, with the exception of
7 fees or charges for water for residential use and
8 sewer charges, collected by the county. Each
9 county by ordinance may also provide for the
10 addition of any unpaid administratively imposed
11 civil fines, which remain due after all judicial
12 review rights under section 91-14 are exhausted,
13 to any taxes, fees, or charges, with the
14 exception of water for residential use and sewer
15 charges, collected by the county. The ordinance
16 shall specify the administrative procedures for
17 the addition of the unpaid civil fines to the
18 eligible taxes, fees, or charges and may require
19 hearings or other proceedings. After addition of
20 the unpaid civil fines to the taxes, fees, or
21 charges, the unpaid civil fines shall not become



1 a part of any taxes, fees, or charges. The
2 county by ordinance may condition the issuance or
3 renewal of a license, approval, or permit for
4 which a fee or charge is assessed, except for
5 water for residential use and sewer charges, on
6 payment of the unpaid civil fines. Upon
7 recordation of a notice of unpaid civil fines in
8 the bureau of conveyances, the amount of the
9 civil fines, including any increase in the amount
10 of the fine which the county may assess, shall
11 constitute a lien upon all real property or
12 rights to real property belonging to any person
13 liable for the unpaid civil fines. The lien in
14 favor of the county shall be subordinate to any
15 lien in favor of any person recorded or
16 registered prior to the recordation of the notice
17 of unpaid civil fines and senior to any lien
18 recorded or registered after the recordation of
19 the notice. The lien shall continue until the
20 unpaid civil fines are paid in full or until a
21 certificate of release or partial release of the



1 lien, prepared by the county at the owner's
2 expense, is recorded. The notice of unpaid civil
3 fines shall state the amount of the fine as of
4 the date of the notice and maximum permissible
5 daily increase of the fine. The county shall not
6 be required to include a social security number,
7 state general excise taxpayer identification
8 number, or federal employer identification number
9 on the notice. Recordation of the notice in the
10 bureau of conveyances shall be deemed, at such
11 time, for all purposes and without any further
12 action, to procure a lien on land registered in
13 land court under chapter 501. After the unpaid
14 civil fines are added to the taxes, fees, or
15 charges as specified by county ordinance, the
16 unpaid civil fines shall be deemed immediately
17 due, owing, and delinquent and may be collected
18 in any lawful manner. The procedure for
19 collection of unpaid civil fines authorized in
20 this paragraph shall be in addition to any other



1 procedures for collection available to the State
2 and county by law or rules of the courts;
3 (C) Each county may impose civil fines upon any
4 person who places graffiti on any real or
5 personal property owned, managed, or maintained
6 by the county. The fine may be up to \$1,000 or
7 may be equal to the actual cost of having the
8 damaged property repaired or replaced. The
9 parent or guardian having custody of a minor who
10 places graffiti on any real or personal property
11 owned, managed, or maintained by the county shall
12 be jointly and severally liable with the minor
13 for any civil fines imposed hereunder. Any such
14 fine may be administratively imposed after an
15 opportunity for a hearing under chapter 91, but
16 such a proceeding shall not be a prerequisite for
17 any civil fine ordered by any court. As used in
18 this subparagraph, "graffiti" means any
19 unauthorized drawing, inscription, figure, or
20 mark of any type intentionally created by paint,
21 ink, chalk, dye, or similar substances;



- 1 (D) At the completion of an appeal in which the
2 county's enforcement action is affirmed and upon
3 correction of the violation if requested by the
4 violator, the case shall be reviewed by the
5 county agency that imposed the civil fines to
6 determine the appropriateness of the amount of
7 the civil fines that accrued while the appeal
8 proceedings were pending. In its review of the
9 amount of the accrued fines, the county agency
10 may consider:
- 11 (i) The nature and egregiousness of the
12 violation;
 - 13 (ii) The duration of the violation;
 - 14 (iii) The number of recurring and other similar
15 violations;
 - 16 (iv) Any effort taken by the violator to correct
17 the violation;
 - 18 (v) The degree of involvement in causing or
19 continuing the violation;
 - 20 (vi) Reasons for any delay in the completion of
21 the appeal; and



1 (vii) Other extenuating circumstances.
2 The civil fine that is imposed by administrative
3 order after this review is completed and the
4 violation is corrected shall be subject to
5 judicial review, notwithstanding any provisions
6 for administrative review in county charters;
7 (E) After completion of a review of the amount of
8 accrued civil fine by the county agency that
9 imposed the fine, the amount of the civil fine
10 determined appropriate, including both the
11 initial civil fine and any accrued daily civil
12 fine, shall immediately become due and
13 collectible following reasonable notice to the
14 violator. If no review of the accrued civil fine
15 is requested, the amount of the civil fine, not
16 to exceed the total accrual of civil fine prior
17 to correcting the violation, shall immediately
18 become due and collectible following reasonable
19 notice to the violator, at the completion of all
20 appeal proceedings; and



1 (F) If no county agency exists to conduct appeal
2 proceedings for a particular civil fine action
3 taken by the county, then one shall be
4 established by ordinance before the county shall
5 impose the civil fine;

6 (25) Any law to the contrary notwithstanding, any county
7 mayor, by executive order, may exempt donors, provider
8 agencies, homeless facilities, and any other program
9 for the homeless under part XVII of chapter 346 from
10 real property taxes, water and sewer development fees,
11 rates collected for water supplied to consumers and
12 for use of sewers, and any other county taxes,
13 charges, or fees; provided that any county may enact
14 ordinances to regulate and grant the exemptions
15 granted by this paragraph;

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

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

20 SECTION 4. In accordance with section 9 of article VII, of
21 the Constitution of the State of Hawaii and sections 37-91 and



1 37-93, Hawaii Revised Statutes, the legislature has determined
 2 that the appropriations contained in this Act will cause the
 3 state general fund expenditure ceiling for fiscal year 2024-2025
 4 to be exceeded by \$, or per cent. The reasons
 5 for exceeding the general fund expenditure ceiling are that the
 6 appropriations made in this Act are necessary to serve the
 7 public interest and to meet the needs provided for by this Act.

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

13 (1) \$ shall be expended to establish one full-
 14 time equivalent (1.0 FTE) permanent engineer V (SR-26)
 15 position;

16 (2) \$ shall be expended to establish one full-
 17 time equivalent (1.0 FTE) permanent engineer IV (SR-
 18 24) position; and

19 (3) \$ shall be expended to establish one full-
 20 time equivalent (1.0 FTE) permanent accountant IV (SR-
 21 24) position;



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

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

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

15	County of Hawaii	\$
16	County of Kauai	\$
17	County of Maui	\$
18	City and county of Honolulu	\$
19	Total	\$



1 The sum appropriated shall constitute the State's share of
2 the cost of the mandated program under article VIII, section 5,
3 of the state constitution.

4 The sum appropriated to each county shall be expended by
5 the respective county for the purposes of this Act.

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

10 SECTION 8. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

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



Report Title:

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

Description:

Requires each county to develop and maintain a wastewater management plan. Authorizes the Director of Health to exempt a county from creating a wastewater management plan under certain conditions. Requires the counties to identify specific priority areas in which the county sewer 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 sewer systems and the issuance of grants and low-interest loans to property owners. Makes appropriations. Effective 7/1/3000. (HD1)

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