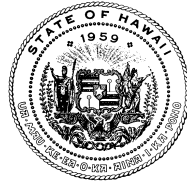


JOSH GREEN, M.D.  
GOVERNOR OF HAWAII  
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII



KENNETH S. FINK, M.D., M.G.A., M.P.H.  
DIRECTOR OF HEALTH  
KA LUNA HO'ŌKELE

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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**Testimony COMMENTING on HB0798  
RELATING TO WASTEWATER MANAGEMENT.**

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

Hearing Date, Time and Room: January 30, 2025, 9:00 AM, Room 325

1 **Fiscal Implications:** None.

2 **Department Position:** The Department respectfully offers comments and proposed  
3 amendments to both broaden the scope of the prohibition while exempting treatment plants  
4 under certain conditions.

5 **Department Testimony:** The Environmental Management Division Clean Water Branch  
6 (EMD-CWB) provides the following testimony on behalf of the Department.

7       The proposed bill replaces the word "treated" with "wastewater" throughout the  
8 statute and in doing so appears to increase the scope of this prohibition, which may be  
9 inconsistent with the current intent of the statute. Section 342D-1, Hawaii Revised Statutes  
10 (HRS) defines "wastewater" to mean any liquid waste, whether treated or not, and whether  
11 animal, mineral, or vegetable including agricultural, industrial, and thermal wastes. "Waste" is  
12 defined to mean sewage, industrial and agricultural matter, and all other liquid, gaseous, or  
13 solid substance, including radioactive substance, whether treated or not, which may pollute or  
14 tend to pollute the waters of this State. Essentially all liquid discharges that contain waste  
15 (broadly defined) would be prohibited from being discharged to state waters after  
16 December 31, 2026. This is a much broader prohibition than intended by the original statute  
17 which narrowly regulated treated and raw sewage. It should also be noted that including "raw

1 sewage" in the prohibition is unnecessary as any discharges of pollutants (including raw  
2 sewage) to state surface waters would require a permit from the Department, and which would  
3 require treatment of the sewage prior to discharge.

4       Currently, the statute requires a sewage treatment plant to both utilize sewage to  
5 produce clean energy and also be in compliance with this chapter, rules adopted pursuant to  
6 this chapter, or a permit or variance issued by the director. However, by removing the word  
7 "and" in Section 1, Page 1, line 10 and inserting the word "or" in Section 1, Page 1, line 13, it  
8 appears that a treatment plant need only meet one of the three conditions to be exempt from  
9 the prohibition. This revision also essentially renders the prohibition ineffective as all treatment  
10 plants discharging to state waters already have to obtain permit coverage.

11       The majority of treatment plants that discharge to state waters have a treatment  
12 capacity of less than 10 million gallons per day (MGD). Therefore, the bill as proposed would  
13 only apply the prohibition to a few treatment plants that may already utilize or produce clean  
14 energy to not affect any newly-captured sources. It appears that one aim of the bill is to modify  
15 the exemption requirements of the existing 342D-50.5, HRS, for treatment plants by exempting  
16 certain smaller plants. However, the rationale for the establishment of a 10 MGD threshold is  
17 unclear. Further, it is unclear how the treatment capacity size of a sewage plant affects the  
18 ability of a sewage plant to comply with the prohibition, so it appears the 10 MGD exemption is  
19 unnecessary.

20       The Department has no position on the proposed change to the clean energy provision  
21 of the statute as clean energy is not regulated by the Department. As such, the Department  
22 does not have the expertise to support or oppose the proposed bill language or offer any  
23 alternative amendments. However, the Department would note that "clean energy" is not  
24 defined in 342D-50.5, HRS nor is it defined in the referenced section 196-10.5, HRS.

25       Additionally, the statute is silent as to what exactly is necessary to comply with the provision,  
26 only that a treatment plant must produce clean energy. As such, the Department respectfully

suggests that the Legislature revise the statute to clarify the requirements imposed by the clean energy provision.

It should also be noted that SB0329 is a competing bill that also proposes to revise 342D-50.5, HRS.

**Offered Amendments:** The Department respectfully suggests the following revisions to the proposed HRS amendments. The Department believes these revisions will clarify and streamline the statute while following what the Department believes to be the intent of the existing statute in terms of water pollution control. Additions appear as underlined and deletions appear as bracketed strikeouts.

