



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2025**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1233, H.D. 1, RELATING TO STORMWATER MANAGEMENT SYSTEMS.

**BEFORE THE:**

HOUSE COMMITTEE ON HEALTH

**DATE:** Wednesday, February 12, 2025      **TIME:** 10:00 a.m.

**LOCATION:** State Capitol, Room 329

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Joanna Yeh, Deputy Attorney General

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Chair Takayama and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill requires the counties to adopt ordinances to regulate all retention and detention ponds within the county's jurisdiction, including establishing a permitting process and safety requirements. It requires the counties to conduct inspections of retention and detention ponds to ensure compliance with safety and maintenance regulations, maintain a registry of all retention and detention ponds, and conduct surveys of retention and detention ponds within each county to assess their condition. Each county would be required to report to the Legislature.

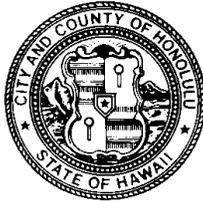
Article VIII, section 5, of the State Constitution provides: "If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost." It appears that the bill would require the counties to administer a new regulatory program for retention and detention ponds in each county. The bill does not, however, contain an appropriation to the counties. Accordingly, for the State to share in the cost, we recommend that a new section be added to the bill to appropriate funds to Kauai, Maui, and Hawaii counties and to the City and County of Honolulu.

We respectfully ask the Committee to make the recommended amendments if this bill is to pass. Thank you for the opportunity to provide comments.

**DEPARTMENT OF FACILITY MAINTENANCE**  
**KA 'OIHANA MĀLAMA HALE**  
**CITY AND COUNTY OF HONOLULU**

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RICK BLANGIARDI  
MAYOR  
MEIA



GENE C. ALBANO, P.E.  
DIRECTOR AND CHIEF ENGINEER  
PO'O A ME LUNA NUI 'ENEKINIA

WARREN K. MAMIZUKA  
DEPUTY DIRECTOR  
HOPE PO'O

IN REPLY REFER TO:  
25-038

February 11, 2025

The Honorable Representative Gregg Takayama, Chair  
The Honorable Representative Sue L. Keohokapu-Loy, Vice Chair  
and Members of the Committee on Health  
Hawai'i State Capitol  
415 S. Beretania Street  
Honolulu, Hawai'i 96813

Dear Chair Takayama, Vice Chair Keohokapu-Loy, and Members:

SUBJECT: H.B. 1233 HD1, Relating to Stormwater Management Systems

On Behalf of the City and County of Honolulu, Department of Facility Maintenance, we believe H.B. 1233 HD1 will place undue burden on the Counties given the maintenance and legal enforcement responsibilities being passed on. Hence, we strongly oppose H.B. 1233 HD1.

The Bill as presently written, will require Counties to invest in upgrading the basins to account for various safety measures such as fencing, alarm systems, etc. in addition to, the longer term responsibility and liability associated with overseeing the maintenance, regulatory responsibilities, and enforcing against violations. The majority of these ponds are not under the County jurisdiction, but rather developers, private owners, and the State.

The City and County currently does not have the staff expertise nor adequate resources to enforce such safety measures. This Bill will force Counties to invest in substantial effort to develop those requirements and regulatory oversight, which is currently not economically feasible nor sustainable without State funding assistance.

Sincerely,

Gene C. Albano, P.E.  
Director and Chief Engineer Designate



## Testimony in Support of HB1233 Relating To Stormwater Management Systems

February 12, 2025

Lisa Dau, RN, Injury Prevention Coordinator

Keiki Injury Prevention Coalition (KIPC)

Rep. Gregg Takayama, Chair, Sue Keohokapu-Lee Loy, Vice Chair, and Honorable Members of the Committee on Health,

I am writing in **support of HB1233, HD1**, which aims to prohibit counties from permitting or allowing the construction of retention and detention ponds except under certain conditions, establish statewide safety requirements, and mandate a survey of existing ponds by the Department of Health.

