
HOUSE RESOLUTION

REQUESTING THE DEPARTMENT OF HEALTH TO DEVELOP A PLAN TO
AUTHORIZE GRAY WATER RECYCLING SYSTEMS FOR RESIDENTIAL
PREMISES UNDER APPROPRIATE CIRCUMSTANCES.

1 WHEREAS, the Legislature enacted section 342D-70, Hawaii
2 Revised Statutes, in 1993 to authorize the counties to establish
3 programs regulated by the Department of Health for the recycling
4 of gray water from residential units for the purpose of
5 irrigating lawns and gardens; and
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7 WHEREAS, Senate Standing Committee Report No. 645 (1993)
8 found that gray water recycling "is consistent with the State's
9 environmental policy, which calls for the conservation of
10 natural resources and the recycling of waste water" and that it
11 will help alleviate the impact of decreasing county water
12 supplies and the significantly increased burden on waste water
13 treatment and disposal systems; and
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15 WHEREAS, Senate Standing Committee Report No. 645 (1993)
16 found that "oversight of private wastewater systems falls within
17 the purview of the Department of Health" and that the Department
18 of Health should, therefore, have "jurisdiction over the gray
19 water recycling program"; and
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21 WHEREAS, House Standing Committee Report No. 1209 made
22 similar findings and noted that "[w]ith the water tables in each
23 county decreasing, the use of gray water recycling will help
24 alleviate some of the demand for water for the purposes of
25 irrigation"; and
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27 WHEREAS, the Department of Health subsequently adopted,
28 Chapter 11-62, Hawaii Administrative Rules, to establish
29 definitions and design standards for gray water recycling
30 systems; and
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32 WHEREAS, according to its Wastewater Branch, the Department
33 of Health has approved at least one gray water recycling system
34 in the District of Kona, Island of Hawaii; and



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2 WHEREAS, none of the counties have applied to the
3 Department of Health to establish a gray water recycling
4 program; and
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6 WHEREAS, each of the counties has established building
7 codes including provisions from the Uniform Plumbing Code, but
8 none of the counties has adopted the gray water provisions of
9 the Uniform Plumbing Code, which are significantly more
10 restrictive than the provisions of section 342D-70, Hawaii
11 Revised Statutes, and Chapter 11-62, Hawaii Administrative
12 Rules; and
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14 WHEREAS, in 2007, the Legislature enacted Chapter 107,
15 Hawaii Revised Statutes, by which the State Building Code was
16 established, effective July 1, 2007; and
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18 WHEREAS, section 107-25, Hawaii Revised Statutes, provides
19 that the State Building Code consists of, among other things,
20 the most recent edition of the Uniform Plumbing Code; and
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22 WHEREAS, section 107-28, Hawaii Revised Statutes, requires
23 the counties to adopt building codes based on the State Building
24 Code by July 1, 2009; and
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26 WHEREAS, section 107-28, Hawaii Revised Statutes, permits
27 each county to delete from its building code any of the State
28 Building Code provisions it deems "necessary to protect health,
29 life, and property, and to preserve the order and security of
30 the county," except where the statute discloses an express or
31 implied intent that the statute shall be exclusive or uniform
32 throughout the State; and
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34 WHEREAS, none of the counties has adopted the gray water
35 provisions of the Uniform Plumbing Code, as incorporated into
36 the State Building Code; and
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38 WHEREAS, the City and County of Honolulu, for example, may
39 decline to adopt the gray water provisions of the Uniform
40 Plumbing Code, as incorporated by the State Building Code, at
41 least in areas served by its sewer system, because it needs gray
42 water to move sewage and sludge through its gravity lines to its
43 sewage treatment plants; and
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1 WHEREAS, legislation was considered in 2008 that would
2 place responsibility for developing gray water recycling
3 programs with the Department of Health but the Director of
4 Health testified that the Department lacks the resources to
5 oversee implementation of a gray water program for residences
6 served by county sewer systems; and
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8 WHEREAS, in consideration of the Director of Health's 2008
9 testimony, House Bill No. 763 was introduced in 2009 to require
10 the Department of Health to implement a gray water recycling
11 program for premises not served by county wastewater systems and
12 authorize the counties to establish gray water recycling
13 programs for premises that are served by county wastewater
14 systems, provided the standards for those programs are no more
15 restrictive than those set forth in the State's administrative
16 rules; and
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18 WHEREAS, the Comptroller, on behalf of the State Building
19 Code Council, testified in opposition to House Bill No. 763
20 because, in his opinion, it conflicted with the process set
21 forth for adoption by the counties of the State Building Code;
22 and
23