**§342D-50.5** ~~[Wastewater or raw sewage;]~~ Treated effluent from sewage treatment plant; prohibition. (a) Notwithstanding any other law to the contrary, no person, including any public body, shall discharge any ~~[wastewater or raw sewage]~~ treated effluent from a sewage treatment plant into state waters after December 31, 2026; provided that this section shall not apply to a sewage treatment plant that:

- (1) Produces clean energy pursuant to section 196-10.5; and
- (2) Is in compliance with this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the ~~[director; or]~~ director.

~~[(3) — Has a treatment capacity of less than ten million gallons per day.]~~

(b) Nothing in this section shall be construed to:

- (1) Prohibit the use of reclaimed or recycled water for a beneficial purpose as provided by law; or
- (2) Allow the discharge of ~~[wastewater or raw sewage]~~ treated effluent from a sewage treatment plant into state waters in violation of any federal statute, rule, or regulation.

Thank you for the opportunity to testify on this measure.

**RICHARD T. BISSEN, JR.**  
Mayor

**JOSIAH K. NISHITA**  
Managing Director



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TO: Representative Nicole E. Lowen, Chair  
Representative Amy A. Perruso, Vice Chair  
Committee on Energy and Environmental Protection

FROM: Richard T. Bissen, Jr., Mayor  
Shayne Agawa, Director of Environmental Management

DATE: January 29, 2025

**SUBJECT: SUPPORT OF HB798, RELATING TO WASTEWATER MANAGEMENT**

Thank you for the opportunity to testify in **SUPPORT** of this important measure which clarifies the exemptions to the prohibition on discharging any wastewater or raw sewage into state waters after December 31, 2026, including an exemption for treatment plants having a treatment capacity of less than 10,000,000 gallons per day.

We **SUPPORT** this measure for the following reasons:

The proposed legislation will provide much-needed clarity to HRS Section 342D-50.5 by clarifying what discharges the law applies to, and how discharge compliance can be achieved.

The statute, as currently written, applies to all dischargers to State waters, including groundwater. Household septic systems, individual wastewater systems serving condominium buildings, and wastewater treatment and disposal systems serving small and remote communities are currently not excluded from the statute's requirements. These small dischargers are highly unlikely to have the resources to construct and successfully operate and maintain systems that "utilize sewage to produce clean energy" per the current statute. The proposed legislation will clarify intent by limiting the discharge prohibition to treatment plants with capacities greater than 10 million gallons per day, which is capacity where anaerobic digestion becomes generally cost effective.

The existing statute language states "utilizes sewage to produce clean energy...". The language appears to state a legislative desire for treatment plants to use anaerobic digestion to stabilize waste solids from the treatment process. A properly operated anaerobic digestion process will create biogas containing methane, that can be burned to create clean (i.e., not from fossil fuels) energy using a process called combined heat and power (CHP). Unfortunately, the anaerobic

digestion and CHP processes are expensive and complex, and don't become generally cost effective unless the treatment plant capacity exceeds 10 million gallons per day. Wastewater treatment plants smaller than 10 million gallons per day often rely on an aerobic digestion process to stabilize solids, because of the lower cost, greatly reduced operational complexity, and reduced risk of nuisance odors.

The County of Maui's three existing wastewater reclamation facilities on Maui Island all use aerobic digestion to stabilize solids. Conversion to anaerobic digestion and CHP would be extremely burdensome to Maui County ratepayers at a time when recovery from the tragic fires must be the County's top priority.

There are other ways to produce clean energy at wastewater treatment plants besides anaerobic digestion and CHP. The proposed legislation modifies the language of the original statute to allow compliance with the requirements by implementing clean energy production systems at wastewater treatment plants that don't necessarily create energy "from the sewage", but nevertheless support the State's clean energy goals through solar or wind energy production.

The County of Maui is currently developing the new Central Maui Wastewater Reclamation Facility that will provide wastewater treatment and effluent management capacity to support much-needed affordable housing development on the island. The Central Maui WWRF will not have injection wells for effluent disposal; essentially all of the effluent will be recycled. Effluent that cannot be recycled for any reason will be disposed to an innovative Soil Aquifer Treatment system that will provide a significantly greater level of environmental protection than injection wells. The new facility and will also reduce effluent disposal via injection wells at the existing Wailuku-Kahului Wastewater Reclamation Facility by diverting a portion of the wastewater to the new Central Maui Wastewater Reclamation Facility. The proposed Central Maui Wastewater Reclamation Facility is being designed with cost-effective aerobic digestion to stabilize solids, because the treatment plant capacity will only be 4.0 million gallons per day. Photovoltaic systems will be installed to produce clean energy at the facility in a cost-effective manner. Adoption of HB798 will allow the new Central Maui Wastewater Reclamation Facility to be developed without additional delays, supporting affordable housing construction and reduced reliance on injection wells for effluent disposal.

