



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 2264, RELATING TO CESSPOOLS.

BEFORE THE:

HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION
AND ON WATER AND LAND

DATE: Tuesday, February 13, 2024 **TIME:** 9:05 a.m.

LOCATION: State Capitol, Room 325 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Candace J. Park, Deputy Attorney General

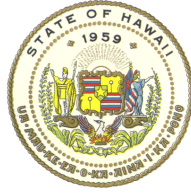
Chairs Lowen and Ichiyama and Members of the Committees:

The Department of the Attorney General provides the following comments.

This bill requires the University of Hawaii to establish and report on a three-year new wastewater system demonstration and implementation pilot program within the University of Hawai'i Sea Grant College in coordination with the University of Hawai'i Water Resources Research Center.

Article X, section 6, of the Hawai'i Constitution gives the Board of Regents of the University of Hawai'i "exclusive jurisdiction over the internal structure, management, and operation of the university." Section 6 further provides: "This section shall not limit the power of the legislature to enact laws of statewide concern. The legislature shall have the exclusive jurisdiction to identify laws of statewide concern." If the Committee decides to pass this bill, we recommend an amendment that adds a statement identifying this bill as a law of statewide concern.

Thank you for the opportunity to provide these comments.



STATE OF HAWAII
HAWAII CLIMATE CHANGE MITIGATION & ADAPTATION
COMMISSION
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Co-Chairs:
Chair, DLNR
Director, OPSD

Commissioners:
Chair, Senate AEN
Chair, Senate WTL
Chair, House EEP
Chair, House WAL
Chairperson, HTA
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Director, DBEDT
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Director, DOH
Chairperson, DOE
Director, C+C DPP
Director, Maui DP
Director, Hawaii DP
Director, Kauai DP
The Adjutant General
Manager, CZM

**Testimony of
Leah Laramee
Coordinator, Hawaii Climate Change Mitigation and Adaptation Commission**

**Before the House Committees on
ENERGY & ENVIRONMENTAL PROTECTION
AND
WATER & LAND**

**Tuesday February 13, 2024
9:05 AM
State Capitol, Via Videoconference, Conference Room 325**

**In support of
House Bill 2264
RELATING TO CESSPOOLS**

House Bill 2264 establishes a three-year new wastewater system demonstration and implementation pilot program within the University of Hawaii'i Sea Grant College. **The Hawaii'i Climate Change Mitigation and Adaptation Commission (Commission) supports this measure.**

The Commission consists of a multi-jurisdictional effort between 20 different departments, committees, and counties. Removal of cesspools for all properties within the Sea Level Rise Exposure Area (SLR-XA), is imperative to the health of nearshore waters and for members of the public accessing coastal resources. Removal may not be achievable by 2050 as directed by state law without viable alternatives for replacement. The Commission's 2022 update to the *Sea Level Rise Vulnerability and Adaptation Report* Recommended Action 6.1.1 directs the State to sponsor research and development efforts to expand affordable and actionable conversion options for shoreline property owners. Recommend Action 6.1.1 also counsels that options should account for SLR-XA projections of coastal erosion, associated land loss, and potential failure of onsite sewage treatment systems resulting from sea level rise. This bill supports efforts to identify alternative resilient technologies to address the threat of cesspools to the resiliency and health of our reefs and waterways.

Mahalo for the opportunity to testify in support of this measure.



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. BOX 3378
HONOLULU, HI 96801-3378
doh.testimony@doh.hawaii.gov

In reply, please refer to:
File:

**Testimony COMMENTING on HB2264
RELATING TO CESSPOOLS**

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

REPRESENTATIVE LINDA ICHIYAMA, CHAIR
HOUSE COMMITTEE ON WATER & LAND

Hearing Date: 2/13/2024

Room Number: 325

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department of Health offers comments on this measure.

3 The University of Hawaii Sea Grant College and Water Resources Research Center may
4 consider a standardized and controlled location and setting, such as a research facility or testing
5 center, before pilot testing new technology in the field and attempting to convert cesspools. A
6 successful example is The Massachusetts Alternative Septic System Testing Center
7 (<https://www.masstc.org/>).