Retention and detention ponds are essential for stormwater management. However, when they are poorly designed, located, or maintained, they can pose significant risks to public safety and environmental health. Unregulated or mismanaged ponds can lead to unintended flooding, water contamination, and even drowning hazards, particularly for children. This legislation ensures that these vital structures adhere to consistent safety and environmental standards throughout the state, preventing potential harm to communities.

Additionally, the Department of Health's requirement to conduct a statewide survey is crucial for identifying existing ponds that may not adhere to best practices. This information will be vital in formulating strategies for enhancing pond safety, reducing public health risks, and ensuring responsible water management.

By supporting this bill, we are prioritizing the well-being of our communities, promoting responsible land-use planning, and ensuring that necessary safeguards are in place to protect lives and property. I urge this committee to **pass HB1233, HD1**, and take a proactive step toward safer and more sustainable stormwater management.

Thank you for your time and consideration.

Sincerely,

Lisa Dau, RN, MBA, BSN, CPSTI

KIPC, Injury Prevention Coordinator

The Keiki Injury Prevention Coalition's (KIPC) mission is to prevent and reduce injuries to children in Hawaii. <https://kipchawaii.org/>

House of Representatives  
Committee on Health



Re: HB1233

Dear Chair Takayama,

On behalf of the Board of Directors of the Hawai'ian Lifeguard Association, a statewide nonprofit, I am writing to express strong support for HB1233, that calls for the implementation of measures to lower the likelihood of detention and retention pond drownings and aquatic injuries and establish inspection protocols to ensure proper maintenance of these ponds. This bill is a crucial step in reducing the incidence of drowning in our local population, particularly among our keiki.

**Board of Directors**

Kalani Vierra  
President

Ricky Alvarez  
Vice President

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Kekaulike Kealoha

Kirsten Hermstad  
Executive Director

**Ex Officio Legends**

Ralph Goto  
Brian Keaulana  
Archie Kalepa  
Mark Cunningham

Drowning is the number one cause of death for Hawai'i keiki ages 1 to 15, and poorly designed and unmaintained bodies of water contribute to this tragic statistic.

Currently, building codes for detention and retention ponds are nonexistent and/or insufficient. There is no system of inspection in place for existing ponds and no requirements for maintenance. These bodies of water can become hazardous, especially for our keiki who may not understand the dangers they present.

HB1233 addresses this critical issue by establishing design and safety requirements for retention and detention ponds statewide. It also mandates a survey of existing retention and detention ponds, ensuring that they are properly maintained and safe for our community.

By supporting this bill, we can take a significant step towards protecting our keiki and reducing the risk of drowning in our state. I urge you to support House Bill 1233 and/or SB1222 and help make our community a safer place for everyone.

Thank you for your attention to this important matter.

Mahalo

Kirsten Hermstad  
Executive Director

Hawaiian Lifeguard Association  
P.O. Box 844  
Kapa'a, Hawaii 96746  
Tax Id 99-0308213  
hawaiianlifeguardassociation.org

The mission of the Hawaiian Lifeguard Association (HLA) is to contribute to and advocate for the professional advancement of lifeguards in the State of Hawaii by supporting their efforts to reduce the incidence of drownings and aquatic injuries.

It accomplishes this by: Establishing and maintaining the highest standards of professional surf and open water lifesaving to maximize public safety in Hawaiian aquatic environments. Developing, supporting, and participating in programs that address drowning and aquatic injury prevention strategies. **Serving as a primary resource for aquatic safety education in the State of Hawaii.** Raising funds for water safety programs through available grants and sponsorship agreements. Continuing to actively support the Statewide Junior Lifeguard Program by providing funding for standardized curriculum development, instructor recruitment and training, uniforms and equipment, awards, and travel expenses. Actively supporting the improvement of lifesaving and humanitarian causes, locally, nationally (USLA), and internationally (ILS).

