

HB 1934 HD 1 SD 1

Measure Title: RELATING TO ENVIRONMENTAL PROTECTION.

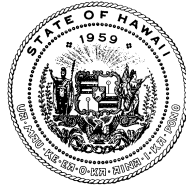
Report Title: Environmental Protection; Injection Wells; Prohibition
Description: Prohibits the department of health from approving the construction of sewage wastewater injection wells. Provides exemptions. (SD1)

Companion:

Package: None

Current Referral: AEN, CPH

Introducer(s): QUINLAN, GATES, HOLT, JOHANSON, C. LEE, SAIKI, TODD, Nakamura



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony COMMENTING on HB 1934, HD 1, SD 1
RELATING TO ENVIRONMENTAL PROTECTION**

SENATOR ROSALYN H. BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Hearing Date: March 28, 2018
Time: 9:15 am

Room Number: 229

1 **Fiscal Implications:** None.

2 **Department Testimony:** The purpose of this bill is to prohibit the construction of sewage
3 wastewater injection wells, unless there is no feasible alternative. The Department of Health
4 (Department) issues underground injection control permits for the discharge of sewage
5 wastewater, treated or untreated stormwater, industrial wastewater, cooling water, aquaculture
6 water, and geothermal fluids.

7 The Department comments on this bill which would require applicants to demonstrate
8 “undue hardship.” The Department has no definition to determine “undue hardship” and suggests
9 the removal of this subsection in its entirety. The already proposed language of “options are not
10 available, feasible, or practical” covers the potential for undue hardship.

11 The Department supports the proposed language which clarifies that this proposed
12 change does not impact permitted discharges to injection wells other than sewage wastewater.
13 However, the new language would be better placed in Hawaii Revised Statutes §340E-2(e)
14 which established the underground injection control program. In addition, underground injection
15 control rules have already been promulgated in Hawaii Administrative Rules, Chapter 11-23 and
16 the bill’s proposed definition of an injection well is consistent with the Hawaii Administrative
17 Rules, Section 11-23-03.

18 **Offered Amendments:**

19 Amend Section 2, regarding proposed new §342D-, by amending the new language as follows:

1 “SECTION 2. Chapter 340E-2(e), Hawaii Revised Statutes, is amended by adding a new
2 subsections to be appropriately designated and to read as follows:

3 (4) Not permit the construction of a sewage wastewater injection well unless
4 alternative wastewater disposal options are not available, feasible, or practical;

5 (5) Issue permits for an “injection well” which means a bored, drilled, or driven shaft,
6 or a dug hole, whose depth is greater than its widest surface dimension and into which
7 subsurface disposal of fluid or fluids occurs or is intended to occur by means of injection.

8 (6) As used in this section, “sewage wastewater” means any liquid wastewater that
9 includes sewage from humans or household operations, whether treated or not and whether or
10 not it pollutes or tends to pollute state waters.”

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



HB1934 HD1 SD1
RELATING TO ENVIRONMENTAL PROTECTION
Senate Committee on Agriculture and Environment

March 28, 2018

9:15 a.m.

Room 229

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1934 HD1 SD1, which would generally prohibit the installation of wastewater injection wells that pose a substantial threat to our nearshore environment and natural and cultural resources.

For decades now, the use and proliferation of injection wells along our islands' coastlines have raised significant concerns regarding their potential environmental and public health impacts.¹ These concerns have heightened in recent years, as the State has gained a greater awareness of the broad and long-term threats that injection wells pose on our nearshore waters. Notably, OHA understands that injection wells are currently only permitted in coastal areas, due to their potential impact on inland groundwater sources; such placement, combined with the highly porous nature of our islands' lava and limestone bedrock, can result in significant and direct impacts to our nearshore ecosystems and members of the public – including Native Hawaiians – who subsist from and recreate in our ocean waters. Recent litigation has also demonstrated the threat of legal liability and substantial financial costs that may be incurred from the reliance on injection wells for wastewater disposal purposes.²

Accordingly, OHA believes that this measure is an important step towards ensuring that our communities and marine environment are not unduly impacted by inappropriate wastewater disposal approaches. OHA does understand that certain injection well applications, when combined with other wastewater treatment and reuse technologies and sustained maintenance activities, may not pose as high a threat of the significant impacts documented in areas such as West Maui. **However, given the substantial development planned to occur throughout the state, along with the foreseeable and unknown impacts of climate change and sea level rise on our islands' hydrogeology, a general prohibition on injection wells pending the establishment of clear requirements, best management practices, and remediation techniques would appear to be the most prudent strategy to take.**

Therefore, OHA urges the Committee to **PASS** HB1934 HD1 SD1. Mahalo nui for the opportunity to testify on this measure.

