



STATE OF HAWAII
DEPARTMENT OF HEALTH
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WRITTEN
TESTIMONY ONLY

**Testimony COMMENTING on SB1221
RELATING TO STORMWATER MANAGEMENT SYSTEMS**

SENATOR GLENN WAKAI, CHAIR
SENATE COMMITTEE ON ENERGY AND INTERGOVERNMENTAL AFFAIRS

SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

February 6, 2025, 3:00 PM, Room Number: 016

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 is offering comments.

5 **Department Testimony:** The Environmental Management Division Clean Water Branch
6 (EMD-CWB) provides the following testimony on behalf of the Department.

7 The Department respectfully suggests that the Legislature consider expanding the
8 proposed role of the Counties in regulating the retention and detention ponds. As the proposed
9 measure would require the Counties to permit the construction and design of retention and
10 detention ponds, the Counties would be better positioned to conduct the safety inspections of
11 retention and detention ponds as they would have all the information required to assess
12 whether the ponds are meeting the permitted design and maintenance requirements.

13 Safety inspections and the development of safety requirements, are outside the
14 function and capabilities of the Department. Please see the Department’s Environmental Health

1 Administration website: [https://health.hawaii.gov/about/program-directory/environmental-
3 health-administration/](https://health.hawaii.gov/about/program-directory/environmental-
2 health-administration/) which identifies some current functions, such as hazardous substances
4 release response and contaminated site cleanup oversight; implementation and maintenance
5 of statewide programs for air and water pollution control; ensuring safe drinking water;
6 regulation of solid and hazardous waste disposal; regulation of wastewater; implementation
7 and maintenance of statewide programs to ensure the safety of food and drugs; regulation of
8 noise and radiation; improving indoor air quality; and lead abatement, sanitation, and vector
9 control.

9 If the Legislature believes the Department should take on this responsibility, Chapter
10 340E, Hawaii Revised Statutes, which deals with drinking water, is not the proper place. While
11 the Department has regulatory programs involved with storm water, these only regulate
12 pollutant concentrations in discharges to state surface waters under the federal Clean Water
13 Act's National Pollutant Discharge Elimination System (NPDES) permitting program. The NPDES
14 program does not have requirements related to safety considerations for storm water
15 management systems and does not review, approve, or regulate construction plans. As such,
16 the Department does not have an established program, existing personnel, or any form of
17 expertise to implement the proposed measures.

18 **Offered Amendments:** None.

19 Thank you for the opportunity to testify on this measure.

SB-1221

Submitted on: 1/31/2025 2:06:47 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Lynette Eastman | Individual | Support | Written Testimony Only |

Comments:

YES! Allocate funds to protect our residents and visitors with storm water management!

SB-1221

Submitted on: 1/31/2025 5:55:47 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|--------------|--------------|--------------------|------------------------|
| Tanya Ching | Individual | Support | Written Testimony Only |

Comments:

In 2004, I learned quickly, twice in one week, how fragile life is. Within one week of each other, my brother and I both lost young friends close to us. God took them for reasons we will never understand and both, due to preventable causes.

Charlotte was so vibrant and full of life. So full of life I needed help keeping up with her when we would bring the preschoolers to church or to various school activities ❤️. She showed us how there could be so much strength in such a soft hearted a little girl.

She gave her life, to save another's. If that isn't courage and selflessness, I don't know what is. Without hesitation, she gave a younger child, another chance at life. She is now and forever will be our little angel.

This tragic death should have never happened. The state and naval housing should have taken all precautions to keep the families safe. Not only was the drainage basin not fully fenced, but there were no signs, and the outlet was obstructed. Not only was it not functioning properly, but it also leads us to wonder how often inspections were actually completed.

I was so young, at 13 years old, I experienced such a tragic loss. You never grow up, thinking that a child in your life, will be taken from you oh too soon. I was so strong in my faith and at that time, I questioned God for it all. How could he let something to tragic happen to a beloved friend. Someone who smiled ear to ear when she was playing with her friends at the playground. How could her time here on earth, be cut so short because of reckless decisions and failures to put up a fence around a drainage basin? It's no different than fencing in a public swimming pool! At that age, my mind would run circles and circles of different perspectives of what I was told that had happened. It's difficult to find closure, when you don't know exactly what happened. I find closure in knowing details and since it happened in a blink of an eye, it's difficult for anyone to know exactly how it happened - unless you were there. This brings me to my next

point. Her big brother was there and he had to endure watching this catastrophe play out. No one should ever witness the loss of their young sibling in a tragic accident. Policy makers need to think about the long term effects of tragic accidents like these. Forget about saving a buck when it comes to the safety of our keiki. No one cares about saving money when it comes to the safety of children, except for policy makers in Hawaii. Let's put our state taxes towards a quality and purposeful cause and let's save lives! Unless we lose our own child to a tragic accident, we will never know what Aunty Allison and Uncle Scott and their son, Josh have had to endure over these years.