**HB-1233-HD-1**

Submitted on: 2/8/2025 2:30:18 PM

Testimony for HLT on 2/12/2025 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
joshua schaefers	Individual	Support	Written Testimony Only

Comments:

I am the older brother of Charlotte "Sharkey" Schaefers, 5, who drowned Feb. 28, 2024 at an improperly maintained and flooded detention pond in Pearl City navy family housing. She saved her friend who was struggling in the water, but died in the process.

Several of the children in our neighborhood were put at risk that day because the developers did not do the right thing. They knew that the pipe in the detention pond was 89% blocked, but chose not to fix it.

The U.S. Navy has since fenced the pond where my sister died and requires it in housing. The state should adopt this standard too.

Please pass HB1233, a critical piece of legislation so that other Hawaii children do not fall victim to these hidden hazards and other Hawaii families do not lose loved ones. I miss my sister every day.

Joshua Schaefers

**HB-1233-HD-1**

Submitted on: 2/8/2025 2:34:08 PM

Testimony for HLT on 2/12/2025 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Pamela Louise Ramsay	Individual	Support	Written Testimony Only

Comments:

My granddaughter Charlotte “Sharkey” Schaefers died from drowning, Feb. 28, 2004. It has been 21 years, but there is not a day that I do not think about her. She could swim like a fish and had the courage of a lion. Her heart was so big that this little hero did not hesitate to jump into a dirty, faulty retaining pond to save a younger pal. While the older children looked on, she pushed him up to safety, but struggling, lost the battle herself. Of all of my grandchildren, Sharkey was the child that was almost a perfect copy of myself, the way she walked, turned her head, rolled her eyes, and that dimpled smile. Her “I can do it” attitude along with her grandma kisses and sweet laughter are unforgettable. My only comfort is that she knew and loved God and I am sure is waiting to welcome me with open arms. Please consider passing this bill so that other grandmothers are not deprived of those warm earthly hugs.

**HB-1233-HD-1**

Submitted on: 2/8/2025 4:05:05 PM

Testimony for HLT on 2/12/2025 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dale Fergerstrom	Individual	Oppose	Written Testimony Only

Comments:

I understand the concern over the significant number of drownings in the State of Hawai'i but does this bill do anything to lessen the number of drownings in Hawai'i? Has anyone looked at the Dept of Health records to see if anyone in the past 10 years has drowned in a Retention or Detention Pond? I have been unable to find a single death in one of these ponds. I think this is a feel-good effort that does not affect the actual problem of drowning in the State of Hawai'i. I would like to see more effort and resources be directed at preventing deaths where they are actually occurring.

**HB-1233-HD-1**

Submitted on: 2/8/2025 11:14:56 PM

Testimony for HLT on 2/12/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jessamy Town Hornor	Individual	Support	Written Testimony Only

Comments:

Dear Chair, Vice Chair, and members of the committee,

I am writing in **strong support** of HB1233 RELATING TO STORMWATER MANAGEMENT SYSTEMS as a bereaved family member who has lost loved ones to drowning, and as co-founder of the Hawai'i Water Safety Coalition and executive editor of the newly published Hawai'i Water Safety Plan. I am also a Public Health Educator at DOH EMSIPSB in the area of drowning prevention but I am not representing DOH in this testimony.

I personally understand the catastrophic, lifetime impact of losing loved ones to drowning, a wholly preventable loss. Investments in safety and prevention are miniscule compared to the emotional, social, and financial costs of a single drowning. And, among all the types of aquatic environments, retention and detention ponds are the most dangerous, so dangerous that they can be considered death traps without safety features such as fencing, signage and life bouys. They are especially dangerous for young children who are drawn to water, and even more so for children with autism.

This bill reflects **best practices** that should be employed with new retention and detention ponds to mitigate their hazards. As 'passive interventions' these safety features will be immediately impactful in preventing drownings in flood retention and detention ponds. Improving the safety of retention and detention ponds is one of the first actions that we can implement from the Hawai'i Water Safety Plan to reflect a greater commitment to drowning prevention in our state.

