



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

ON THE FOLLOWING MEASURE:
H.B. NO. 376, RELATING TO CESSPOOLS.

BEFORE THE:
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

DATE: Thursday, January 30, 2025 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 325

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

Chair Lowen and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to implement various recommendations of the Cesspool Conversion Working Group, established by Act 132, Session Laws of Hawaii 2018.

This bill is entitled "Relating to Cesspools." Section 7 of the bill, however, would eliminate the auditing requirement on tax credits for organically produced agricultural products. Page 10, line 15, through page 12, line 4.

This bill may be subject to challenge under the single subject requirement of section 14 of article III of the State Constitution, which provides, in part: "Each law shall embrace but one subject, which shall be expressed in its title." The subject expressed in this bill's title is "cesspools." The deletion of the Auditor's obligation to audit the tax credits for organically produced agricultural products (page 11, lines 16-17) appears unrelated to this subject.

To address this concern, the Department recommends either: (1) deleting section 7 of the bill (page 10, line 15, through page 12, line 4); or (2) revising section 1 of the bill to explain how the repeal of the Auditor's responsibility to review the income tax credit for organically produced agricultural products is related to cesspools.

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

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT GOVERNOR



Hawaii Green Infrastructure Authority

An Agency of the State of Hawaii

JAMES KUNANE TOKIOKA
CHAIR

GWEN S YAMAMOTO LAU
EXECUTIVE DIRECTOR

Testimony of
Gwen Yamamoto Lau
Executive Director
Hawaii Green Infrastructure Authority
before the
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Thursday, January 30, 2025, 9:00 AM
State Capitol, Conference Room 325
in consideration of
HOUSE BILL NO. 376
RELATING TO CESSPOOLS

Chair Lowen, Vice Chair Perruso and Members of the Committee:

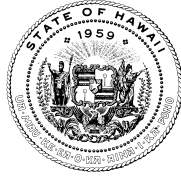
Thank you for the opportunity to testify and provide comments on House Bill No. 376 relating to cesspools. The Hawai'i Green Infrastructure Authority (HGIA) **supports** this bill which provides for staggered deadlines to upgrade priority level 1 and level 2 cesspools ahead of the existing 2050 deadline.

Prioritizing and accelerating conversion dates for systems with the most severe impacts will not only provide more timely protection of our groundwater sources, but it will also provide a sense of urgency while allowing the industry to gear up for increased demand to convert some 13,800 priority level 1 cesspools and some 12,400 priority level 2 cesspool ahead of the January 1, 2050 deadline.

We support the measure so long as it does not adversely impact priorities identified in Executive Budget Request for FY2026. Thank you for this opportunity to testify and provide comments on House Bill No. 376.

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ke Kia 'āina o ka Moku 'āina 'o
Hawaii 'i*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kia 'āina o ka Moku 'āina
'o Hawaii 'i*



KALI WATSON
CHAIRPERSON, HHC
Ka Luna Ho 'okele

KATIE L. LAMBERT
DEPUTY TO THE CHAIR
Ka Hope Luna Ho 'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho 'opulapula Hawaii 'i

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF KALI WATSON, CHAIR
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
HEARING ON JANUARY 30, 2025 AT 9:00AM IN CR 325

HB 376, RELATING TO CESSPOOLS

January 29, 2025

Aloha Chair Lowen, Vice Chair Perruso, and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) **supports** this bill which 1) accelerates the dates for the required upgrades, conversions, or connections of priority level 1 and priority level 2 cesspools to 2035 and 2040 respectively, 2) appropriates funds to implement the cesspool compliance pilot grant program, and 3) re-establishes a cesspool upgrade, conversion, or connection tax credit.