24 WHEREAS, the Director of Health testified in opposition to
25 House Bill No. 763, echoing the testimony of the Comptroller and
26 not even mentioning her 2008 testimony that the Department
27 lacked the resources to implement gray water recycling for
28 premises served by county wastewater systems; and
29

30 WHEREAS, section 342D-70, Hawaii Revised Statutes, and
31 Chapter 11-62, Hawaii Administrative Rules, and the State
32 Building Code, through its incorporation of the most recent
33 Uniform Plumbing Code, authorize residential gray water
34 recycling programs; and
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36 WHEREAS, section 342D-70, Hawaii Revised Statutes, and
37 Chapter 11-62, Hawaii Administrative Rules, disclose an express
38 or implied intent that they shall be exclusive or uniform
39 throughout the State and preempt and the gray water provisions
40 of the Uniform Plumbing Code, as incorporated by the State
41 Building Code, and the counties' power to adopt, amend, or
42 reject those provisions, as they relate to proposed gray water
43 recycling systems in areas not served by county waste-water
44 systems; and



1
2 WHEREAS, county building departments will not issue permits
3 for construction or modification of dwellings that incorporate
4 gray water recycling systems, notwithstanding clear authority to
5 do so in State law;

6
7 WHEREAS, the burden on water supplies and on wastewater
8 treatment systems has only increased since the Legislature
9 authorized the establishment of gray water recycling programs in
10 1993; and

11
12 now, therefore,

13
14 BE IT RESOLVED by the House of Representatives of the
15 Twenty-fifth Legislature of the State of Hawaii, Regular Session
16 of 2009, that the Director of Health is requested, in
17 consultation with the State Building Code Council and the
18 counties, to develop a plan by which:

- 19
20 (1) Section 342D-70, Hawaii Revised Statutes, and Chapter
21 11-62, Hawaii Administrative Rules, may be given
22 effect for residential premises not served by county
23 wastewater systems, including review and approval by
24 the Department of Health of plans for proposed gray
25 water recycling systems;
- 26
27 (2) The gray water provisions of the Uniform Plumbing
28 Code, as incorporated by the State Building Code, may
29 be made applicable to residential premises served by
30 county wastewater systems to the extent that those
31 provisions are no more restrictive than the provisions
32 of section 342D-70, Hawaii Revised Statutes, and
33 Chapter 11-62, Hawaii Administrative Rules, and any
34 gray water reuse guidelines developed by the
35 Department of Health; and
- 36
37 (3) Designs proposing inclusion of gray water recycling
38 systems in residential premises not served by county
39 waste-water systems shall be routed by the appropriate
40 county to the Department of Health for review and
41 approval as part of the process by which building
42 permits are reviewed and approved; and
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1 BE IT FURTHER RESOLVED that the Department of Health is
2 requested to submit a report to this body setting forth its
3 plan, together with any recommended legislation, no later than
4 twenty days prior to the convening of the Regular Session of
5 2010; and

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7 BE IT FURTHER RESOLVED that certified copies of this
8 Resolution be transmitted to the Director of Health, the
9 Comptroller, and the Mayor and the Chairperson of the Council of
10 each county.

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OFFERED BY: _____

A handwritten signature in black ink, appearing to be 'J. J.', written over a horizontal line.

MAR 18 2009