8 SECTION 1, Page 2, lines 1-10, the rationale for the minimum quantity of wastewater
9 system demonstration projects and definition of “new” may need to be clarified and discussed
10 prior to the implementation of this pilot program.

11 SECTION 1, Page 2, lines 11-13, the criteria and standard methods to be implemented in
12 the various tests and research may need to be clarified and discussed prior to the implementation
13 of this pilot program.

14 SECTION 1, Page 2, lines 18-19, compliance with or required steps to become compliant
15 with Hawaii Administrative Rules, Title 11, Chapter 62 should be considered with the
16 information provided in the report.

17 **Offered Amendments:** None.

18 Thank you for the opportunity to testify.

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Ross Kagawa



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

February 1, 2024

**TESTIMONY OF ADDISON BULOSAN
COUNCILMEMBER, KAUAI COUNTY COUNCIL**

**ON
HB 2264, RELATING TO CESSPOOLS
AND
HB 1759, RELATING TO CESSPOOLS
AND
HB 1894, RELATING TO CESSPOOLS
AND
HB 1691, RELATING TO THE ENVIRONMENT
AND
HB 1892, RELATING TO CESSPOOLS
AND
HB 1893, RELATING TO CESSPOOL CONVERSIONS
AND
HB 2738, RELATING TO RENEWABLE ENERGY**
House Committee on Energy & Environmental Protection
House Committee on Water & Land
Tuesday, February 13, 2024
9:05 a.m.
Conference Room 325
Via Videoconference

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

Thank you for this opportunity to provide testimony in SUPPORT of HB 2264, Relating to Cesspools, HB 1759, Relating to Cesspools, HB 1894, Relating to Cesspools, HB 1691, Relating to the Environment, HB 1892, Relating to Cesspools, HB 1893, Relating to Cesspool Conversions, and HB 2738, Relating to Renewable Energy. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support the intent of HB 2264, HB 1759, HB 1894, HB 1691, HB 1892, HB 1893, and HB 2738, which would greatly affect the Kaua'i community.

Thank you again for this opportunity to provide testimony in support of HB 2264, HB 1759, HB 1894, HB 1691, HB 1892, HB 1893, and HB 2738. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

ADDISON BULOSAN
Councilmember, Kaua'i County Council

AAO:ss



To: The Honorable Chairs Nicole Lowen and Linda Ichiyama, the Honorable Vice Chairs Elle Cochran and Mahina Poepoe, and Members of the Committees on Energy and Environmental Protection and Water and Land.

From: Hawai'i Reef and Ocean Coalition (by Ted Bohlen)

Re: Hearing **HB2264 RELATING TO CESSPOOLS**

Hearing: Tuesday February 13, 2024 9:05 a.m.

Aloha Chairs Lowen and Ichiyama, Vice Chairs Cochran and Poepoe, and Members of the Committees on Energy and Environmental Protection and Water and Land:

The Hawai'i Reef and Ocean Coalition (HIROC) is a group of scientists, educators, filmmakers and environmental advocates who have been working since 2017 to protect Hawaii's coral reefs and ocean.

The Hawai'i Reef and Ocean Coalition STRONGLY SUPPORTS HB2264, with an amendment to add an appropriation!

HIROC is deeply concerned about the harm that cesspool pollution inflicts on our precious coral reefs and public health! Hawaii has over 80,000 cesspools that put

about 53 million gallons of raw sewage into our groundwater, streams and ocean every single day! This discharge **exposes people to sewage pathogens that can make them sick**. The release of **nutrients** from cesspools through groundwater and streams into the ocean causes algae growth, which can **smother the coral reefs that are essential to protecting our shorelines, nurturing our fisheries, preserving water quality and enabling our lucrative recreational economy**. Sea level rise will further exacerbate the public health and environmental problems as it will cause more cesspools to overflow onto the surface.