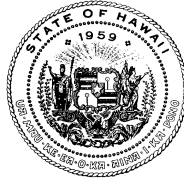
Approximately 2,500 cesspools exist on Hawaiian Home Lands and majority of which are ranked as priority level 1 or priority level 2 cesspools to be upgraded, converted, or connected to a sewerage system. DHHL acknowledges the various recommendations of the working group established by Act 132, Session Laws of Hawaii 2018, including accelerating the 2050 deadline for the required upgrades, conversions, or connections of priority level 1 and priority level 2 cesspools. While DHHL understands the urgency to complete these upgrades, conversions or connections, the necessary resources will be vital to meeting these accelerated deadlines.

DHHL supports funding to implement the Cesspool Compliance Pilot Grant Project that also serves lessees on Hawaiian Home Lands. DHHL also supports reestablishing a cesspool upgrade, conversion, or connection tax credit.

DHHL understands that there is no simple, one method fits all ahupua'a (land division) solution toward addressing the cesspool conversion and wastewater needs of the State of Hawaii and we especially support funding to implement the cesspool compliance pilot grant program.

Thank you for your consideration of our testimony.

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'OHAWAI'I



KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on HB0376
RELATING TO CESSPOOLS**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

January 30, 2025; 9:00 am; Room Number: 325

1 **Fiscal Implications:** The Department of Health ("Department") requests that this measure be
2 considered as a vehicle to provide this needed funding so long as it does not supplant the
3 priorities and requests outlined in the Governors executive budget request.

4 **Department Position:** The Department offers comments and proposed amendments on this
5 measure.

6 **Department Testimony:** The Environmental Management Division (EMD) provides the
7 following testimony on behalf of the Department.

8 The Department supports the staggering of the dates for required upgrades,
9 conversions, or connections of priority levels 1, 2, and 3 cesspools, appropriating moneys to
10 provide financing assistance via the cesspool compliance pilot grant project established
11 pursuant to Act 153, Session Laws of Hawaii 2022; and establishing a cesspool upgrade,
12 conversion, or connection income tax credit.

13 The Department has concerns with accelerating the dates for required upgrades,
14 conversions, or connections of priority levels 1 and 2 cesspools. The Department has been told
15 that resource availability (e.g., financial; qualified contractors, engineers, and laborers;
16 equipment; and materials) is the major obstacle to cesspool conversions or connections to

sewerage systems. After operating the Hawai'i cesspool compliance pilot grant (HCCPG) program from July 1, 2022, to present, the Department experienced more grant applicants than it could accept into the program. Furthermore, the time duration from the start of the HCCPG program to the time the moneys lapsed was too short for all property owners to complete their wastewater project.

The Department believes that it will be unable to operate the cesspool compliance pilot grant project established pursuant to Act 153, Session Laws of Hawaii 2022 without establishing three (3) FTE positions within the Department, which would include two (2) full-time equivalent (2.0 FTE) permanent engineer III positions and one (1) full-time equivalent (1.0 FTE) permanent accountant IV position.

Offered Amendments: The Department respectfully suggests the following revisions to Part IV of the proposed measure regarding the tax credit process. Additions appear as double-underlined and deletions appear as bracketed strikeouts.

SECTION 5, Page 7, lines 9-20 and Page 8, lines 1-3: “(e) The department of health or a third-party certifier shall:

(1) Certify all qualified cesspools for the purposes of this section[;] using the the university of Hawai'i's Hawai'i cesspool prioritization tool;

(2) Collect and maintain a record of all qualified expenses certified by the department of health or a third-party certifier for the taxable year;[and]

(3) Certify to each taxpayer the amount of credit the taxpayer may claim; provided that if, in any year, the annual amount of certified credits reaches \$ _____ in the aggregate, the department of health or a third-party certifier shall immediately discontinue certifying credits and notify the department of taxation[-]; and

(4) Request a copy of the approval to use letter for the wastewater system issued by the director of health.

The director of health may adopt rules under chapter 91 as necessary to implement the certification requirements under this section."

