

HB 1141, HD2



**STATE OF HAWAII
DEPARTMENT OF HEALTH**

P. O. Box 3378
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**Testimony of SUPPORT of HB 1141 H.D.2
RELATING TO CESSPOOLS**

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

Hearing Date: March 17, 2015
Time: 2:45 p.m.

Room Number: 225

- 1 **Fiscal Implications:** None.
- 2 **Department Testimony:** The Department strongly supports this measure with comments. Hawaii is the
- 3 only State in the nation that allows the construction of new cesspools. Approximately 900 new
- 4 cesspools are being constructed on the Big Island and some areas on Maui. The islands of Oahu and
- 5 Kauai prohibited the construction of new cesspools in 1991. Cesspools are little more than holes in the
- 6 ground that discharge raw, untreated human waste directly into the subsoil, where it can spread and
- 7 contaminate ground water, drinking water sources, streams and the ocean by releasing disease-causing
- 8 pathogens. In order to protect public health and the environment, new cesspools need to be prohibited
- 9 sooner than the proposed date of December 31, 2016. The Department recommends changing the
- 10 date of prohibiting the construction of new cesspools and connection of new buildings to existing
- 11 cesspools from December 31, 2016 to December 31, 2015.
- 12 Thank you for the opportunity to testify on this measure.



HB1141 HD2
RELATING TO CESSPOOLS

Senate Committee on Energy and Environment

March 17, 2015

2:45 p.m.

Room 225

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1141 HD2, which seeks to stem the proliferation of cesspools in Hawai‘i, and mitigate their impacts on our environment and health.

OHA commends the foresight embodied in this measure, which seeks to safeguard our culturally, ecologically, and economically critical ground- and surface- water resources, including our nearshore coastal waters. As noted in the bill, the prevalence and density of cesspools in Hawai‘i have raised significant concerns regarding their potential environmental and health impacts. These concerns have heightened in recent years, as the state has gained greater awareness of the broad and long-term impacts of on-site cesspool systems as well as municipal injection wells.¹ Prohibiting new cesspools would ensure that these impacts are not exacerbated by the extensive residential development currently being planned for several islands.

OHA notes that the impact of cesspools and other on-site disposal systems may vary significantly for certain locations, based on system density, soil characteristics, geography, subsurface hydrology, and other factors.² Accordingly, OHA appreciates the flexibility this measure affords the state Department of Health in developing categorical exceptions to the cesspool prohibition, to accommodate cesspools where they may be most appropriate or least harmful.

Accordingly, OHA urges the Committee to **PASS** HB1141 HD2.

Mahalo nui for the opportunity to testify on this measure.

¹ See, e.g., ROBERT B. WHITTIER AND ALY I. EL-KADI, HUMAN AND ENVIRONMENTAL RISK RANKING OF ONSITE SEWAGE DISPOSAL SYSTEMS ES-1– ES-2 (2009); Michael L. Parsons et. al., *A multivariate assessment of the coral ecosystem health of two embayments on the lee of the island of Hawai‘i*, 56 MARINE POLLUTION BULLETIN 1138 (2008); *Judge: Maui needs permit for Lahaina wastewater*, HONOLULU STAR-ADVERTISER, June 2, 2014; *Big Island effort targets cesspools to save reef*, HONOLULU STAR-ADVERTISER, February 4, 2014.

² Whittier & El-Kadi, *supra* note 1, at 21-41, 45-60.

From: mailinglist@capitol.hawaii.gov
To: [ENETestimony](#)
Cc: darakawa@lurf.org
Subject: Submitted testimony for HB1141 on Mar 17, 2015 14:45PM
Date: Friday, March 13, 2015 2:45:51 PM

HB1141

Submitted on: 3/13/2015

Testimony for ENE on Mar 17, 2015 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
David Z. Arakawa	Land Use Research Foundation of Hawaii	Support	No

Comments: The Land Use Research Foundation of Hawaii SUPPORTS the intent of SB 1141, HD2, which prohibits new installation of a cesspool and new construction served by a cesspool after December 31, 2016; and authorizes DOH to develop rules for exceptions. (HB1141 HD2) LURF supports DOH's current efforts to address health, safety and the concerns of the community and cesspool owners. However, its initial actions limited the input of the Neighbor Island land owners who would be most affected. LURF respectfully requests that this measure be AMENDED to include the following in the "purpose" clause: "The department may adopt rules pursuant to chapter 91 that establish standards and criteria for exceptions to this section."

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Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 1141 HD2 Relating to Cesspools
Senate Committee on Energy and Environment
Tuesday, March 17, 2015, 2:45PM, Room 225

For more than 35 years, The Nature Conservancy of Hawai'i has been working closely with government agencies, local businesses, private landowners, non-profit partners, and interested communities across the state to preserve the lands and waters upon which all life in these islands depends. The Conservancy is a private non-profit conservation organization that has helped to protect nearly 200,000 acres of natural lands in Hawai'i. Today, we actively manage more than 35,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i, and support 19 coastal communities seeking to co-manage marine resources in partnership with the State of Hawai'i.

