



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
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WRITTEN
TESTIMONY ONLY

**Testimony COMMENTING on SB1222
RELATING TO STORMWATER MANAGEMENT SYSTEMS**

SENATOR GLENN WAKAI, CHAIR
SENATE COMMITTEE ON ENERGY AND INTERGOVERNMENTAL AFFAIRS

SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

February 6, 2025, 3:00 PM, Room Number: 016

1 **Fiscal Implications:** Undetermined.

2 **Department Position:** The Department is offering comments.

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

5 The Department supports the intent of this measure however, it respectfully suggests
6 that the Legislature consider expanding the proposed role of the Counties in regulating the
7 retention and detention ponds. As the proposed measure would require the Counties to permit
8 the construction and design of retention and detention ponds, the Counties would be better
9 positioned to conduct the safety inspections and survey of the existing retention and detention
10 ponds as they would have all the information required to assess whether the ponds are
11 meeting the permitted design and maintenance requirements.

12 Safety inspections, the development of safety requirements, and surveying existing
13 storm water retention and detention ponds are outside the function and capabilities of the
14 Department. The Department's Environmental Health Administration (EHA) mission is to

1 protect public health and the environment to ensure the residents of our State have clean air,
2 land and water. Please view the other functions of the EHA website:
3 <https://health.hawaii.gov/about/program-directory/environmental-health-administration/>
4 which identifies some current functions, such as responds to releases of hazardous substances
5 and oversees contaminated site cleanups; is responsible for implementing and maintaining
6 statewide programs for air and water pollution, assuring safe drinking water, proper
7 management of solid and hazardous waste, and regulating wastewater; is responsible for
8 implementing and maintaining statewide programs to assure the safety of food and drugs,
9 control noise and radiation, improve indoor air quality; and is responsible for lead abatement,
10 sanitation, and vector control.

11 If the Legislature believes the Department should take on this responsibility, Chapter
12 340E, Hawaii Revised Statutes, which addresses drinking water, is not the proper place. While
13 the Department has regulatory programs involved with storm water, these only regulate
14 pollutant concentrations in discharges to state surface waters under the federal Clean Water
15 Act's National Pollutant Discharge Elimination System (NPDES) permitting program. The NPDES
16 program does not have requirements related to safety considerations for storm water
17 management systems and does not review, approve, or regulate construction plans. As such,
18 the Department does not have an established program, existing personnel, or any form of
19 expertise to implement the proposed measures.

20 **Offered Amendments:** None.

21 Thank you for the opportunity to testify on this measure.



Senate
Committee on Health and Human Service
Committee on Energy and Intergovernmental Affairs

Re: SB1222 & SB1221

Dear Chairs Joy Buenaventura and Glenn Wakai,

On behalf of the Board of Directors of the Hawai'iian Lifeguard Association I am writing to express strong support for SB1222 and SB1221, that call for the implementation of measures to lower the likelihood of detention and retention pond drownings and aquatic injuries and establish inspection protocols to ensure proper maintenance of these ponds. This bill is a crucial step in reducing the incidence of drowning in our local population, particularly among our keiki.

Drowning is the number one cause of death for Hawai'i keiki ages 1 to 15, and poorly designed and unmaintained bodies of water contribute to this tragic statistic.

Currently, building codes for detention and retention ponds are nonexistent and/or insufficient. There is no system of inspection in place for existing ponds and no requirements for maintenance. These bodies of water can become hazardous, especially for our keiki who may not understand the dangers they present.

SB1222 and SB1221 addresses this critical issue by establishing design and safety requirements for retention and detention ponds statewide. It also mandates the Department of Health to conduct a survey of existing retention and detention ponds, ensuring that they are properly maintained and safe for our community.

By supporting this bill, we can take a significant step towards protecting our keiki and reducing the risk of drowning in our state. I urge you to support SB 1222 and SB1221 and help make our community a safer place for everyone.

Thank you for your attention to this important matter.