SECTION 5, Page 9, lines 1-16: "Cesspool" has the same meaning as in section 342D-72. "Qualified cesspool" means a cesspool that is:

~~[(1) Certified by the department of health to be:~~

~~(A)~~[(1) Located within a priority level 1 or 2 area according to the university of [Hawaii's 2022 Hawaii]Hawai'i's Hawai'i cesspool [hazard assessment and]prioritization tool; or

~~[(B)](2)A residential large capacity cesspool [; or].~~

~~[(2) Certified by a county or private sewer company to be appropriate for connection to its existing sewerage system.]~~

"Qualified expenses" means costs that are necessary and directly incurred by the taxpayer for upgrading or converting a qualified cesspool to a director of health-approved wastewater system, or connecting a qualified cesspool to a sewerage system, and that are certified as such by the department of health or a third-party certifier."

Thank you for the opportunity to testify on this measure.

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Felicia Cowden
Fern Holland
Arryl Kaneshiro



Council Services Division
4396 Rice Street, Suite 209
Līhu'e, Kaua'i, Hawai'i 96766

OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
Email: cokcouncil@kauai.gov

January 28, 2025

TESTIMONY OF ADDISON BULOSAN
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
HB 376, RELATING TO CESSPOOLS
AND
HB 379, RELATING TO THE ENVIRONMENT
House Committee on Energy & Environmental Protection
Thursday, January 30, 2025
9:00 a.m.
Conference Room 325
Via Videoconference

Dear Chair Lowen and Members of the Committee:

Thank you for this opportunity to provide testimony in SUPPORT of HB 376, Relating to Cesspools and HB 379, Relating to the Environment. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council.

I wholeheartedly support the intent of HB 376 and HB 379, which would greatly affect the Kaua'i community.

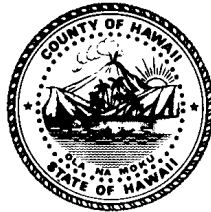
Thank you again for this opportunity to provide testimony in support of HB 376 and HB 379. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188 or via email to cokcouncil@kauai.gov.

Sincerely,

ADDISON BULOSAN
Councilmember, Kaua'i County Council

AAO:dmc

HEATHER L. KIMBALL
COUNCIL CHAIR
Council District 1 (North Hilo,
Hāmākua, and portion of Waimea)



Phone: (808) 961-8828
Fax: (808) 961-8912
Email: Heather.Kimball@hawaiicounty.gov

HAWAI'I COUNTY COUNCIL

25 Aupuni Street, Ste. 1402.
Hilo, Hawai'i 96720

March 12, 2024

House Committee on Agriculture and Environment
Honorable Representative Nicole Lowen, Chair

RE: **Support for HB 376**

Dear Chair Lowen, and Members of the Committees on Energy and Environmental Protection:

As a member of the Hawai'i County Council, I thank you for the opportunity to submit **testimony in SUPPORT of HB 376**, relating to cesspool conversion. This legislation accelerates the timeline for cesspool the conversion in priority 1 and 2 areas, and provides funding for a conversion compliance program and a tax credit for homeowners to connect to a wastewater system or convert.

The conversion of cesspools across the state presents a significant financial burden to the counties and property owners. However, cesspools present a well-established threat to human health and the environment. The urgent need to start conversions can no longer be delayed. With the vast number of cesspools across the state, it is critical that we focus on the rapid conversion in priority 1 and 2 areas where conversion will have the most substantial and immediate impact on the environment and human health. **Bill HB 376** provides technical support through funding of a compliance program, which is critical to the success of conversion efforts. In addition the tax credit system helps to address the cost burden of cesspool conversion for the residents in our state.

I do urge that this committee support **HB376**. We are certain with continued collaboration and dialogue with the counties will arrive at a program that will be successful in addressing this critical environmental and public health issue. Thank you for the opportunity to submit this testimony. If you would like to discuss this matter further, please do not hesitate to contact me directly.

Sincerely,

HEATHER L. KIMBALL



To: The Honorable Representative Nicole Lowen, Chair, the Honorable Amy Perruso, Vice Chair, and Members of the Committee on Energy and Environmental Protection.