The Nature Conservancy supports H.B. 1141 HD2 to prohibit new cesspools.

We also recognize that the much larger issue of wastewater impacts on coral reefs, near shore waters, and human health come from untreated sewage overflowing from overburdened wastewater treatment facilities and underground injection wells, especially on Maui and Hawai'i island. We urge the State and counties to consider a thorough review, repair, and retrofit of wastewater treatment facilities, especially if the State will be requiring more people to connect to those already overburdened facilities.

Scientists estimate that populations of many of Hawai'i's near shore reef fishes have declined by more than 75% over the past 100 years. Marine managers, community stewards, and scientists across the state are also cataloguing and working to address increased instances of coral disease, bleaching and reef smothering alien algae. Scientific analysis together with long-term community experience and observation suggest that a number of factors are contributing to and exacerbating these threats to Hawai'i's marine health, including over-harvesting of fishes, land-based sources of pollution, as well as higher temperatures and acidification due to human induced climate change. Degradation of Hawai'i's reefs and near shore environments is not only a detriment to our health and quality of life, but also a grave loss to Hawai'i's economy, safety, and to a cultural heritage that is unique in the world.

Effluent from cesspools – including untreated human waste, bacteria, viruses, pharmaceuticals, cleaning products, nitrogen, phosphorus, and other contaminants – is discharged directly into the ground. From there, these pollutants can make their way into groundwater systems and near shore marine environments. In coastal areas in Hawai'i with porous soils and substrates, studies have shown that waste from cesspools can reach near-shore waters within a matter of minutes to just a few days. Replacing these coastal cesspools should be a priority.

Caring for the health and future productivity of Hawai'i's fresh and marine waters requires a combination of strategies in an ahupua'a approach. Taking care of watershed forests, upgrading wastewater treatment systems, enhancing water re-use, preventing and controlling invasive species, encouraging responsible resource use, and retiring and replacing outdated infrastructure are all a part of the solution to the variety of threats we face. Prohibiting new cesspools and replacing old ones is one important component of this collective effort.

Thank you for the opportunity to comment.

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From: mailinglist@capitol.hawaii.gov
To: [ENETestimony](#)
Cc: rbergstrom@surfrider.org
Subject: Submitted testimony for HB1141 on Mar 17, 2015 14:45PM
Date: Monday, March 16, 2015 9:58:55 PM

HB1141

Submitted on: 3/16/2015

Testimony for ENE on Mar 17, 2015 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Rafael Bergstrom	Surfrider Foundation Oahu Chapter	Support	Yes

Comments: The Surfrider Foundation Oahu Chapter strongly supports this bill as cesspools are an archaic form of human waste disposal that pose huge human health and environmental risks. Cesspools dump untreated fecal waste into our water systems - potentially contaminating groundwater and the nearshore ocean waters. Protecting our near shore ecosystems and ocean resources is vital to our states livelihood and well-being. Please help protect the future water resources of this state and make sure we stop this practice in Hawaii. Thank you for your time and consideration!

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March 16, 2015

Committee Chairs & Members of Energy and Environment (ENE)

RE: Strong Support for HB 1141 – Relating to Eliminating Cesspools

Hearing on Tue., 3/17, State Capitol, Conf. Rm. 225, 2:45pm.

Dear Chair Gabbard, Vice Chair Green, and Committee Members,

As the Hawaii Regional Manager of the Surfrider Foundation, I'm writing in strong support passage of HB 1141. With more than 5000 activists and members across the state, the Hawaii Chapters of The Surfrider Foundation strongly support efforts to prohibit the installation of new cesspools in the state. The non-point source discharge from cesspools in Hawaii is a serious threat specifically to streams, groundwater and coastal waters, and this bill offers a long overdue solution to the problem.

With about 90,000 across the state, Hawaii has the highest number of cesspools in the country, and many of those near streams, groundwater systems and coastal areas pose a threat to water resources. **Hawaii is also the only state that still allows construction of new cesspools--Rhode Island was the last to ban them almost 50 years ago!** These substandard wastewater systems leach untreated human waste, harmful pathogens and nutrient loads into nearby waters. Cesspools are a leading source of water pollution, and their effluent can contaminate drinking water sources, streams and oceans with disease-causing pathogens, algae-causing nutrients and other harmful substances.

In monitoring the water quality of North Shore beaches on Kauai, the Chapter has seen improvement after the replacement of cesspools at Kauai County beach parks and along the Hanalei River. After the new system was installed, enterococcus counts at the beach at the Hanalei Pavilion and at the Hanalei River estuary decreased approximately 56% between 2004 and 2013. Where sewer connections are not available, septic systems are a step forward in protecting public health and the environment.

We also support creating a special EPA-supported fund in the Department of Health for low- or no-interest loans to homeowners, and we ask them to prioritize enforcing cesspool upgrades within 200 feet of the shoreline or waterways because they are the most dangerous. This is an environmental and human health hazard.

