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GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII

STATE OF HAWAII
DEPARTMENT OF HEALTH

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KA LUNA HO'OKELE

**Testimony COMMENTING on SB0984 SD1
RELATING TO WATER POLLUTION.**

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

SENATOR MIKE GABBARD, VICE CHAIR
SENATE COMMITTEE ON JUDICIARY

January 26, 2025; 9:40 am; Room Number: 016

1 **Fiscal Implications:** The Department of Health (“Department”) requests that this measure be
2 considered as a vehicle to provide this needed funding so long as it does not supplant the
3 priorities and requests outlined in the Governors executive budget request.

4 **Department Position:** The Department offers comments and amendments for this measure.

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

7 As drafted, this measure places responsibility on the Department to enforce against
8 runoff-borne pollutants to state lands, which is generally the obligation of the Department of
9 Land and Natural Resources, by adding a provision to a Hawaii Revised Statutes (HRS) chapter
10 that is intended to protect against pollution put into state waters, not onto state lands.

11 The measure proposes to add a new section to HRS Chapter 342D, Water Pollution, that
12 subjects large landowners of 10,000 acres or more to liability for fines and damages arising
13 from runoff into state waters or onto state lands. Although the Department regulates pollution
14 from agricultural runoff that enters state waters, nonpoint source runoff is regulated under a

1 different chapter, HRS Chapter 342E – Nonpoint Source Pollution Management and Control.
2 The Department recommends that this proposed section be placed in Chapter 342E, HRS.

3 Agricultural stormwater discharges are defined by State law as a “nonpoint source.”
4 Under HRS Section 342E-4, landowners and other persons responsible for nonpoint source
5 pollution are already subject to fines or penalties of up to \$10,000.00 per violation of
6 administrative rules promulgated pursuant to HRS Section 342E-3(a)(2). This measure would
7 subject large landowners in possession of ten thousand or more acres to liability for both
8 damages and fines. As large landowners are already subject to fines, this bill does not need to
9 provide additional authority to the Department – which would not enhance the Department's
10 ability to do so and could inadvertently result in conflicting statutory authorities. The
11 Department recommends revising the phrase “damages and fines” to read “fines pursuant to
12 section 342E-4 and damages.”

13 This measure places the responsibility on the Department to pursue damages for
14 agricultural runoff onto state lands. Including “state lands,” however, is inconsistent with the
15 purpose and powers set forth in both HRS Chapters 342D and HRS 342E. Damage to state lands,
16 instead, appears to fall under the jurisdiction of the Department of Land and Natural Resources
17 to pursue. The Department recommends removing the phrase “or onto state lands.” This
18 measure also directs the Department to prioritize enforcement of water pollution control
19 regulations in rural areas. If the Department receives authority to pursue damages for
20 agricultural runoff onto state lands, this could dramatically increase the Department’s scope of
21 duties. Prioritizing enforcement in rural areas will either shift enforcement away from existing
22 violations or require additional inspectors.

23 As proposed, this measure would require substantial additions to staff and budget to
24 address increases in enforcement scope and may also require statutory changes authorizing the
25 Department to address damage to state lands. The Department is in the process of establishing
26 and filling positions.

1 **Offered Amendments:** The Department respectfully offers the following revisions to the
2 measure. Additions appear as underlined and deletions as bracketed strikeouts.

3 SECTION 2, page 2, lines 10-16: "Chapter ~~[342D]~~342E, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated and to read as follows:

5 "~~§[342D]~~342E- Agricultural water pollution; liability. (a) A landowner in possession of ten
6 thousand or more acres shall be liable for ~~[damages and fines]~~ fines pursuant to section 342E-4
7 and damages arising from runoff originating on the land and entering into state waters ~~[or onto~~
8 ~~state lands]~~."

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



To: The Honorable Senator Karl Rhoads, Chair, the Honorable Senator Mike Gabbard, Vice Chair, and Members of the Committee on Judiciary.

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

Re: **Hearing SB984 SD1 RELATING TO WATER POLLUTION**

Hearing: Wednesday, February 26, 2025 9:40 a.m.

Aloha Chair Rhoads, Vice Chair Gabbard, and Members of the Committee on Judiciary:

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.