As a bereaved mother, I ask you to support this bill in memory of Charlotte "Sharkey" Schaefer so that no other family has to go through what her family has.

Sincerely,

Jessamy Town Hornor

Hawai'i Water Safety Coalition  
Mālama kekahi i kekahi ~ We take care of eachother

I am writing in support of HB1233 which is aimed at Hawaii water safety and helping to prevent deaths by drowning.

This bill was inspired and named after a child hero, Charlotte “Sharkey” Schaefer, who drowned 21 years ago while saving her little friend who slid into a detention pond that suddenly flooded because the pipe inside of it was 89% clogged. The clog turned an area of rolling hills between the playground and backyards into a deathtrap lake of pitch black water and slippery mud banks.

Please help prevent more deaths in detention and retention ponds by supporting legislation that requires safety provisions and monitoring. While most Hawaii residents drown in the ocean, keiki under the age of seven are more susceptible to drowning in pools, bathtubs, retention and detention ponds and even puddles.

Detention and retention ponds are meant to hold storm water. Hawaii’s high drowning rate — the second worst in the nation for residents — necessitates developing retention and detention pond safety programs.

Without mitigation, these ponds are hidden hazards. Retention and detention ponds are usually located in the public areas of housing developments, in park spaces, often near playgrounds — so without safety measures they often become attractive nuisances that are mistaken for recreational ponds. They may help to make less desirable low-lying and wetland areas suitable for building so they are more often found in less affluent neighborhoods, making this legislation an equity as well. Data in the Hawaii Water Safety Plan shows that Hawaii’s Native Hawaiian and Pacific Islander residents make up about 27% of Hawaii’s population but about 36% of the resident drowning deaths.

This bill offers a common-sense approach to regulating retention and detention ponds. First it does not ban retention or detention ponds, and the safety, maintenance, and inspection requirements are things that responsible owners should utilize anyway. Secondly, it only applies to new retention and detention ponds, which eases the burden of establishing a new program as well as the roll out.

We need to make sure that Charlotte’s tragedy never repeats itself with another family in Hawaii, and the DOH is the best agency to take on this role.

Sharkey would have been 26 years old now. However, on February 28, 2004 she knew that it was the right thing to do to jump into the pitch black water of a improperly maintained detention pond to help her friend.

She had a decision to make, and Sharkey saved her friend.

I respectfully ask that you be the heroes that Sharkey was and pass HB1233.

Please help Sharkey save more lives.



I am writing in support of HB1233, which is named for an inspired by my 5-year-old daughter Charlotte “Sharkey” Schaefer, who drowned Feb. 4, 2004 saving a younger friend who was struggling in the water.

My Sharkey would be alive today if the developers who built a rainwater detention pond in our community had put up signage and fencing and kept the drainpipe clear. It was 89% clogged and overnight turned rolling hills in our community into a large, deep, dark death pit. Getting out was impossible for a child, and seriously challenging for the adults who formed a grid to search for Sharkey, and came up short for more than 10 minutes.

This bill was modeled after recommendations recently released in the first Hawaii Water Safety Plan. The plan was written by the Hawaii Water Safety Coalition, which falls under the umbrella of the Hawaiian Lifeguard Association, and is comprised of a broad network of water safety advocates across the state.

Without mitigation, retention and detention ponds are hidden hazards. They are usually located in the public areas of housing developments, in park spaces, often near playgrounds — so they are at risk of being mistaken for recreational ponds. Retention and detention ponds also are used to make less desirable low-lying and wetland areas suitable for building so they are more often found in less affluent neighborhoods, making this legislation an equity issue too. Data in the Hawaii Water Safety Plan shows that Hawaii’s Native Hawaiian and Pacific Islander residents make up about 27% of Hawaii’s population but about 36% of the resident drowning deaths.