Sincerely,

Mahalo

Kirsten Hermstad
Executive Director

Board of Directors

Kalani Vierra
President

Ricky Alvarez
Vice President

Bridget Velasco
Secretary

Chantal Zarbaugh
Treasurer

Directors
Zach Edlao
Darwin Okinaka
Cary Kayama
Jon Kaneshina
Bradley Young
Kleve Zarbaugh
Kurt Lager
Clark Abbey
Kekaulike Kealoha

Kirsten Hermstad
Executive Director

Ex Officio Legends

Ralph Goto
Brian Keaulana
Archie Kalepa
Mark Cunningham

Hawaiian Lifeguard Association
P.O. Box 844
Kapa'a, Hawaii 96746
Tax Id 99-0308213
hawaiianlifeguardassociation.org

SB-1222

Submitted on: 1/31/2025 2:04:54 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lynette Eastman	Individual	Support	Written Testimony Only

Comments:

It is a shame that we are leading the nation in most drownings for residents and visitors. It only makes sense that the Board of Health watches over these storm water places and should be in the mix when storm drains are being constructed to make sure that it is safe.

SB-1222

Submitted on: 1/31/2025 2:51:11 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John Deutzman	Individual	Support	Written Testimony Only

Comments:

Aloha Senators,

It's likely that most of your constituents are not aware of the shocking data connected with drownings in our State. Drownings are the number one cause of death for Hawaii's children, the number one cause of injury- related death for our visitors and one of the top causes of death for all Hawaiians.

I'm a Waikiki resident who spends at least three hours a day in the ocean bodyboarding and have witnessed multiple drownings in my small section of town. I'm also a friend of Allison Schaefer , the veteran news reporter, who tragically lost her 5 year old daughter Charlotte "Sharkey" Schaefer, 5, who drowned Feb. 28, 2004, saving a childhood friend who had fallen into an improperly maintained and flooded retention pond.

I urge you to support SB 1222 and SB1221.

Mahalo,

John Deutzman

Waikiki

Ruth Anne Tomlinson

3950 N. Longview Ln. - B4755
Jackson WY 83001
United States
307-699-0932
ratomlinson@mac.com

February 1, 2025

To Whom It May Concern,

My name is Ruth Anne Tomlinson, I am the aunt of Charlotte Schaefer. Charlotte was a vibrant 5-year-old whose life was cut tragically short on February 28, 2004. Charlotte drown in a faulty rainwater detention pond. There was no signage or fencing warning of the dangers. The pond drainpipe was 89% clogged causing the pond to fill to nearly 6 feet of water.

As a frequent visitor to Hawaii, I am concerned that drowning is one of the leading causes of childhood death in your state. Visitors to Hawaii are 8 times more likely to drown than locals. We need to ensure the safety of all establishing safety requirements for retention and detention ponds statewide.

Sincerely yours,



Ruth Anne Tomlinson

SB-1222

Submitted on: 2/2/2025 11:31:03 AM

Testimony for EIG on 2/6/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Allison Schaefer	Individual	Support	In Person

Comments:

I am writing in support of SB1222 which was modeled after several recommendations published in the first Hawaii Water Safety Plan that was published in January. The plan was completed by the Hawaii Water Safety Coalition, which falls under the umbrella of the Hawaiian Lifeguard Association, and is comprised of a broad network of water safety advocates across the state.

This bill was inspired and named for my courageous daughter Charlotte “Sharkey” Schaefer, who drowned Feb. 28, 2004 saving a childhood friend who was struggling in a detention pond, which suddenly flooded because the pipe inside of it was 89% clogged. The clog turned an area of rolling hills between the playground and backyards in our neighborhood into a lake that was about a quarter of the size of a football field, filled with pitch black water, and slippery mud. Getting out of that death pit was impossible for a child, and seriously challenging for the adults (many of them trained navy divers) who formed a grid to search for Sharkey, and came up short for more than 10 minutes.