From: Hawai'i Reef and Ocean Coalition (by Ted Bohlen)

Re: Hearing **HB376 RELATING TO CESSPOOLS**

Hearing: Thursday, January 30, 2025, 9:00 a.m. CR325

Aloha Chair Lowen, Vice Chair Perruso, and Energy and Environmental Protection Committee Members:

The Hawai'i Reef and Ocean Coalition (HIROC) is a group of scientists, educators, filmmakers and environmental advocates who have been working since 2017 to protect Hawaii's coral reefs and ocean.

The Hawai'i Reef and Ocean Coalition STRONGLY SUPPORTS HB376!

Pollution from cesspools is harming the health of Hawaii's people and quality of Hawaii's waters. Hawaii has more than eighty thousand cesspools that discharge about fifty million gallons of wastewater into the State's groundwater every day. Cesspools are antiquated, substandard systems that damage public health, pollute drinking water, and lower water quality in streams, ground waters, nearshore marine areas, and the ocean. Cesspool pollution also harms public recreation and the precious coral reefs on which Hawaii's economy, shoreline, fisheries, and native species depend.

Hawai'i law requires that all cesspools not exempt need to be connected or upgraded by 2050 (Act 125, 2017). Hawai'i needs to get started on upgrading cesspools in order to eliminate all cesspools by 2050. This bill would accelerate the dates for upgrading some of the cesspools,

those in areas designated as Priority 1 and 2, from 2050 in the current law to 2035 and 2040.

Priority 1 and 2 cesspools, the ones that pose the most serious threats to public health, drinking water supplies, coral reefs and water quality in nearshore areas, were determined through the UH 2022 Hawai'i cesspool hazard assessment and prioritization tool. The tool was developed for the Cesspool Conversion Working Group (CCWG), which was created by Act 132 of 2018. The CCWG, on which I served for its entire four years, included a broad coalition of stakeholders, including Legislators and representatives from EPA, DOH, all counties, UH, realtors, bankers, and advocacy groups. The CCWG considered new scientific and policy data, studies by wastewater experts, activities in other jurisdictions, owners' ability to pay, and financing mechanisms.

Accelerating the upgrade requirements was the leading recommendation of the CCWG in its Final Report to the Legislature in December 2022, to 2030 for Priority 1 and 2035 for Priority 2.

Acceleration of upgrade requirements is necessary, not only to reduce pollution to protect the public health and help save corals, but also to meet the 2050 legal mandate. Currently, only a few hundred cesspools are being upgraded each year, versus over 3,000 per year that need to be upgraded on average to complete the 83,000 upgrades by 2050.

Priority 1 (13,821) and 2 (12,367) cesspools together constitute about 30% of the over 80,000 total in Hawai'i.

This bill provides an extra five years more than the CCWG recommended to upgrade Priority 1 cesspools (by 2035) and Priority 2 (by 2040).

Upgrades of Priority 3 cesspools (about 70% of the total) would not be accelerated and would remain at 2050. The bill authorizes the DOH to exempt cesspools that show a legitimate reason they cannot upgrade and to pass rules to grant extensions based on an inability to pay.

The bill also contains an appropriation for the Department of Health to implement the cesspool compliance grant program. It also re-establishes a cesspool upgrade, conversion or connection tax credit.

Upgrading Priority 1 cesspools by 2035 and Priority 2 cesspools by 2040 is a reasonable and necessary start on solving Hawaii's cesspool pollution problem. Please pass this bill!

Mahalo!

Hawai'i Reef and Ocean Coalition (by Ted Bohlen)

January 30, 2025

The Honorable Nicole E. Lowen, Chair

House Committee on Energy & Environmental Protection
State Capitol, Conference Room 325 & Videoconference

RE: House Bill 376, Relating to Cesspools

HEARING: Wednesday, January 30, 2025, at 9:00 a.m.