You are missed Charlotte. I have my other "buddies" from Our Lady of Good Counsel on social media as my friends. I love watching them grow and the things they post. I wish you could be in there too. To see you go to high school, prom, drive, chill at the beach, date, build your career and get married and have kids. I pray you watch over my family. I've taken my two big boys to your spot when they were younger. They've felt your spirit. Rest in love sweet "Sharkey." You were taken too soon, for reasons I'll never understand.

SB-1221

Submitted on: 2/2/2025 11:36:03 AM

Testimony for EIG on 2/6/2025 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|----------------|
| Allison Schaefer | Individual | Support | In Person |

Comments:

I am writing in support of SB1221 which was modeled after several recommendations published in the first Hawaii Water Safety Plan that was published in January. The plan was completed 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.

This bill was inspired and named for my courageous daughter Charlotte “Sharkey” Schaefer, who drowned Feb. 28, 2004 saving a childhood friend who was struggling in a detention pond, which suddenly flooded because the pipe inside of it was 89% clogged. The clog turned an area of rolling hills between the playground and backyards in our neighborhood into a lake that was about a quarter of the size of a football field, filled with pitch black water, and slippery mud. Getting out of that death pit was impossible for a child, and seriously challenging for the adults (many of them trained navy divers) who formed a grid to search for Sharkey, and came up short for more than 10 minutes.

Please help me 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, our 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 stormwater. However, while detention and retention ponds help manage stormwater and control flooding, mitigating risk for these systems is critical in minimizing threats to public health and safety. Hawaii's high drowning rate — the second worst in the nation for residents— necessitates developing retention and detention pond safety programs.

The urgency is made even greater by climate change which has created more frequent and intense rainfall resulting in increased use of retention ponds, which are designed to hold water year-round, and detention ponds, which remain dry until a major rain. 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. Please note that 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.”

Simply put, 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 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.

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 incorporate 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.

I want to preemptively discuss some of the objections that you might hear. Some may say that the Department of Health does not have the capacity and has too many hiring challenges to establish a retention and detention safety program. But we should do hard things when they are right. I know because nothing is more challenging than watching your child die from a preventable drowning and then mustering the courage to live your life without her and to advocate for drowning prevention. We need to make sure that this situation never happens again to another family in Hawaii, and the DOH is best agency to take on this role. I like that this bill helps the DOH with capacity by provisioning for four inspectors' positions.

Some might argue that the counties should have responsibility for retention and detention pond security. However, this public health and safety issue is important enough to warrant a consistent statewide solution. This situation is not unlike public swimming pools, where the county permits their construction, but it falls to the Department of Health to enforce public swimming pool rules as they are a public safety concern. A similar relationship exists between the county and state when it comes to restaurants, which are permitted for construction at the county level but it is the DOH that makes sure they do not have public health and safety violations.

Developers may say additional rules increase construction costs; however, requiring fencing, a life buoy and signage would have a negligible impact on total construction costs, and the other safety requirements are just part of good maintenance plans. Moreover, drowning is costly and prevention pays off. The Centers for Disease Control and Prevention (CDC) estimates that fatal unintentional drownings in 2022 in the United States cost a combined \$5.68 billion dollars, and the World Health Organization estimates that drowning prevention returns \$9 for every \$1 spent.

Developers sometimes protest that requiring them to install fencing, signage and ring buoys increases their liability. That isn't true if they are properly securing their retention and detention ponds. Moreover, doing nothing is costly — and it's not only a liability issue, it's a moral issue.

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 woman. I am smart. I will win."

She had such amazing potential.

I should be celebrating Sharkey turning 26 this month. 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 and have children. 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.

Mahalo for your time,

Allison Schaefer, Sharkey's mom

allisonschaefer@gmail.com

SB-1221

Submitted on: 2/2/2025 12:00:11 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|----------------------|---------------------|---------------------------|------------------------|
| 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.