Please help me prevent more deaths in detention and retention ponds by supporting legislation that requires safety provisions and monitoring. While most Hawaii residents drown in the ocean, our keiki under the age of seven are more susceptible to drowning in pools, bathtubs, retention and detention ponds and even puddles.

Detention and retention ponds are meant to hold stormwater. However, while detention and retention ponds help manage stormwater and control flooding, mitigating risk for these systems is critical in minimizing threats to public health and safety. Hawaii's high drowning rate — the second worst in the nation for residents— necessitates developing retention and detention pond safety programs.

The urgency is made even greater by climate change which has created more frequent and intense rainfall resulting in increased use of retention ponds, which are designed to hold water year-round, and detention ponds, which remain dry until a major rain. The latest version of the Ala Wai Flood Risk Management Project has one detention pond planned for the Ala Wai Golf Course; however, earlier variations of the plan contemplated building large detention ponds in Oahu parks, including Kapiolani Park, Makiki District Park, Manoa Valley District Park, Palolo Valley District Park. Please note that while these alternatives were considered for flood control, other alternatives were selected as it was determined based on feedback “that the use of public parks as detention facilities could reduce acceptability by the public.”

Simply put, without mitigation, these ponds are hidden hazards. Retention and detention ponds are usually located in the public areas of housing developments, in park spaces, often near playgrounds — so without safety measures they often become attractive nuisances that are mistaken for recreational ponds. They may help to make less desirable low-lying and wetland areas suitable for building so they are more often found in less affluent neighborhoods, making this legislation an equity issue too. Data in the Hawaii Water Safety Plan shows that Hawaii's Native Hawaiian and Pacific Islander residents make up about 27% of Hawaii's population but about 36% of the resident drowning deaths.

This bill offers a common-sense approach to regulating retention and detention ponds. First it does not ban retention or detention ponds, and the safety, maintenance, and inspection requirements are things that responsible owners should incorporate anyway. Secondly, it only applies to new retention and detention ponds, which eases the burden of establishing a new program as well as the roll out. It includes a survey of existing ponds so that the state may eventually expand the regulations to cover them.

I want to preemptively discuss some of the objections that you might hear. Some may say that the Department of Health does not have the capacity and has too many hiring challenges to establish a retention and detention safety program. But we should do hard things when they are right. I know because nothing is more challenging than watching your child die from a preventable drowning and then mustering the courage to live your life without her and to advocate for drowning prevention. We need to make sure that this situation never happens again to another family in Hawaii, and the DOH is best agency to take on this role.

Some might argue that the counties should have responsibility for retention and detention pond security. However, this public health and safety issue is important enough to warrant a consistent statewide solution. This situation is not unlike public swimming pools, where the county permits their construction, but it falls to the Department of Health to enforce public swimming pool rules as they are a public safety concern. A similar relationship exists between the county and state when it comes to restaurants, which are permitted for construction at the county level but it is the DOH that makes sure they do not have public health and safety violations.

Developers may say additional rules increase construction costs; however, requiring fencing, a life buoy and signage would have a negligible impact on total construction costs, and the other safety requirements are just part of good maintenance plans. Moreover, drowning is costly and prevention pays off. The Centers for Disease Control and Prevention (CDC) estimates that fatal unintentional drownings in 2022 in the United States cost a combined \$5.68 billion dollars, and the World Health Organization estimates that drowning prevention returns \$9 for every \$1 spent.

Developers sometimes protest that requiring them to install fencing, signage and ring buoys increases their liability. That isn't true if they are properly securing their retention and detention ponds. Moreover, doing nothing is costly — and it's not only a liability issue, it's a moral issue.

After Sharkey's death, my family was awarded a \$2 million wrongful death settlement, the largest at the time for the death of a child in Hawaii. I do not consider this a win, because nothing

could make up for the loss of my pint-sized powerhouse. Every night before bed, we would chant, "I am woman. I am smart. I will win."

She had such amazing potential.