The urgency to regulate is made even greater by climate change which has created more frequent and intense rainfall resulting in increased use of detention and retention ponds. The latest version of the Ala Wai Flood Risk Management Project has one detention pond planned for the Ala Wai Golf Course; however, earlier variations of the plan contemplated building large detention ponds in Oahu parks, including Kapiolani Park, Makiki District Park, Manoa Valley District Park, Palolo Valley District Park. While these alternatives were considered for flood control, other alternatives were selected as it was determined based on feedback “that the use of public parks as detention facilities could reduce acceptability by the public.”

The public wants regulations around retention and detention ponds and they deserve them. Drowning is the leading cause of death for our keiki ages 1 to 15, and our keiki under the age of 7 are far more susceptible to drowning risks that occur outside of the ocean.

This bill offers a common-sense approach. It does not ban retention or detention ponds, and responsible owners already should incorporate these safety and maintenance requirements. The survey allows for a phased in response to pre-existing retention and detention ponds. Inspections are key for public safety, as well as to make sure that these detention and retention ponds are actually controlling flood waters rather than exacerbating the problem.

This public health and safety issue is important enough to warrant a consistent statewide solution. Otherwise we are picking and choosing which island’s children we will immediately protect. The issue is critical enough to impose standard protocols so that the warning mechanisms and regulations are easily identified, understood and incorporated across the state.

Let me repeat — inspections are key. I’m enclosing several pictures that drive this point home. The first picture with the water in the detention pond is a picture taken several days after Sharkey died in 2004. The temporary orange fencing was hurriedly installed, but only because my family demanded it given the flooding, which could have been prevented in the first place by fixing the clogged drainpipe.

The fenced dry pond in the other pictures is the same detention pond where Sharkey died but they were taken on Feb. 28, 2024, the 20th anniversary of her death. The detention pond has been fenced, but the grass inside is severely overgrown and blocking the drain.

After Sharkey's death, my family was awarded a \$2 million wrongful death settlement, the largest at the time for the death of a child in Hawaii. I do not consider this a win, because nothing could make up for the loss of my pint-sized powerhouse. Every night before bed, we would chant, "I am a woman. I am smart. I will win."

She had such amazing potential.

I should be celebrating Sharkey turning 26 a few weeks ago. Instead I'm testifying to ensure that no other parent meets the hell that my family has experienced. Her absence is a loss that is felt every day because to lose a child is to lose your future. I have been on the sidelines watching as Sharkey's friends went to their first day of kindergarten. I missed seeing her adorned with lei as she graduated high school and college. I never got to see Sharkey come into her own power as she embarked on a career. She should have had the chance to fall in love, get married or find a partner and have children or build whatever life she wanted. This will never be Sharkey's legacy or mine.

Twenty-one years ago Sharkey stood on the banks of a flooded and improperly maintained detention pond and watched a friend struggling.

She had a decision to make, and she didn't hesitate to do the right thing. Sharkey saved her friend.

I challenge you to do the right thing too. If a five -year-old can be a hero, we can all be heroes.

Let's help Sharkey save more lives.











**HB-1233-HD-1**

Submitted on: 2/10/2025 2:27:44 PM

Testimony for HLT on 2/12/2025 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Sarah Fairchild	Individual	Support	Written Testimony Only

Comments:

I support 1233. Without mitigation, retention and detention ponds are hidden hazards. They are usually located in the public areas of housing developments, in park spaces, often near playgrounds — so they are at risk of being mistaken for recreational ponds. We need to protect our keiki from these hazards hidden where they live and play.

**HB-1233-HD-1**

Submitted on: 2/12/2025 12:01:13 AM

Testimony for HLT on 2/12/2025 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gregory Misakian	Individual	Support	Remotely Via Zoom

Comments:

I support HB1233 HD1.

I am aware of the story behind this bill and the change it can bring to prevent future tragedies.

Gregory Misakian

**HB-1233-HD-1**

Submitted on: 2/12/2025 8:06:02 AM

Testimony for HLT on 2/12/2025 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Denise Boisvert	Individual	Support	Written Testimony Only

Comments:

I STRONGLY SUPPORT this bill. Please pass it.