Mahalo for your consideration.



Date: January 29, 2025

To: Chair Lowen, Vice Chair Perruso, and members of the House Committee on Energy & Environmental Protection of the Hawai'i State Legislature

Re: HB 798, RELATING TO WASTEWATER MANAGEMENT  
Thursday January 30, 2025  
VIA VIDEOCONFERENCE  
Conference Room 325  
State Capitol  
415 South Beretania Street

From: Erica Perez- Program Manager and Head of Sanitation  
eperez@coral.org  
Coral Reef Alliance (CORAL)

Subject: Testimony OPPOSE of HB 798, RELATING TO WASTEWATER MANAGEMENT

I am testifying in Opposition to HB 798 relating to wastewater Management on behalf of the Coral Reef Alliance (CORAL). This bill clarifies the exemptions to the prohibition on discharging any wastewater or raw sewage into state waters after December 31, 2026, including an exemption for treatment plants having a treatment capacity of less than 10,000,000 gallons per day. CORAL and The Ocean Legislative Task Force advocate for cesspool conversion as part of our kuleana to care for the oceans that sustain us.

CORAL has been working to remove cesspools across Hawaii for over ten years. With more than 80,000 cesspools across the state, contributing millions of gallons per day of raw sewage to our groundwater and ocean, cesspools pose a severe threat to coral reefs, human health, and our economy. Coral reefs are essential to shoreline protection for sea level rise, cultural practices, and community well-being. HB 798 will continue to allow harmful contaminants to reach our shoreline, harming coral reefs and humans alike.

Our coral reefs and oceans are vital to Hawaii's identity and future. By addressing this pressing issue, we protect ecosystems that define our islands and ensure the health of our waters for future generations. The time to act is now—our oceans cannot wait.



We are a member of The Ocean Legislative Task Force, a group of over 100 individuals from diverse environmental organizations, working together to safeguard marine ecosystems. Our collective expertise allows us to craft impactful strategies to protect Hawaii's waters.

In closing, CORAL Opposes HB 798. Mahalo for the opportunity to testify on this important measure,

Sincerely,

A handwritten signature in black ink, reading "Erica Perez", on a light-colored background.

Erica Perez  
Program Manager and Head of Sanitation  
eperez@coral.org  
Coral Reef Alliance



To: Nicole E. Lowen, Chair Committee on Energy & Environmental Protection

Re: HB 798 Relating to Wastewater Management

Thursday, January 30, 2025 9:00AM

VIA VIDEOCONFERENCE

Conference Room 325

State Capitol

415 South Beretania Street

From: Hanna Puentes- Project Coordinator (Hawai'i)

info@hawaiiwaiola.com

Hawai'i Wai Ola

Subject: I am testifying in Support of HB 798 Relating to Wastewater Management.

I am testifying in Support of HB 798 relating to Wastewater Management on behalf of Hawai'i Wai Ola (HWO) and as a concerned community member of Moku o Keawe. HWO is a Hawai'i Island based multi-organization initiative that produces quality assured, publicly-available nearshore water quality data. Since 2018, HWO has collected, analyzed, and reported on water quality throughout Hawaii County, the leading contributor of cesspools across the State, to safeguard our communities and marine ecosystems from sewage contamination. As an advocate for clean water initiatives, I can attest to the challenges of cesspool conversions, including high costs for homeowners and the technical hurdles faced in remote areas. Any actions that reduce costs and provide practical solutions without compromising water quality will greatly support HWO's mission.

The task of reviewing wastewater rules and identifying cost-saving measures is critical to mitigating cesspool pollution, which impacts groundwater and nearshore ecosystems. To achieve this, sufficient funding should be allocated to enable continued collaboration among local experts, agencies, and community stakeholders.

In closing, HWO Supports HB 798 Thank you for the opportunity to provide this testimony.

Sincerely,

A handwritten signature in black ink, appearing to be 'HP' or 'Hanna Puentes'.

Hanna Puentes, Project Coordinator (Hawai'i)

info@hawaiiwaiola.com

Hawaii Wai Ola



**HB-798**

Submitted on: 1/29/2025 3:11:13 PM

Testimony for EEP on 1/30/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Councilmember Yuki Lei Sugimura	Individual	Support	Written Testimony Only

Comments:

Thank you for the opportunity to testify in support of this measure.