I should be celebrating Sharkey turning 26 this month. Instead I'm testifying to ensure that no other parent meets the hell that my family has experienced. Her absence is a loss that is felt every day because to lose a child is to lose your future. I have been on the sidelines watching as Sharkey's friends went to their first day of kindergarten. I missed seeing her adorned with lei as she graduated high school and college. I never got to see Sharkey come into her own power as she embarked on a career. She should have had the chance to fall in love, get married and have children. This will never be Sharkey's legacy or mine.

Twenty-one years ago Sharkey stood on the banks of a flooded and improperly maintained detention pond and watched a friend struggling.

She had a decision to make, and she didn't hesitate to do the right thing. Sharkey saved her friend.

I challenge you to do the right thing too. If a five -year-old can be a hero, we can all be heroes.

Let's help Sharkey save more lives.

Mahalo for your time,

Allison Schaefer,Sharkey's Mom

allisonschaefer@gmail.com

SB-1222

Submitted on: 2/2/2025 12:00:42 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Pamela Louise Ramsay	Individual	Support	Written Testimony Only

Comments:

My granddaughter Charlotte "Sharkey" Schaefers died from drowning, Feb. 28, 2004. It has been 21 years , but there is not a day that I do not think about her. She could swim like a fish and had the courage of a lion. Her heart was so big that this little hero did not hesitate to jump into a dirty, faulty retaining pond to save a younger pal. While the older children looked on, she pushed him up to safety, but struggling, lost the battle herself. Of all of my grandchildren, Sharkey was the child that was almost a perfect copy of myself, The way she walked, turned her head, rolled her eyes, and that dimpled smile. Her "I can do it" attitude along with her grandma kisses and sweet laughter are unforgettable. My only comfort is that she knew and loved God and I am sure is waiting to welcome me with open arms. Please consider passing this bill so that other grandmothers are not deprived of those warm earthly hugs.

SB-1222

Submitted on: 2/2/2025 3:57:51 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sarah Fairchild	Individual	Support	Written Testimony Only

Comments:

I'm writing in support of SB1222 to have better management and oversight of our stormwater management systems. Retention and detention ponds can create hidden drowning hazards. They are often placed in parks and near playgrounds, places we think to be generally safe for our small children. During rain and flooding events, these ponds can fill with water where there was previously none the day before, or become much deeper than they usually would be. With climate change causing more flooding and with increased pressure to build more housing, retention and detention ponds will continue to be a development tool. If we are going to place them in neighborhoods near houses, we need to provide proper warnings about the hazards they create, as well as safety rings so that bystanders can safely attempt rescue. We also need to hold developers and land owners responsible to make sure drainages systems are maintained. This will save lives.

SB-1222

Submitted on: 2/2/2025 5:39:28 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
joshua schaefers	Individual	Support	Written Testimony Only

Comments:

I am the older brother of Charlotte "Sharkey" Schaefers, 5, who drowned Feb. 28, 2024 at an improperly maintained and flooded detention pond in Pearl City navy family housing. She saved her friend who was struggling in the water, but died in the process.

Several of the children in our neighborhood were put at risk that day because the developers did not do the right thing. They knew that the pipe in the detention pond was 89% blocked, but chose not to fix it.

The U.S. Navy has since fenced the pond where my sister died and requires it in housing. The state should adopt this standard too.

Please pass this critical piece of legislation so that other Hawaii children do not fall victim to these hidden hazards and other Hawaii families do not lose loved ones. I miss my little sister every day.

SB-1222

Submitted on: 2/2/2025 8:28:06 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nick Dubovsky	Individual	Support	Written Testimony Only

Comments:

I am writing in support of SB1222 which is aimed at Hawaii water safety and helping to prevent deaths by drowning.

This bill was inspired and named after a child hero, Charlotte “Sharkey” Schaefer, who drowned 21 years ago while saving her little friend who slid into a detention pond that suddenly flooded because the pipe inside of it was 89% clogged. The clog turned an area of rolling hills between the playground and backyards into a deathtrap lake of pitch black water and slippery mud banks.