Aloha Chair Lowen, Vice Chair Perusso, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 10,000 members. HAR provides **comments** on House Bill 376, which accelerates the dates for the required upgrades, conversions, or connections of priority level 1 and priority level 2 cesspools to 2035 and 2040, respectively. Appropriates funds to implement the cesspool compliance pilot grant program. Re-establishes a cesspool upgrade, conversion, or connection tax credit.

Hawai'i REALTORS® supports the goal of protecting our drinking water, streams, ground water, and ocean resources. We recognize that cesspool conversion is important to preserve our environment. According to the Cesspool Working Group Final Report¹, there are 13,821 cesspools categorized as Priority Level 1 and 12,367 cesspools categorized as Priority Level 2. To convert Priority Level 1 and 2 cesspools by 2045, **2,206 cesspools would need to be converted per year** (see table below.) Additionally, to convert the remaining Priority Level 2 cesspools would be an additional 824 conversions per year over the subsequent 5 years. This is not including the 55,237 Priority Level 3 cesspools that will still need to be converted by 2050, if we wait to convert Priority Level 3 cesspools until after 2040, there will be 10 years left to convert them all which averages to 5,523 conversions a year.

Year:	Priority Level 1	Priority Level 2	Convert Per Year
2026	1,382	824	2,206
2027	1,382	824	2,206
2028	1,382	824	2,206
2029	1,382	824	2,206
2030	1,382	824	2,206
2031	1,382	824	2,206
2032	1,382	824	2,206
2033	1,382	824	2,206

¹ Cesspool Conversion Working Group. (2022). *Final Report to the 2023 Regular Session Legislature*. State of Hawai'i Department of Health. <https://health.hawaii.gov/opppd/files/2022/12/Act-170-SLH-2019-Nov-2022.pdf>



2034	1,382	824	2,206
2035	1,382	824	2,206
2036		824	824
2037		824	824
2038		824	824
2039		824	824
2040		824	824

While it may vary greatly depending on existing infrastructure and property location, it can take 8 to 9 months or longer for a homeowner to convert their cesspool to a Department of Health ("DOH") approved wastewater system. Steps include but are not limited to, architects drawing up site plans, civil engineers drawing up and submitting the proposed system, obtaining DOH preliminary approval, engaging a contractor, obtaining a review and approval from the State Historic Preservation Division (SHPD), obtaining permits, construction, and engineers getting final approval from DOH. As such, it is crucial that we properly plan and find ways to assist communities and homeowners as **resources and manpower are limited, especially on the neighbor islands and in rural areas.**

Moreover, moving up the mandate does not solve the financial dilemma for homeowners. The Cesspool Conversion Working Group conducted an affordability analysis² for homeowners. Based on the analysis, **97% of homeowners would be financially burdened by cesspool conversion costs.** Equally concerning, even with a \$10,000 rebate 82% of homeowners would still be financially burdened. Most homeowners will not be able to afford to do this alone.

As such, the focus should be on efforts to aid communities and homeowners with cesspool conversion, which includes financial assistance in addition to wastewater infrastructure planning and development. We believe the income tax credit and cesspool compliance pilot grant project can help homeowners who may be financially burdened to convert their cesspools to a DOH wastewater system or connect to a sewerage system.

Thank you for your consideration of our comments. Mahalo for the opportunity to testify.

² Cesspool Conversion Working Group. (2022). *Final Report to the 2023 Regular Session Legislature*. State of Hawai'i Department of Health. <https://health.hawaii.gov/opppd/files/2022/12/Act-170-SLH-2019-Nov-2022.pdf>

Hawai'i State Association of Counties (HSAC)

Counties of Kaua'i, Maui, Hawai'i, and City & County of Honolulu

Website: hawaiicounties.org | Email: hsac@hawaiicounties.org



Testimony of the Hawai'i State Association of Counties

H.B. No. 376 - Support

Relating to Cesspools

Committee on Energy & Environmental Protection

Thursday, January 30, 2025, 9 a.m.