¹ See, e.g., Frank L. Peterson and June A. Oberdorfer, *Uses and Abuses of Wastewater Injection Wells in Hawaii*, 39 PACIFIC SCI. 2, 230 (1985); Parsons, et. al., *A multivariate assessment of the coral ecosystem health of two embayments in the lee of the island of Hawai'i*, 56 MARINE POLLUTION BULLETIN 6 (2008); *Injection Wells: Unproven link in completing geothermal cycle*, ENVIRONMENT HAWAII, October 29, 2014, available at <http://www.environment-hawaii.org/?p=3853>; Chris Sugidono, *Study: Injection wells fouling Maui bays, reefs*, THE MAUI NEWS, November 20, 2016.

² Brian Perry, *County loses injection well appeal*, THE MAUI NEWS, February 2, 2018.

HB-1934-SD-1

Submitted on: 3/26/2018 9:33:12 PM

Testimony for CPH on 3/28/2018 9:15:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---|---------------------------|---------------------------|
| Melodie Aduja | Testifying for Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i | Support | No |

Comments:

To the Honorable Rosalyn H. Baker, Chair; the Honorable Jill N. Tokuda, Vice-Chair and Members of the Committee on Commerce, Consumer Protection and Health:

Good morning. My name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") on Legislative Priorities of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **HB1934 HD1 SD1** relating to Environmental Protection; Injection Wells; and its Prohibition.

The OCC Legislative Priorities Committee is in favor of **HB1934 HD1 SD1** and supports its passage.

The Environmental Protection Agency recognizes an injection well as a method to place fluid underground into porous geologic formations and that it has a wide range of uses, including storing carbon dioxide and disposing of waste. Injection wells can be hazardous to the environment and pose a risk to the health and safety of the public.

HB1934 HD1 SD1 is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it prohibits the construction of sewage wastewater injection wells.

The Platform of the Democratic Party of Hawai'i provides that "We believe in supporting best management practices in sustaining our environment and in increased citizen involvement. We support programs that encourage sustainable clean, efficient, creative and environmentally friendly modes of transportation, recycling, and waste reduction. (Platform of DPH, P. 8, Line 413-415 (2016)).

Given that **HB1934 HD1 SD1** prohibits the construction of sewage wastewater injection wells, it is the position of the OCC on Legislative Priorities to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC on Legislative Priorities

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HB-1934-SD-1

Submitted on: 3/26/2018 1:11:23 PM

Testimony for CPH on 3/28/2018 9:15:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Rebecca J. Carlson | Individual | Support | No |

Comments:

Dear Legislators,

I am strongly in favor of HB1934, which prohibits the construction of injection wells for wastewater disposal. I have heard that a new development being planned in my area would be using an injection well to dispose of waste water. This must be stopped. It would endanger our reef, which is already stressed and still recovering from damage due to past sewage dumping. It would also possibly endanger our local water supply, which is derived from well water. Please pass this bill to protect our community and require new developments to plan responsible means of disposing of waste water.

Mahalo!

Rebecca J. Carlson



SIERRA CLUB OF HAWAI'I
MĀLAMA I KA HONUA. *Cherish the Earth.*

SENATE COMMITTEE ON COMMERCE, CONSUMER AFFAIRS AND HEALTH

Wednesday, March 28, 2018 9:15AM Conference Room 229

In SUPPORT of HB1934 HD1 SD1 Relating to environmental protection

Aloha Chair Bakers, Vice Chair Tokuda and members of the CPH Committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i, a member of the Common Good Coalition, **supports HB1934 HD1 SD1**, which would prohibit the construction of injection wells for sewage wastewater, except in limited circumstances.