Please help prevent more deaths in detention and retention ponds by supporting legislation that requires safety provisions and monitoring. While most Hawaii residents drown in the ocean, keiki under the age of seven are more susceptible to drowning in pools, bathtubs, retention and detention ponds and even puddles.

Detention and retention ponds are meant to hold storm water. Hawaii’s high drowning rate — the second worst in the nation for residents — necessitates developing retention and detention pond safety programs.

Without mitigation, these ponds are hidden hazards. Retention and detention ponds are usually located in the public areas of housing developments, in park spaces, often near playgrounds — so without safety measures they often become attractive nuisances that are mistaken for recreational ponds. They may help to make less desirable low-lying and wetland areas suitable for building so they are more often found in less affluent neighborhoods, making this legislation an equity as well. Data in the Hawaii Water Safety Plan shows that Hawaii’s Native Hawaiian and Pacific Islander residents make up about 27% of Hawaii’s population but about 36% of the resident drowning deaths.

This bill offers a common-sense approach to regulating retention and detention ponds. First it does not ban retention or detention ponds, and the safety, maintenance, and inspection requirements are things that responsible owners should utilize anyway. Secondly, it only applies to new retention and detention ponds, which eases the burden of establishing a new program as well as the roll out.

We need to make sure that Charlotte’s tragedy never repeats itself with another family in Hawaii, and the DOH is the best agency to take on this role.

Sharkey would have been 26 years old now. However, on February 28, 2004 she knew that it was the right thing to do to jump into the pitch black water of an improperly maintained detention pond to help her friend.

She had a decision to make, and Sharkey saved her friend.

I respectfully ask that you be the heroes that Sharkey was and pass SB1222.

Please help Sharkey save more lives.

SB-1222

Submitted on: 2/3/2025 8:41:09 AM

Testimony for EIG on 2/6/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dan Worden	Individual	Support	Written Testimony Only

Comments:

Aloha, my name is Dan Worden, and I am writing in support of SB1222 and SB1221. I believe that updating our safety standards for retention and detention ponds is a crucial step toward protecting our communities and ensuring public safety.

With the increasing impacts of climate change, our state is experiencing more frequent and intense rainfall events. This shift has led to a greater reliance on these stormwater management systems, making it imperative that we implement comprehensive safety measures, such as proper fencing, signage, and routine inspections, to reduce potential hazards.

I believe these bills are important to helping proactively safeguard our neighborhoods and public spaces, ensuring that our infrastructure evolves in step with our changing climate and community needs.

Mahalo,

Dan Worden

I am writing in support of HB1233 which was modeled after several recommendations published in the first Hawaii Water Safety Plan that was published in January. The plan was completed by the Hawaii Water Safety Coalition, which falls under the umbrella of the Hawaiian Lifeguard Association, and is comprised of a broad network of water safety advocates across the state.

This bill was inspired and named for my courageous daughter Charlotte “Sharkey” Schaefer, who drowned Feb. 28, 2004 saving a childhood friend who was struggling in a detention pond, which suddenly flooded because the pipe inside of it was 89% clogged. The clog turned an area of rolling hills between the playground and backyards in our neighborhood into a lake that was about a quarter of the size of a football field, filled with pitch black water, and slippery mud. Getting out of that death pit was impossible for a child, and seriously challenging for the adults (many of them trained navy divers) who formed a grid to search for Sharkey, and came up short for more than 10 minutes.

Please help me prevent more deaths in detention and retention ponds by supporting legislation that requires safety provisions and monitoring. While most Hawaii residents drown in the ocean, our keiki under the age of seven are more susceptible to drowning in pools, bathtubs, retention and detention ponds and even puddles.