This bill is needed because cesspools pose public health and environmental problems, and it's crazy that we still allow them to be installed. Individual homeowners, counties and the state need to work together to conform to federal EPA standards and take responsibility for the very negative impact cesspools have upon the environment, public health, tourism, and economic growth in Hawaii. Mahalo for your consideration and leadership in dealing with these water quality issues and please feel free to contact me if you have any questions or suggestions.

Sincerely,
Stuart Coleman
Stuart H. Coleman
Hawaii Regional Manager

DENNIS "FRESH" ONISHI
Council Member
District 3



PHONE: (808) 961-8396
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HAWAII COUNTY COUNCIL

25 Aupuni Street, Hilo, Hawai'i 96720

March 16, 2015

The Honorable Mike Gabbard, Chair,
and Members of the Committee on Energy and Environment

Dear Chair Gabbard, Vice Chair Green and Members of the Committee,

Thank you for the opportunity to provide testimony in opposition to House Bill No. 1141 HD2, which prohibits new installation of a cesspool and new construction served by a cesspool after December 31, 2016. Authorizes DOH to develop rules for exceptions.

Last year the Department of Health proposed amending chapter 11-62, Hawai'i Administrative Rules, to prohibit the installation of new cesspools and require that an existing cesspool be connected or upgraded to a septic system within one hundred eighty days after the sale of a property.

This rule change would have caused added hardship to our Hawai'i Island residents who are already faced with the highest cost of living in the nation. Installation of a septic system can range in cost from \$10,000 to \$15,000. Even without the added financial burden of converting to a septic system, acquiring a mortgage can be a daunting task for many perspective homeowners.

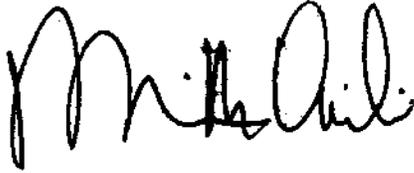
I strongly suggest House Bill No. 1141 HD2, be amended to prohibit cesspools that are near a public drinking water well, and those within 750 feet of the shoreline, a stream or a wetland only.

Here on Hawai'i Island - which is 4, 028 square miles - we have thousands of residents who live in deep rural communities that are miles away from the nearest drinking water well, shoreline, stream or wetland. Prohibiting these individuals from installing cesspools, is unfair.

Should this measure become law, I would strongly urge the Department of Health to schedule another round of statewide public hearings regarding exemptions that should consider the unique challenges facing all residents of Hawai'i.

Thank you for the opportunity to provide testimony in opposition.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Onishi". The signature is fluid and cursive, with a large initial "D" and "O".

Dennis "Fresh" Onishi
Hawai'i County Council Member

From: mailinglist@capitol.hawaii.gov
To: [ENETestimony](#)
Cc: douglasperrine@yahoo.com
Subject: Submitted testimony for HB1141 on Mar 17, 2015 14:45PM
Date: Sunday, March 15, 2015 10:50:25 AM

HB1141

Submitted on: 3/15/2015

Testimony for ENE on Mar 17, 2015 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Perrine	Individual	Support	No

Comments: This should have been done 40 years ago. How much longer will we continue to dispose of our waste like cavemen? What will happen when the tourists find out what they are swimming in?

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March 16, 2015

TO: Honorable Mike Gabbard, Chair
Senate Committee on Energy and Environment

Honorable Jill N. Tokuda, Chair
Senate Committee Ways and Means

FROM: Councilmember Gladys C. Baisa

A handwritten signature in cursive script that reads "Gladys C. Baisa".

SUBJECT: **HEARING ON MARCH 17, 2015, TESTIMONY IN SUPPORT OF HB 1141
H.D. 2, RELATING TO CESSPOOLS; PROHIBITION**

Thank you for the opportunity to testify in **support** of this important measure. The purpose of this measure is it prohibits installation of a cesspool and new construction served by a cesspool after December 31, 2016. Authorizes DOH to develop rules for exceptions.

I **support** this measure for the following reasons:

1. This bill will improve the sanitation and environmental risks of contaminating oceans, streams and ground water.
2. The impact of cesspools and other on-site disposal systems may vary significantly for certain locations, based on system density, soil characteristics, geography and other factors. The flexibility in this measure affords the state Department of Health in developing categorical exceptions to the cesspool prohibition and to accommodate cesspools where they may be most appropriate or least harmful.

For the foregoing reasons, I **support** this measure.

From: mailinglist@capitol.hawaii.gov
To: [ENETestimony](#)
Cc: smatsuura@navatekltd.com
Subject: *Submitted testimony for HB1513 on Mar 17, 2015 14:45PM*
Date: Monday, March 16, 2015 2:01:43 PM

HB1513

Submitted on: 3/16/2015

Testimony for ENE on Mar 17, 2015 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Matsuura	Individual	Support	No

Comments:

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