The Sierra Club of Hawai'i, dedicated to exploring, enjoying, and protecting these unique and beautiful islands we call home, have engaged in decades-long efforts to keep valuable public areas free of pollution and environmental contaminants. We support measures that seek to ensure public health and safety, concurrent with protecting our nearshore waters and finite freshwater resources.

Improvement management of wastewater is an urgent issue for many areas across Hawai'i. Decades of poor infrastructure planning and implementation have led to a dangerous concentration of injection well and cesspools in many areas throughout the Hawaiian Islands. The Department of Health's Environmental Management Division released a Report¹ to the legislature in December 2017 regarding cesspools and the prioritization for replacement across the islands (hereby referred to as "The Report"). The Report notes that Hawai'i has far more cesspools than any other state and is the last state in the nation to implement a ban. It emphasizes that cesspools pose significant threats to many areas throughout the islands, putting tens of millions of gallons of raw sewage into the environment each day, often contaminating groundwater and sometimes drinking water. Cesspools present health risks to residents and visitors who swim in contaminated waters and cause significant harm to streams and nearshore ecosystems, including damage to fragile coral reefs.

Last session, ACT _____, banned cesspools. It makes sense for the legislature to extend this ban to include injection wells for sewage wastewater. In February, the 9th Circuit Court ruled that the Lahaina Wastewater Reclamation Facility violated the Clean Water Act because it did not have a permit to inject sewage into injection wells, where the wastewater seeped into the

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<https://health.hawaii.gov/opppd/files/2017/12/Act-125-HB1244-HD1-SD3-CD1-29th-Legislature-Cesspool-Report.pdf>

ocean. The Lahaina facility injects 3 million to 5 million gallons of treated sewage into groundwater each day. In 2011, an [EPA-funded study](#) used [tracer dye](#) to show conclusively that the Lahaina sewage flows with the groundwater into near-shore waters off Kahekili Beach, where it has been linked to algae blooms that smother the coral reefs and other degradation of this unique marine ecosystem.

We understand the complexity of this issue and encourage collaborative efforts from the communities, counties, the Legislature, and private entities to solve it. Solutions must be location- and situation-specific. First, all current injection wells in operation must get an NPDES permit through the Clean Water Act. Next, new injection wells should not be constructed except in very limited, unique situations where no other alternative is available. However, upgrades, conversions, or connections to sewer remain financially out-of-reach for many property owners. We must take a multi-faceted approach to solving these wastewater management issues and ensure that residents have safe options for disposing of wastewater.

The amendments made to this bill place the proper emphasis on wastewater management tools that are safer for the public and the environment, while at the same time ensuring property owners have options for managing wastewater in unique circumstances. **Injection wells should be prohibited, except where there is no alternative AND their use does not harm freshwater or marine resources.**

In addition, we would not oppose a delayed effective date for this bill of 1-2 years in order to give Department of Health staff and the construction industry sufficient time to adapt to the new policy prohibiting the use of injection wells in most cases.

We must continue to take steps to protect our drinking water, public health, and the environment and encourage the Committee to pass HB1934.

Mahalo for the opportunity to provide testimony on this important matter.



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March 18, 2018

Senator Rosalyn Baker, Chair
Senate Committee on Commerce, Consumer Protection, and Health

Hearing Date: **Wednesday, March 28, 9:15 a.m., Conference Room 229**

Subject: **Comments Regarding HB 1934, HD1, SD1, Relating to Environmental Protection**

Dear Chair Baker and Members of the Committee:

The American Council of Engineering Companies of Hawaii (ACECH) represents 70 engineering consulting firms with over 1,500 employees throughout Hawaii. Our members work to design projects that protect public health, safety and welfare, including environmental health.

ACECH initially opposed this bill in the House, due to significant concerns with the original language. Subsequent revisions responded to those concerns, but we note a reference in the SD1 to “undue hardship.” We are concerned that “undue hardship” is not well defined, and recommend that this section (proposed §342-D (a) (2)) be removed. The bill contains an exemption if alternative wastewater disposal options are not available, feasible, or practical.

Please do not hesitate to contact us if you have any questions regarding this letter.