Hawaii's reefs will die in warmer, more acidic, and rising oceans if we don't reduce cesspool pollution and other harmful factors now! A study reported in Nature Journal last August found that "Coral reef ecosystems are being fundamentally restructured by local human impacts and climate-driven marine heatwaves that trigger mass coral bleaching and mortality." Gove, J.M., Williams, G.J., Lecky, J. *et al*. Coral reefs benefit from reduced land-sea impacts under ocean warming. *Nature* **621**, 536–542 (2023). <https://doi.org/10.1038/s41586-023-06394-w>. **Hawai'i needs to reduce cesspool pollution now in order to give coral reefs a chance to survive in the face of ocean warming and other harmful factors!**

This bill would establish a three-year wastewater system technology demonstration and implementation **pilot** in the University of Hawai'i Water Sea Grant College in coordination with the University of Hawai'i Water Resources Research Center. The pilot shall:

- (1) Examine and demonstrate new wastewater technology systems, ranging from individual toilets to significantly larger multi-unit systems and options, including decentralized wastewater treatment systems for community scale solutions as appropriate, as well as review and evaluate the affordability, feasibility, and efficiency of the treatment technologies, with an emphasis, as appropriate, on reducing nitrogen waste that harms coral reefs;
- (2) Administer no less than four wastewater system demonstration projects implementing new sewage treatment and toilet technologies; provided that:
 - (A) Each project shall include one cesspool or multiple cesspools in an area designated as priority level one by the cesspool conversion working group's Hawaii cesspool hazard assessment and prioritization tool report; and

(B) There shall be no less than one project in each county; and

(3) Document, validate, and summarize the various tests, research, and outcomes of each wastewater system demonstration or implementation project.

This demonstration and implementation pilot is essential to determine the best and most affordable wastewater technologies to minimize the cost of cesspool upgrades while maximizing environmental protection. This pilot is critical for Hawaii, as the cost of upgrading all the cesspools is estimated to cost well over \$2 billion (83,000 cesspools, with upgrade average costs of at least \$30,000)!

The bill should be amended to include an appropriation as follows:

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ _____ or so much thereof as may be necessary for fiscal year 2024-2025 for the University of Hawaii sea grant college in coordination with the University of Hawai'i water resources research center, in cooperation and consultation with the department of health, department of Hawaiian home lands, and University of Hawaii college of engineering, to implement the new wastewater system demonstration and implementation pilot program established pursuant to this Act.

The appropriation made by this section shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all moneys from the appropriation unencumbered as of June 30, 2027, shall lapse as of that date.

The sum appropriated shall be expended by the University of Hawaii for the purposes of this Act.

Please pass this bill with the appropriation!

Mahalo!

Hawai'i Reef and Ocean Coalition (by Ted Bohlen)



TO: House Committee on Energy & Environmental Protection
Representative Nicole E. Lowen, Chair
Representative Elle Cochran, Vice Chair

House Committee on Water & Land
Representative Linda Ichiyama, Chair
Representative Mahina Poepoe, Vice Chair

FROM: Lynn Miyahira representing Public Access to SunScreens (PASS) Coalition
DATE: Tuesday, Feb 13, 2024
TIME: 9:05 AM
PLACE: Conference Room 325 & Videoconference

Re: HB 2264

Position: SUPPORT

The [Public Access to SunScreens](#) (PASS) Coalition is a multi-stakeholder coalition composed of public health groups, dermatologists, sunscreen manufacturers, and leading advocates for skin cancer patients. We also support efforts that protect our coral reefs.

We support this measure.

Cesspools are a pressing issue in Hawaii that impacts our health, water quality, and coral reefs. With over 83,000 cesspools in the state, discharging about 50 million gallons of raw sewage every day, immediate action is needed to mitigate their negative impact. Untreated wastewater leaking from cesspools into nearshore waters can cause high levels of nitrogen in the water, which leads to algae blooms that suffocate and cover our coral reefs.

HB 2264 will establish a 3-year new wastewater system demonstration and implementation pilot program within the UH Sea Grant College that will be important to address the cesspool pollution problem.

Mahalo you for the opportunity to testify.

Sincerely,

Lynn Miyahira
Public Access to SunScreens (PASS) Coalition

February 13, 2024

The Honorable Nicole E. Lowen, Chair
House Committee on Energy & Environmental Protection

The Honorable Linda Ichiyama, Chair
House Committee on Water & Land
State Capitol, Conference Room 325 & Videoconference

RE: House Bill 2264, Relating to Cesspools
HEARING: Tuesday, February 13, 2024, at 9:05 a.m.