The Hawaii State Association of Counties (HSAC) is a non-profit organization that represents the collective interests of Hawai'i's four counties: Kaua'i County, Maui County, County of Hawai'i, and the City and County of Honolulu. HSAC's membership includes the elected members of each county council, who work collaboratively to advocate for policies and programs that enhance the quality of life for our residents.

HSAC strongly supports House Bill 376, which aims to expedite the conversion of cesspools in priority 1 and 2 areas, establish a compliance program, and provide tax credits to homeowners for connecting to wastewater systems or undertaking conversions.

Cesspools pose a significant threat to both public health and the environment across our state. The financial burden of converting these systems is substantial for both counties and property owners. By focusing on priority 1 and 2 areas, this legislation ensures that efforts are concentrated where they will have the most immediate and meaningful impact.

The proposed compliance program is essential for providing the technical support necessary to facilitate successful conversions. Additionally, the tax credit system will help alleviate the financial strain on residents, encouraging timely compliance and participation in this critical initiative.

HSAC urges the committee to support HB 376. Through continued collaboration and dialogue with the counties, we are confident that we can develop a program that effectively addresses this pressing environmental and public health issue.

HSAC respectfully requests your favorable consideration of this bill. Thank you for the opportunity to submit testimony, and we are available to answer any questions you may have.

**Testimony of The Nature Conservancy
Supporting HB 749, Relating to Cesspools.
Committee on Energy and Environmental Protection
January 30, 2025, 9:00 am
Conference Room 325 and via Videoconference**

Dear Chair Lowen, Vice Chair Perruso, and Members of the Committee:

The Nature Conservancy (TNC) of Hawai'i and Palmyra supports HB 376 which would accelerate the dates for the required upgrades, conversions, or connections of priority level 1 and priority level 2 cesspools to 2035 and 2040, respectively. The bill would also appropriate funds to implement the cesspool compliance pilot grant program and re-establish a cesspool upgrade, conversion, or connection tax credit.

Science conducted by TNC and partners has shown that wastewater, particularly cesspools, are detrimental to the coral reefs which protect our coastlines and underpin our economy. Without clean coastal waters reef ecosystems are put at even greater risk in the face of growing global stressors including climate change.

Cesspools cause harm to water quality within adjacent groundwater, anchialine, coral reef systems and fisheries by introducing elevated amounts of organic nitrogen and phosphorus, pathogens, and other contaminants. Contaminants emitted from cesspools can harm aquatic ecosystems by encouraging excess algal and bacterial growth and can also pose a threat to human health. Our research in He'eia, Maunalua, Olowalu, Hana and South Kohala has shown direct evidence of cesspool contamination in streams and coastal waters using a variety of bioindicators and chemical signatures.

The Cesspool Conversion Working Group, guided by a technical committee, established Phase 1 cesspools as the cesspools most likely to be impacting coastal ecosystems and human health. Phase 1 cesspools were chosen by modeling and expert opinion to be those in the high-density areas next to sensitive resources. Upgrading these systems as soon as possible is key to the collective health of our communities and our environment. HB 376 make important strides to ensure the timely conversion of Phase 1 cesspools.

Mahalo for the opportunity to testify in support/opposition of HB 376.

Guided by science, TNC is a non-profit organization dedicated to the preservation of the lands and waters upon which all life depends. The Conservancy has helped protect more than 200,000 acres of natural lands in Hawai'i and Palmyra Atoll. We manage 40,000 acres in 13 nature preserves and have supported over 50 coastal communities to help protect and restore the nearshore reefs and fisheries of the main Hawaiian Islands.

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To: Nicole E. Lowen, Chair Committee on Energy & Environmental Protection

Re: HB 376 Relating to Cesspools
Thursday, January 30, 2025 9:00AM
VIA VIDEOCONFERENCE
Conference Room 325
State Capitol
415 South Beretania Street

From: Hanna Puentes- Project Coordinator (Hawai'i)
info@hawaiiwaiola.com
Hawai'i Wai Ola

Subject: I am testifying in Support of HB 376 Relating to Cesspools.