My beautiful Goddaughter, Charlotte Paige, was full of sunshine. She was my little sunshine. She had a smile that would light up a room. She was loved and is missed by many. I have no doubt that she is a saint with a little /S/. She did everything with love, exuberance, and gusto. I can only imagine what she would have done with her life. Imagine is the key word; I will have to imagine her first communion, her confirmation, her first boyfriend, her first kiss, her first dance, her high school graduation, her college graduation, her wedding, her first child.....because I never knew the last time I hugged and kissed her on my wedding day on December 6, 2003 would be my last time to see her alive. If I had known I would never have let her go.

The photos I am including are of her and myself from my wedding day, beautiful and full of life. She was having the best time with my other beautiful flower girl. She was living her best life. That dress she is wearing is also the one which she was buried in down to the tiara.

Charlotte "Sharkey" Schaefer, 5, would presumably be alive today if the developers who built a rainwater detention pond in her community had put up signage and fencing and kept the drainpipe clear. The drainpipe was 89% clogged and overnight turned rolling hills in her community into a lake. You cannot protect your children from hazards that you do not know exist.

The last time I had the privilege to talk to her was on her birthday, January 18, 2004. She had just turned 5. The next phone call I received was from my best friend telling me my Charlotte was dead. I will never forget that day. Sharkey died Feb. 28, 2004, while saving a friend from drowning. The message of heroism reverberates through my life because of her, remembering that if a 5-year-old can be a hero, we can all be heroes. Let us help Sharkey keep saving lives.



SB-1221

Submitted on: 2/2/2025 3:59:46 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| Sarah Fairchild | Individual | Support | Written Testimony Only |

Comments:

I'm writing in support of SB1221 to have better management and oversight of our stormwater management systems. Retention and detention ponds can create hidden drowning hazards. They are often placed in parks and near playgrounds, places we think to be generally safe for our small children. During rain and flooding events, these ponds can fill with water where there was previously none the day before, or become much deeper than they usually would be. With climate change causing more flooding and with increased pressure to build more housing, retention and detention ponds will continue to be a development tool. If we are going to place them in neighborhoods near houses, we need to provide proper warnings about the hazards they create, as well as safety rings so that bystanders can safely attempt rescue. We also need to hold developers and landowners responsible for making sure drainage systems are maintained. This will save lives.

SB-1221

Submitted on: 2/2/2025 5:38:28 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| joshua schaefer | Individual | Support | Written Testimony Only |

Comments:

I am the older brother of Charlotte "Sharkey" Schaefer, 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 this 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 little sister every day.

SB-1221

Submitted on: 2/2/2025 8:26:30 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| Nick Dubovsky | Individual | Support | Written Testimony Only |

Comments:

I am writing in support of SB1221 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 an 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 SB1221.

Please help Sharkey save more lives.

SB-1221

Submitted on: 2/3/2025 12:39:25 PM

Testimony for EIG on 2/6/2025 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Cary Kayama | Individual | Support | Written Testimony Only |

Comments:

Aloha,

I am in full support on SB1221, on establishing requirements and funding for the State Department of Health to inspect retention and detention ponds statewide.

This measure will insure that all retention and detention ponds are up to date and all safety concerns are met.

Thank you for your time.

Aloha,

Cary Kayama

I am writing in support of HB1233 which was modeled after several recommendations published in the first Hawaii Water Safety Plan that was published in January. The plan was completed 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.

This bill was inspired and named for my courageous daughter Charlotte “Sharkey” Schaefer, who drowned Feb. 28, 2004 saving a childhood friend who was struggling in a detention pond, which suddenly flooded because the pipe inside of it was 89% clogged. The clog turned an area of rolling hills between the playground and backyards in our neighborhood into a lake that was about a quarter of the size of a football field, filled with pitch black water, and slippery mud. Getting out of that death pit was impossible for a child, and seriously challenging for the adults (many of them trained navy divers) who formed a grid to search for Sharkey, and came up short for more than 10 minutes.

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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 and have children. 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.

SB-1221

Submitted on: 2/4/2025 9:24:58 AM

Testimony for EIG on 2/6/2025 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|------------------------|---------------------|---------------------------|---------------------------|
| Kleve Bok Hee Zarbaugh | Individual | Support | Written Testimony Only |

Comments:

I Lt. Kleve Zarbaugh am in support of this Bill SB1221.

SB-1221

Submitted on: 2/4/2025 10:07:55 AM

Testimony for EIG on 2/6/2025 3:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Xiao Yi | Individual | Support | Written Testimony Only |

Comments:

I support this bill.