Aloha Chair Lowen, Chair Ichiyama, and Members of the Joint Committees:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **supports** House Bill 2264, which establishes a three-year new wastewater system demonstration and implementation pilot program within the University of Hawai'i Sea Grant College.

We believe new wastewater and cesspool technology systems would be an important solution to help the state reach the goal of converting 83,000 cesspools by 2050, especially for communities with limited infrastructure.

HAR supports the goal of protecting our drinking water, streams, ground water, and ocean resources. We recognize that cesspool conversion is important to preserve our environment. There are approximately 83,000 cesspools divided into three priorities¹ across the State (48,596 on Hawaii Island; 14,300 on Kauai; 11,038 on Maui; 1,400 on Molokai; and 7,491 on Oahu) with only 26 years to meet the state's mandate to convert all cesspools to a Director of Health approved wastewater system. To convert 83,000 cesspools by 2050, at least 3,192 cesspools would need to be converted per year. It is crucial that we properly plan and find ways to assist communities and homeowners as resources and manpower are limited, especially on the neighbor islands.

Affordability and financial planning are key. The Cesspool Conversion Working Group conducted an affordability analysis² for homeowners. Based on the analysis, 97% of homeowners would be financially burdened by cesspool conversion costs. Equally concerning, even with a \$10,000 rebate 82% of homeowners would still be financially burdened. Most homeowners will not be able to afford to do this alone.

Mahalo for the opportunity to testify on this measure.

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

² Cesspool Conversion Working Group. (2022). *Final Report to the 2023 Regular Session Legislature*. State of Hawai'i Department of Health. <https://health.hawaii.gov/opppd/files/2022/12/Act-170-SLH-2019-Nov-2022.pdf>

HB-2264

Submitted on: 2/13/2024 9:07:11 AM

Testimony for EEP on 2/13/2024 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Stuart Coleman	WAI: Wastewater Alternatives & Innovations	Support	Written Testimony Only

Comments:

Aloha, Chairs, Vice Chairs and Committee Members,

On behalf of WAI: Wastewater Alternatives & Innovations, I am writing in support of HB2264 to create this 3-year demonstration and implementation pilot project with UH Sea Grant. Sorry for the late testimony.

Aloha, Stuart Coleman, Exec. Dir., WAI, Hibiscus Pl., Hon., HI

HB-2264

Submitted on: 2/2/2024 3:30:45 PM

Testimony for EEP on 2/13/2024 9:05:00 AM

Submitted By	Organization	Testifier Position	Testify
Douglas Perrine	Individual	Support	Written Testimony Only

Comments:

I strongly support HB 2264. Nitrogen-reducing wastewater treatment systems are urgently needed in our state, which is shamefully the "cesspool capitol of the USA", both to prevent disease and to slow the degradation of our essential coral reefs. As large scale sewage treatment systems are mostly impractical, due to the costs of trenching for sewer lines, and to the maintenance costs and incompetence of county administrations. Therefore permitting and adoption of small scale neighborhood and individual wastewater treatment systems is essential and needs to be enabled and encouraged.



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
House Committee on Energy & Environmental Protection
House Committee on Water & Land
Tuesday, February 13, 2024 at 9:05 a.m.

By

Darren T. Lerner, PhD

Director, University of Hawai'i (UH) Sea Grant College Program
School of Ocean and Earth Science and Technology

And

Thomas Giambelluca, PhD

Director, UH Water Resources Research Center

And

Michael Bruno, PhD

Provost

University of Hawai'i at Mānoa

HB 2264 – RELATING TO CESSPOOLS

Chairs Lowen and Ichiyama, Vice Chairs Cochran and Poepoe, and Members of the Committees:

The University of Hawai'i Sea Grant College Program and UH Water Resources Research Center (WRRC) do not support HB 2264 as written. This bill would establish a three-year new wastewater demonstration and implementation pilot program within Hawai'i Sea Grant and in coordination with WRRC.

While our programs agree that the upgrade and conversion of cesspools to advanced forms of wastewater treatment is of great importance, HB 2264's proposed pilot program does not appropriate any funding for project expenses. The bill proposes the conversion of no less than four wastewater system demonstration projects. In addition to the direct expenses of conversion, this bill would require the hiring of several new full-time staff members for effectuation.

Thank you for the opportunity to testify on this measure.