I am testifying in Support of HB 376 relating to Cesspools on behalf of Hawai'i Wai Ola (HWO) and as a concerned community member of Moku o Keawe. HWO is a Hawai'i Island based multi-organization initiative that produces quality assured, publicly-available nearshore water quality data. Since 2018, HWO has collected, analyzed, and reported on water quality throughout Hawaii County, the leading contributor of cesspools across the State, to safeguard our communities and marine ecosystems from sewage contamination. As an advocate for clean water initiatives, I can attest to the challenges of cesspool conversions, including high costs for homeowners and the technical hurdles faced in remote areas. Any actions that reduce costs and provide practical solutions without compromising water quality will greatly support HWO's mission.

The task of reviewing wastewater rules and identifying cost-saving measures is critical to mitigating cesspool pollution, which impacts groundwater and nearshore ecosystems. To achieve this, sufficient funding should be allocated to enable continued collaboration among local experts, agencies, and community stakeholders.

In closing, HWO Supports HB 376 Thank you for the opportunity to provide this testimony.

Sincerely,

A handwritten signature in dark ink, appearing to be 'HP' or 'Hanna Puentes' in a stylized, cursive script.

Hanna Puentes, Project Coordinator (Hawai'i)
info@hawaiiwaiola.com
Hawaii Wai Ola

TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME TAX; Tax Credit for Upgrade, Conversion, or Connection of Cesspools

BILL NUMBER: HB 376, SB 472

INTRODUCED BY: HB by NAKAMURA by request, SB by KOUCHI by request (Hawaii Association of Counties Package)

EXECUTIVE SUMMARY: Accelerates the dates for the required upgrades, conversions, or connections of priority level 1 and priority level 2 cesspools to 2035 and 2040, respectively. Appropriates funds to implement the cesspool compliance pilot grant program. Re-establishes a cesspool upgrade, conversion, or connection tax credit.

SYNOPSIS: As it relates to taxation, part IV of the bill adds a new section to chapter 235, HRS, allowing a nonrefundable income tax credit for a cesspool upgrade, conversion, or connection equal to 100% of qualified expenses of the taxpayer. The maximum credit is \$10,000 and a maximum of one cesspool upgrade, conversion, or connection income tax credit per qualified cesspool.

Qualified expenses are defined as costs that are necessary and directly incurred for upgrading or converting a qualified cesspool to a director of health-approved wastewater system, or connecting a qualified cesspool to a sewerage system, and that are certified as such by the department of health.

The Department of Health (department) is tasked with the responsibility of certifying claims for the credit. The department shall discontinue certifying credits if, in any year, the annual amount reaches \$_____ in the aggregate. Taxpayers whose credit claims are disallowed because of the cap may claim the credit in the following year.

The Director of Taxation shall prepare forms and adopt necessary rules.

If the tax credit exceeds the taxpayer's income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for the tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to do so waives the right to the credit.

Definitions for cesspool, qualified cesspool, qualified expenses, residential large capacity cesspool, sewerage system, and wastewater are provided.

Amends section 23-92 HRS and makes conforming amendment to section 23-95, HRS, which mandates periodic review of credits by the State Auditor.

EFFECTIVE DATE: Upon approval, Section 4 shall take effect July 1, 2025, and Part IV shall apply to taxable years beginning after December 31, 2024.

STAFF COMMENTS: Act 120, SLH 2015, enacted a temporary income tax credit, expiring on December 31, 2020, for 100% of the qualified costs of a cesspool upgrade, conversion, or connection, up to \$10,000. Act 182, SLH 2016, made clarifying amendments.

This measure means to reinstate the nonrefundable credit, which is an extension of the current effort to mitigate the public health hazards caused by cesspools, which release millions of gallons of untreated sewage into the ground. Many houses, especially in rural areas, still have them. Converting them is expensive, hence the credit to encourage homeowners to do so.