Hawai'i Reef and Ocean Coalition **SUPPORTS** this bill's intent to regulate runoff from lands of large landowners but **COMMENTS that the definition of "runoff" should be revised!**

Runoff is not limited to agricultural facilities or lands. "Runoff" can result from activities on the land other than agriculture and has smothered coral reefs with sediment. The damage to reefs on Molokai, for example, has not just been from agriculture.

The term "runoff" appears in several places in the Water Pollution statute, HRS 342D, in rules thereunder, and in usage by the counties. To avoid inconsistent meanings and reflect the fact that agriculture is not the only cause of runoff, the **bill should be amended to delete the word "agricultural" on page 2, lines 4 and 13, and on page 3, lines 1-3.** The definition of runoff would thus be revised to:

"Runoff means any water, silt, water pollutant, or other debris originating on a property and flowing onto other property or onto state land or into State waters."

Please pass the bill with these amendments striking "agricultural."

Mahalo!

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



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

SB984 SD1
RELATING TO WATER POLLUTION

Wednesday, February 26, 2025, 9:40 AM
Conference Room 016 & Videoconference

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

The Hawaii Cattlemen's Council **respectfully opposes SB984 SD1** which requires a landowner in possession of ten thousand or more acres to be liable for damages and fines arising from runoff originating on the land and entering into state waters or onto state lands.

While protecting our land and water is important, this bill will unfairly penalize large landowners. It is difficult to determine where runoff originates, and also difficult to determine what practices contributed to the runoff. Ranchers work hard to put sound practices in place to keep the land covered with forage, manage grazing, and ensure the land is healthy for generations to come. However, when drought conditions occur followed by large rain events resulting in runoff, it is unreasonable to blame the landowner for what amounts to an uncontrollable act of nature. We must move forward as a state to encourage good land stewardship practices, but this bill will unnecessarily hurt our local food producers.

We appreciate the opportunity to testify on this measure. The Hawaii Cattlemen's Council (HCC) is the Statewide umbrella organization comprised of the four county-level Cattlemen's Associations. Our member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of over 750 thousand acres of land in Hawaii, or 20% of the State's total land mass. We represent the interests of Hawaii's cattle producers.

Nicole Galase
Hawaii Cattlemen's Council
Managing Director



SB-984-SD-1

Submitted on: 2/25/2025 7:37:55 AM

Testimony for JDC on 2/26/2025 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Kristin Mack Almasin	Testifying for Ulupalakua Ranch	Oppose	Written Testimony Only

Comments:

We respectively oppose this bill. In Maui, the deer overpopulation issues have decimated large areas and landowners have spent millions of dollars of their own money in the effort to regain control of populations, while destocking grazing livestock from those same areas. On our ranch alone, we have thousands of acres that we no longer graze (since 2021) because deer have removed all of the usable forage and we refuse to further damage the land cover. This has forced us to cut our herd size by more than half.

This measure would unnecessarily punish landowners who are already struggling just to stay afloat in this tough situation. Also, quite a bit of the runoff is stemming from state-owned properties, so targeting private landowners is a slap in the face.



February 25 2025

To: Chair Rhoads, Vice Chair Gabbard and the Senate Committee on Judiciary

Subject: **SB 984 SD1**, Relating to Water Pollution

I strongly **support** this bill targeting agricultural water pollution and its devastating effects on our environment and food security. As the bill highlights, climate change fuels extreme rainfall in our region that increases runoff and polluting our vital coastal waters. The documented damage to Kauai and Molokai reefs, underscores the urgent need for action. This pollution directly threatens our marine ecosystems and food supply.

This bill rightly establishes civil liability for large landowners whose operations contribute to this problem. Accountability is crucial and this targeted approach focuses on those with the largest potential impact. Prioritizing enforcement of existing regulations in affected rural areas, as the bill mandates, is equally essential. Regulations without enforcement are ineffective.

However, I urge the committee to amend the bill's landowner category from 10,000 acres to 100 acres. This adjustment is critical. The [2022 USDA Census of Agriculture](#) reveals that only 2% of Hawai'i farms (121 farms) have over 1,000 acres. Excluding the vast majority of farms will significantly undermine the bill's effectiveness. We cannot afford to overlook the cumulative impact of other farms contributing to water pollution. If this measure is implemented, it must apply across the board to ensure comprehensive protection.

