

Honolulu, Hawaii

APR 10 2015

RE: H.B. No. 1140
H.D. 1
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred H.B. No. 1140, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CESSPOOLS,"

begs leave to report as follows:

The purpose and intent of this measure is to establish a financial incentive to reduce the number of cesspools in the State.

More specifically, this measure:

- (1) Establishes a temporary income tax credit for the cost of upgrading or converting a cesspool to a septic system or an aerobic treatment unit system, or connecting to a sewer system, up to a maximum amount of \$5,000;
- (2) States findings that priority should be given to cesspool owners who request financial assistance to upgrade, convert, or connect cesspools that affect public drinking water wells or are within two hundred feet of the shoreline, streams, or wetlands; and
- (3) Authorizes the Director of Health to adopt rules under chapter 91, Hawaii Revised Statutes, to implement the tax credit, including rules that prioritize upgrades for cesspool locations with the highest risk of harm to public health and the environment.



Your Committee received written comments in support of this measure from the Department of Health, a member of the Maui County Council, Hawaii Association of Realtors, Hawaii Farm Bureau, The Nature Conservancy, Surfrider Foundation Oahu Chapter, and two individuals. Your Committee received written comments on this measure from the Department of Taxation and the Tax Foundation of Hawaii.

Your Committee finds that groundwater, drinking water sources, streams, and the ocean are contaminated by cesspool pollution from systems that do not treat wastewater, but merely dispose of it. Your Committee also finds that cesspools in Hawaii release approximately fifty-five million gallons of untreated sewage into the ground each day. Your Committee believes that reducing the number of cesspools in the State is a matter of great importance. Your Committee also believes that cesspools near drinking water wells or within two hundred feet of surface waters present a higher risk of harm to public health and the environment than those farther from water and should be prioritized for upgrade or conversion.

Your Committee has amended this measure by:

- (1) Clarifying the treatment of the tax credit for a partnership, S corporation, estate, or trust;
- (2) Changing the tax credit from a refundable tax credit to a nonrefundable tax credit;
- (3) Increasing the maximum amount of the tax credit from \$5,000 to \$10,000;
- (4) Adding an unspecified aggregate cap amount;
- (5) Specifying that the tax credit is only applicable to the upgrade, conversion, or connection of "qualified cesspools" and that the tax credit shall only be available for the taxable year in which a taxpayer's qualified expenses are certified by an appropriate government agency;
- (6) Defining "qualified cesspools" as cesspools that are located within:



- (A) Two hundred feet of a shoreline, perennial stream, or wetland; or
 - (B) A source water assessment program area (two year time of travel from a cesspool to a public drinking water source);
- (7) Requiring the Department of Health to:
- (A) Certify qualified cesspools;
 - (B) Collect and maintain records of qualified expenses; and
 - (C) Certify to taxpayers the amount of tax credit that they may claim;
- (8) Clarifying that the Department of Health's rulemaking authority is limited to the implementation of their certification requirements;
- (9) Changing the effective date to July 1, 2053, to facilitate further discussion on the measure; and
- (10) Making technical nonsubstantive amendments for the purposes of consistency, clarity, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1140, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1140, H.D. 1, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



JILL N. TOKUDA, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* HB1140 HDISDI	Committee Referral: ENE, WAM	Date: 4-7-15 4/2/15 (N/A)		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TOKUDA, Jill N. (C)	✓			
KOUCHI, Ronald D. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.				✓
ENGLISH, J. Kalani	✓			
GALUTERIA, Brickwood	✓			
HARIMOTO, Breene	✓			
INOUYE, Lorraine R.	✓			
RIVIERE, Gil	✓			
RUDERMAN, Russell E.	✓			
SLOM, Sam		✓		
TOTAL	9	1	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Russell E. Ruderman</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes