

JAN 19 2024

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# A BILL FOR AN ACT

RELATING TO CESSPOOLS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawaii has more than  
2 eighty thousand cesspools that discharge approximately fifty  
3 million gallons of wastewater into the State's groundwater every  
4 day. Cesspools are antiquated, substandard systems that damage  
5 public health; pollute drinking water; and lower water quality  
6 in streams, ground waters, nearshore marine areas, and the  
7 ocean. Cesspool pollution also harms public recreation and  
8 coral reefs.

9           To mitigate the impacts of cesspools on public health and  
10 the environment, the legislature passed Act 125, Session Laws of  
11 Hawaii 2017, which requires all cesspools to be upgraded to a  
12 septic system or aerobic treatment unit system or connected to a  
13 sewerage system by 2050. The legislature finds that while this  
14 is an important goal, the State faces challenges in meeting this  
15 target. Homeowners living on properties with cesspools face  
16 expensive costs to comply with the cesspool upgrade mandate,



1 including installation, maintenance, and long-term financing  
2 costs.

3 The legislature further finds that Act 132, Session Laws of  
4 Hawaii 2018, authorized the department of health to establish  
5 the cesspool conversion working group to develop a long-range,  
6 comprehensive plan for the conversion of cesspools statewide by  
7 2050. The working group identified potential ways to finance  
8 the conversion of cesspools.

9 One potential means of financing cesspool conversions is  
10 through the United States Environmental Protection Agency's  
11 clean water state revolving fund program. This program offers  
12 low-cost financing for wastewater infrastructure and water  
13 quality projects, including the installation of new septic  
14 systems and the conversion of cesspools to septic systems. The  
15 program functions like an environmental infrastructure bank,  
16 providing funding, primarily through below-market interest rate  
17 loans, to eligible borrowers. Individual states are afforded  
18 extensive flexibility in administering the clean water state  
19 revolving fund program in their respective jurisdictions:  
20 states have the authority to define project and applicant  
21 eligibilities, financing terms, and loan forgiveness options for



1 qualified borrowers. The program may issue loans to  
2 municipalities as well as to individual homeowners, citizen  
3 groups, and nonprofit organizations.

4 The legislature further finds that, as of 2020, eleven  
5 states, not including Hawaii, regularly use the clean water  
6 state revolving fund program to finance decentralized wastewater  
7 projects. These states use the program to finance projects  
8 using a variety of lending structures, including direct  
9 homeowner loans, linked deposit loans, pass-through loans,  
10 sponsorship, and co-funding.

11 The legislature further finds that a significant amount of  
12 additional money will become available through the clean water  
13 state revolving fund program in coming years due to increased  
14 funding under the federal Infrastructure Investment and Jobs  
15 Act, also known as the Bipartisan Infrastructure Law. In  
16 recognition of this additional funding, the legislature finds  
17 that the department of health should prioritize the use of  
18 moneys in the water pollution control revolving fund, through  
19 which Hawaii administers the clean water state revolving fund  
20 program, to finance projects that eliminate cesspools.



1           Accordingly, the purpose of this Act is to require the  
2 department of health, to the extent allowable under federal law,  
3 to prioritize the use of water pollution control revolving fund  
4 moneys for projects by homeowners to upgrade cesspools to  
5 director-approved wastewater systems or connect homeowners'  
6 properties to sewerage systems.

7           SECTION 2. Chapter 342D, Hawaii Revised Statutes, is  
8 amended by adding a new section to part V to be appropriately  
9 designated and to read as follows:

10           "§342D-           Prioritization of projects that eliminate  
11 cesspools. Notwithstanding any provision of this part to the  
12 contrary, and to the extent allowable under federal law, the  
13 director shall prioritize the use of revolving fund moneys for  
14 projects by homeowners to:

15           (1) Upgrade cesspools to director-approved wastewater  
16               systems; or

17           (2) Connect homeowners' properties to sewerage systems,  
18 including projects to install cluster systems or community  
19 package plants; provided that the project results in the closure  
20 of a cesspool in compliance with section 342D-72."



1 SECTION 3. If any part of this Act is found to be in  
2 conflict with federal requirements that are a prescribed  
3 condition for the allocation of federal funds to the State, the  
4 conflicting part of this Act shall be inoperative solely to the  
5 extent of the conflict and with respect to the agencies directly  
6 affected, and this finding does not affect the operation of the  
7 remainder of this Act in its application to the agencies  
8 concerned. Any administrative rules adopted pursuant to this  
9 Act shall meet federal requirements that are a necessary  
10 condition to the receipt of federal funds by the State.

11 SECTION 4. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date.

14 SECTION 5. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Anthony R. ...



# S.B. NO. 2796

**Report Title:**

DOH; Cesspools; Septic Systems; Clean Water State Revolving Fund; Prioritization

**Description:**

Requires the Department of Health, to the extent allowable under federal law, to prioritize the use of water pollution control revolving fund moneys for projects by homeowners to upgrade cesspools to director-approved wastewater systems or connect homeowners' properties to sewerage systems, including projects for the installation of cluster systems or community package plants.

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