Critically, I believe landowners should not only pay damages and fines, but also be required to implement proactive measures to control pollution within their operations. This includes best practices for soil conservation, sediment traps, and buffer zones. Research, such as that found in [Mitigating agricultural runoff: A review of current practices and future directions](#), highlights

The Food+ Policy internship develops student advocates who learn work skills while increasing civic engagement to become emerging leaders. We focus on good food systems policy because we see the importance and potential of the food system in combating climate change and increasing the health, equity, and resiliency of Hawai'i communities.

In 2025, the cohort of interns are undergraduate and graduate students and young professionals working in the food system. They are a mix of traditional and nontraditional students, including parents and veterans, who have backgrounds in education, farming, public health, nutrition, and Hawaiian culture.

https://www.nass.usda.gov/Publications/AgCensus/2022/Online_Resources/County_Profiles/Hawaii/cp99015.pdf

<https://www.sciencedirect.com/science/article/pii/S0048969723010240?via%3Dihub>



various effective mitigation strategies, including cover cropping, conservation tillage, and constructed wetlands, which should be considered.

This bill is a vital step toward protecting our coastal waters, marine ecosystems, and food systems. I urge its passage.

Mahalo,
Lea iaea & the Food+ Policy Team
#fixourfoodsystem

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<https://www.sciencedirect.com/science/article/pii/S0048969723010240?via%3Dihub>

**TESTIMONY IN SUPPORT OF SB 984, S.D. 1
RELATING TO WATER POLLUTION**

Date: February 26, 2025, 9:40 AM

To: Chair, Vice Chair, and Members of the Committee
Hawai'i State Capitol

Aloha Chair Senator Karl Rhoads, Vice Chair Senator Mike Gabbard, and Members of the Committee:

My name is Zorah Burress, and I am a student at Hawai'i Pacific University enrolled in an Environmental Ethics course. I am submitting this testimony in support of Senate Bill 984, S.D. 1, which addresses water pollution by establishing liability for large landowners who fail to manage agricultural runoff. As both a concerned resident of Hawai'i and a student of environmental ethics, I recognize the moral imperative to protect our islands' fragile ecosystems for present and future generations.

SB 984, S.D. 1 wisely recognizes the link between climate change, more frequent extreme rainfall events, and increased runoff. When heavy rains occur, pollutants and debris are carried from the land into streams and coastal waters. This runoff not only degrades water quality but also threatens the health of our nearshore marine ecosystems, including coral reefs that are vital to both our environment and our economy.

By imposing liability on landowners possessing 10,000 acres or more, the bill targets those with the greatest capacity to affect runoff. The measure encourages proactive land stewardship, urging large-scale landowners to implement best management practices to minimize soil erosion and reduce pollutants entering our waters.

Directing the Department of Health to prioritize water pollution control efforts in rural areas is an important step. These areas are often most vulnerable to runoff due to extensive agricultural activity and limited enforcement resources. Improved monitoring and enforcement will help deter harmful practices and incentivize sustainable agriculture.

Healthy coral reefs and clean coastal waters are essential for local food security, tourism, and the overall well-being of our island communities. By passing SB 984, S.D. 1, the Legislature will strengthen our environmental protections and ensure that Hawai'i's future generations can thrive in a clean and healthy environment.

For these reasons, I respectfully urge the Committee to pass SB 984, S.D. 1. Mahalo for the opportunity to submit testimony.

Sincerely,
Zorah Burress

SB-984-SD-1

Submitted on: 2/24/2025 7:21:38 PM

Testimony for JDC on 2/26/2025 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Theresa M Thompson	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose SB 984 Which requires a landowner in possession of ten thousand or more acres to be liable for damages and fines arising from runoff originating on the land and entering into state waters or onto state lands. Requires the Department of Health to adopt rules as necessary for the purposes of this provision.

This bill will unfairly penalize large landowners. It is difficult to determine where runoff originates, and also difficult to determine what practices contributed to the runoff. Ranchers work hard to put sound practices in place to keep the land covered with forage, manage grazing, and ensure the land is healthy for generations to come. However, Maui is being taxed with an overpopulation of axis deer, and drought conditions. Large rain events result in runoff, and it is unreasonable to blame the landowner for uncontrollable acts of nature.

Mahalo,
Theresa Thompson