Detention and retention ponds are meant to hold stormwater. However, while detention and retention ponds help manage stormwater and control flooding, mitigating risk for these systems is critical in minimizing threats to public health and safety. Hawaii’s high drowning rate — the second worst in the nation for residents— necessitates developing retention and detention pond safety programs.

Simply put, without mitigation, these ponds are hidden hazards. Retention and detention ponds are usually located in the public areas of housing developments, in park spaces, often near playgrounds — so without safety measures they often become attractive nuisances that are mistaken for recreational ponds. They may help to make less desirable low-lying and wetland areas suitable for building so they are more often found in less affluent neighborhoods, making this legislation an equity issue too. Data in the Hawaii Water Safety Plan shows that Hawaii’s Native Hawaiian and Pacific Islander residents make up about 27% of Hawaii’s population but about 36% of the resident drowning deaths.

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safety, maintenance, and inspection requirements are things that responsible owners should incorporate anyway. Secondly, it only applies to new retention and detention ponds, which eases the burden of establishing a new program as well as the roll out.

I want to preemptively discuss some of the objections that you might hear. Some may say that the Department of Health does not have the capacity and has too many hiring challenges to establish a retention and detention safety program. But we should do hard things when they are right. I know because nothing is more challenging than watching your child die from a preventable drowning and then mustering the courage to live your life without her and to advocate for drowning prevention. We need to make sure that this situation never happens again to another family in Hawaii, and the DOH is best agency to take on this role. I like that this bill helps the DOH with capacity by provisioning for four inspectors' positions.

Some might argue that the counties should have responsibility for retention and detention pond security. However, this public health and safety issue is important enough to warrant a consistent statewide solution. This situation is not unlike public swimming pools, where the county permits their construction, but it falls to the Department of Health to enforce public swimming pool rules as they are a public safety concern. A similar relationship exists between the county and state when it comes to restaurants, which are permitted for construction at the county level but it is the DOH that makes sure they do not have public health and safety violations. Developers may say additional rules increase construction costs; however, requiring fencing, a life buoy and signage would have a negligible impact on total construction costs, and the other safety requirements are just part of good maintenance plans. Moreover, drowning is costly and prevention pays off. The Centers for Disease Control and Prevention (CDC) estimates that fatal unintentional drownings in 2022 in the United States cost a combined \$5.68 billion dollars, and the World Health Organization estimates that drowning prevention returns \$9 for every \$1 spent.

Developers sometimes protest that requiring them to install fencing, signage and ring buoys increases their liability. That isn't true if they are properly securing their retention and detention ponds. Moreover, doing nothing is costly — and it's not only a liability issue, it's a moral issue. After Sharkey's death, my family was awarded a \$2 million wrongful death settlement, the largest at the time for the death of a child in Hawaii. I do not consider this a win, because nothing could make up for the loss of my pint-sized powerhouse. Every night before bed, we would chant, "I am woman. I am smart. I will win."

She had such amazing potential.

I should be celebrating Sharkey turning 26 a few weeks ago. Instead I'm testifying to ensure that no other parent meets the hell that my family has experienced. Her absence is a loss that is felt every day because to lose a child is to lose your future. I have been on the sidelines watching as Sharkey's friends went to their first day of kindergarten. I missed seeing her adorned with lei as she graduated high school and college. I never got to see Sharkey come into her own power as she embarked on a career. She should have had the chance to fall in love, get married and have children. This will never be Sharkey's legacy or mine.

Twenty-one years ago Sharkey stood on the banks of a flooded and improperly maintained detention pond and watched a friend struggling. She had a decision to make, and she didn't hesitate to do the right thing.

Sharkey saved her friend.

I challenge you to do the right thing too. If a five -year-old can be a hero, we can all be heroes.

Let's help Sharkey save more lives.

SB-1222

Submitted on: 2/4/2025 9:26:42 AM

Testimony for EIG on 2/6/2025 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kleve Bok Hee Zarbaugh	Individual	Support	Written Testimony Only

Comments:

I Lt. Kleve Zarbaugh support this Bill SB1222