

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

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

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

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

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

January 7, 2025; 2:00 pm; Room Number: 225

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 filling
26 vacant 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.



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

February 7, 2025

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

TESTIMONY ON SB 984
RELATING TO WATER POLLUTION

Conference Room 225 & Videoconference
2:00 PM

Aloha Chairs Gabbard and San Buenaventura, Vice-Chairs Richards and Aquino, and Members of the Committees:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau respectfully opposes SB 984, which imposes liability on landowners with 10,000 or more acres for any runoff originating on their property and requires the Department of Health to prioritize enforcement in rural areas. While we recognize the importance of protecting coastal waters and marine ecosystems, this bill unfairly and disproportionately burdens farmers and ranchers while failing to consider practical realities of agriculture.

HFB has the following concerns:

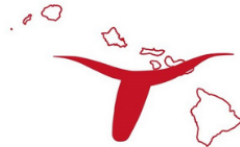
1. The bill threatens large-scale agriculture and food security. Hawai'i is working to increase local food production and reduce reliance on imports, but SB984 creates an additional financial and legal burden on farmers and ranchers. The uncertain and expansive liability discourages investment in large-scale agriculture, which is essential for achieving the state's food security goals.
2. The bill sets an unrealistic expectation that farmers and ranchers can control all runoff. It fails to differentiate between natural runoff from extreme weather events, such as hurricanes and flash floods, and runoff caused by negligence. Even the best-managed agricultural operations cannot completely eliminate runoff, particularly with Hawai'i's heavy rainfall and steep terrain.

3. SB984 unfairly singles out agriculture while ignoring other sources of pollution. Urban development, stormwater drainage systems, and industrial activities also contribute significantly to water pollution, yet this bill applies only to agricultural landowners. A comprehensive approach that addresses all major contributors to runoff would be more effective and equitable.
4. Existing laws and best management practices (BMPs) already regulate agricultural runoff. Hawai'i's farmers and ranchers follow stringent regulations, soil conservation plans, and state and federal compliance programs to mitigate environmental impact. Instead of imposing punitive measures, the state should focus on providing incentives such as grants and technical assistance to encourage further adoption of sustainable water management practices.

The success of Hawai'i's farmers and ranchers is critical to the state's economic and food security goals. Any new law or regulation must be practical, enforceable, and fair. SB984, as written, places an unrealistic burden on agricultural landowners and discourages investment in farming and ranching.

We urge the committee to reject SB984 and instead support collaborative solutions that balance environmental protection with the sustainability of local agriculture.

Thank you for the opportunity to testify in opposition to this measure.



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Herbert M. "Tim" Richards, III, Vice Chair

COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair

Senator Henry J.C. Aquino, Vice Chair

SB984

RELATING TO WATER POLLUTION

Friday, February 7, 2025, 2:00 PM

Conference Room 225 & Videoconference

Chair Gabbard and San Buenaventura, Vice Chair Richards Aquina, and Members of the Committees,

The Hawaii Cattlemen's Council **respectfully opposes SB984** 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



February 4 2025

To: Chair Gabbard, Vice Chair Richards and the Senate Committee on Agriculture and Environment

Subject: **SB 984**, 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 (10,000+ acres) 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.

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 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

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.sciencedirect.com/science/article/pii/S0048969723010240?via%3Dihub>



To: The Honorable Senators Mike Gabbard and Joy San Buenaventura, Chairs, the Honorable Senators Tim Richards, III, and Henry Aquino, Vice Chairs, and Members of the Committees on Agriculture and Environment and Health and Human Services.

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

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

Hearing: Friday February 7, 2025 2:00 p.m.

Aloha Chairs Gabbard and San Buenaventura, Vice Chairs Richards and Aquino, and Members of the Committees on Agriculture and Environment and Health and Human Services:

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 legislation but **COMMENTS that the definition of "runoff" should be revised!**

Hawai'i Reef and Ocean Coalition **SUPPORTS** this bill's intent to regulate runoff from lands of large landowners!

Hawai'i Reef and Ocean Coalition **COMMENTS** that use of the term "runoff" should be revised. Runoff is not limited to agricultural facilities or lands. "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, the definition in the bill of "runoff" on page 3 lines 1-3 should 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 revise the bill accordingly. Mahalo!

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

SB-984

Submitted on: 2/4/2025 12:20:40 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

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

Comments:

Large landowners need to be responsible for managing their land to prevent damaging runoff, and should be liable if they don't.

SB-984

Submitted on: 2/4/2025 3:27:07 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lois Crozer	Individual	Support	Written Testimony Only

Comments:

I don't know why this is 10,000 acres or more, why isn't everyone responsible for the dirt that runs off their land!? It's disgusting to see it on the reef!

SB-984

Submitted on: 2/4/2025 11:21:14 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

Please support this important bill. Mahalo.

SB-984

Submitted on: 2/5/2025 1:17:46 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bronson Teixeira	Individual	Support	Written Testimony Only

Comments:

Aloha, I strongly support this bill, Mahalo.

SB-984

Submitted on: 2/5/2025 2:23:42 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Go susumu	Individual	Support	Written Testimony Only

Comments:

I agree with this bill because it holds large landowners accountable for the environmental impact of their land use in preventing harmful runoff into state waters and lands. Runoff from large properties can carry pollutants, sediments, and agricultural chemicals that degrade water quality for marine and freshwater ecosystems. This could contribute to issues like coral reef decline, soil erosion, and algae blooms. By enforcing liability for damages and fines, this bill incentivizes responsible land management practices, such as erosion control, reforestation, and sustainable agriculture. Additionally, requiring the Department of Health to establish rules ensures proper regulation and oversight, helping to protect Hawai'i's natural resources for future generations. . By enforcing liability for damages and fines, this bill incentivizes responsible land management practices, such as erosion control, reforestation, and sustainable agriculture. Additionally, requiring the Department of Health to establish rules ensures proper regulation and oversight.

SB-984

Submitted on: 2/5/2025 2:53:32 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rosie F Davis	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support bill SB984 relating to water pollution.

Mahalo nui, Rosie

SB-984

Submitted on: 2/5/2025 3:34:58 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Faith Tuipulotu	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support bill SB984

Mahalo nui, Faith

SB-984

Submitted on: 2/6/2025 7:06:43 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
penny levin	Individual	Support	Written Testimony Only

Comments:

In support. Should have been implemented back in the day when sediment from the plantations destroyed our islands' reefs. This bill is a move in the right direction. I recommend a change from 10,000 acres to 5,000 acres. This captures more accurately smaller ahupua'a that may face erosion issues in the future from development decisions and also the newest purchasers of .land here in Hawai'I who are buying less for more.

SB-984

Submitted on: 2/5/2025 2:42:29 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Angelica Melone	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

As a concerned citizen, I oppose SB984, which holds landowners with 10,000+ acres liable for damages and fines from runoff entering state waters or lands. While protecting our environment is important, this bill unfairly targets large landowners, making it difficult to determine the exact source and cause of runoff, especially after heavy rain. Large landowners contribute significantly to food production and maintaining vital ecosystem services. Thank you for considering my testimony.

SB-984

Submitted on: 2/5/2025 2:18:13 PM

Testimony for AEN on 2/7/2025 2:00:00 PM

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

Comments:

I 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.

Mahalo,

Theresa Thompson