Lawmakers need to keep in mind two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount.

The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as generous about the expenditure of these funds when there isn't enough money for social service programs, funding is needed for wildfire relief, or our state hospitals are on the verge of collapse?

If lawmakers want to subsidize the conversion of cesspools, then a direct appropriation would be more accountable and transparent.

As drafted, the income tax credit is “available only for the taxable year in which the taxpayer’s qualified expenses are certified by the department of health.” Though unusual in that most credits based on expenses need to be claimed in the return for the taxable year in which the expenses are incurred, this approach makes sense and does solve the problem of what to do about expenses straddling taxable years.

Finally, section 7 of the bill, relating to the periodic review of credits and incentives that the statute auditor is required to conduct periodically, removes section 235-110.94 (credit for organically produced agricultural products) from the list. This amendment, if intended, does not appear to be germane to the bill title (“Relating to Cesspools”) and probably should be deleted.

Digested: 1/28/2025



Jan., 28, 2025

In Support of **HB376 Relating to Cesspools**
House Committee on Energy & Environmental Protection (EEP)
Hearing on Jan. 30, 2025, 9:00am, CR325

Aloha, Chair Lowen, Vice-Chair Peruso and Committee Members:

On behalf of the non-profit WAI: Wastewater Alternatives & Innovations, I am writing in **support of HB376**. This bill would accelerate the dates for cesspool upgrades, conversions or connections to sewer in Priority 1 & 2 Areas to 2035 and 2040, respectively, to help the state meet its legal mandate to convert all cesspools by 2050 (Act 153). These earlier deadlines would only affect homeowners in Priority Areas where untreated sewage from cesspools is a risk to public health, drinking water sources, sensitive water bodies and the near-shore environment. The bill would also provide needed positions at DOH to work on permitting, funding and expediting the process of helping homeowners with cesspool conversions.

Under Act 125, all cesspools need to be converted by 2050, and the price of conversion is only getting more expensive with time. Unless the state sets earlier deadlines to upgrade cesspools, it's highly unlikely they will be able to meet their own mandate under Act 153. This will create serious bottlenecks as we approach the deadline, and there will not be enough engineers, contractors and equipment providers to do the work and prices will only get higher.

Hawaii has more than 83,000 cesspools across the state, discharging 52 million gallons of raw sewage each day into Hawaii's waters. Along with threats to public health and drinking water resources, new research shows that polluted wastewater poses significant harm to coral reefs and the near-shore environment. The people of Hawaii need this law to make sure their wastewater systems aren't polluting the groundwater or nearby surface waters. Many places like Puako in Hawaii County and Ma'alaea in Maui have lost most of their coral reefs. Degraded reefs are not only bad for the environment, but they are bad for tourism, the economy and the protection of the Islands from storms, floods, hurricanes and tsunamis.

WAI is an environmental non-profit dedicated to protecting our water resources by reducing sewage pollution from cesspools. We support more innovative, affordable, and eco-friendly solutions to wastewater management. Better sanitation systems protect public health and valuable natural resources like groundwater, streams, coral reefs and coastal areas.

Hawaii is struggling with serious sewage pollution, and the state has a mandate to make sure all cesspools are converted in the next two decades. This bill was one of the highest priorities of the Cesspool Conversion Working Group, and earlier deadlines and more staffing at DOH are the only ways to meet the mandate to convert all cesspools by 2050. Mahalo for your leadership on this issue and support of this bill.

Aloha,

Stuart Coleman

Stuart H. Coleman, Executive Director

HB-376

Submitted on: 1/29/2025 12:49:40 PM

Testimony for EEP on 1/30/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

YES to - Accelerates the dates for the required upgrades, conversions, or connections of priority level 1 and priority level 2 cesspools to 2035 and 2040, respectively. Appropriates funds to implement the cesspool compliance pilot grant program. Re-establishes a cesspool upgrade, conversion, or connection tax credi