LATE

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Testimony COMMENTING on SB0946
RELATING TO WASTEWATER MANAGEMENT.

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

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

January 31, 2025, 1:00 PM, Room Number: 225

Fiscal Implications: None.

Department Position: The Department of Health ("Department") respectfully offers comments and proposed amendments to both broaden the scope of the prohibition while exempting treatment plants under certain conditions.

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

The proposed bill replaces the word "treated" with "wastewater" throughout the statute and in doing so appears to increase the scope of this prohibition, which may be inconsistent with the current intent of the statute. Section 342D-1, Hawaii Revised Statutes (HRS) defines "wastewater" to mean any liquid waste, whether treated or not, and whether animal, mineral, or vegetable including agricultural, industrial, and thermal wastes. "Waste" is defined to mean sewage, industrial and agricultural matter, and all other liquid, gaseous, or solid substance, including radioactive substance, whether treated or not, which may pollute or tend to pollute the waters of this State. Essentially all liquid discharges that contain waste (broadly defined) would be prohibited from being discharged to state waters after

December 31, 2026. This is a much broader prohibition than intended by the original statute which narrowly regulated treated and raw sewage. It should also be noted that including "raw sewage" in the prohibition is unnecessary as any discharges of pollutants (including raw sewage) to state surface waters would require a permit from the Department, and which would require treatment of the sewage prior to discharge.

Currently, the statute requires a sewage treatment plant to both utilize sewage to produce clean energy and also be in compliance with this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the director. However, by removing the word “and” in Section 1, Page 1, line 10 and inserting the word “or” in Section 1, Page 1, line 13, it appears that a treatment plant need only meet one of the three conditions to be exempt from the prohibition. This revision also essentially renders the prohibition ineffective as all treatment plants discharging to state waters already have to obtain permit coverage.

The majority of treatment plants that discharge to state waters have a treatment capacity of less than 10 million gallons per day (MGD). Therefore, the bill as proposed would only apply the prohibition to a few treatment plants that may already utilize or produce clean energy to not affect any newly-captured sources. It appears that one aim of the bill is to modify the exemption requirements of the existing 342D-50.5, HRS, for treatment plants by exempting certain smaller plants. However, the rationale for the establishment of a 10 MGD threshold is unclear. Further, it is unclear how the treatment capacity size of a sewage plant affects the ability of a sewage plant to comply with the prohibition, so it appears the 10 MGD exemption is unnecessary.

The Department has no position on the proposed change to the clean energy provision of the statute as clean energy is not regulated by the Department. As such, the Department does not have the expertise to support or oppose the proposed bill language or offer any alternative amendments. However, the Department would note that "clean energy" is not defined in 342D-50.5, HRS nor is it defined in the referenced section 196-10.5, HRS. Additionally, the statute is silent as to what exactly is necessary to comply with the provision,

only that a treatment plant must produce clean energy. As such, the Department respectfully suggests that the Legislature revise the statute to clarify the requirements imposed by the clean energy provision.

It should also be noted that SB0329 is a competing bill that also proposes to revise 342D-50.5, HRS.

Offered Amendments: The Department respectfully suggests the following revisions to the proposed HRS amendments. The Department believes these revisions will clarify and streamline the statute while following what the Department believes to be the intent of the existing statute in terms of water pollution control. Additions appear as underlined and deletions appear as bracketed strikeouts.

§342D-50.5 [~~**Wastewater or raw sewage;**~~]**Treated effluent from sewage treatment plant; prohibition.** (a) Notwithstanding any other law to the contrary, no person, including any public body, shall discharge any [~~wastewater or raw sewage~~]treated effluent from a sewage treatment plant into state waters after December 31, 2026; provided that this section shall not apply to a sewage treatment plant that:

(1) Produces clean energy pursuant to section 196-10.5; and

(2) Is in compliance with this chapter, rules adopted pursuant to this chapter, or a permit or variance issued by the [~~director; or~~]director.

[~~(3) Has a treatment capacity of less than ten million gallons per day.~~]

(b) Nothing in this section shall be construed to:

(1) Prohibit the use of reclaimed or recycled water for a beneficial purpose as provided by law; or

(2) Allow the discharge of [~~wastewater or raw sewage~~]treated effluent from a sewage treatment plant into state waters in violation of any federal statute, rule, or regulation.

Thank you for the opportunity to testify on this measure.

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
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LATE

January 30, 2025

TESTIMONY OF SHAYNE R. AGAWA
MAUI COUNTY, DIRECTOR OF ENVIRONMENTAL MANAGEMENT

BEFORE THE JOINT SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES AND AGRICULTURE AND ENVIROMENT
Friday, January 31, 2025, 1:00 P.m.
Conference Room 225

HB946 RELATING TO WASTEWATER MANAGEMENT
Honorable Joy A. San Buenaventura, Chair
Honorable Henry J.C. Aquino, Vice Chair
Honorable members of the Committee on Health and Human Services

Honorable Mike Gabbard, Chair
Honorable Herbert M. "Tim" Richards, Vice Chair
Honorable members of the Committee on Agriculture and Environment

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Thank you for the opportunity to testify in **SUPPORT** of **SB946.**

The proposed legislation will provide much-needed clarity to HRS Section 342D-50.5 by clarifying what discharges the law applies to, and how discharge compliance can be achieved.

The statute, as currently written, applies to all dischargers to State waters, including groundwater. Household septic systems, individual wastewater systems serving condominium buildings, and wastewater treatment and disposal systems serving small and remote communities are currently not excluded from the statute's requirements. These small dischargers are highly unlikely to have the resources to construct and successfully operate and maintain systems that "utilize sewage to produce clean energy" per the current statute. The proposed legislation will clarify intent by limiting the discharge prohibition to treatment plants with capacities greater than 10 million gallons per day, which is capacity where anaerobic digestion becomes generally cost effective.

The existing statute language states "utilizes sewage to produce clean energy…". The language appears to state a legislative desire for treatment plants to use anaerobic digestion to stabilize waste solids from the treatment process. A properly operated anerobic digestion process will create biogas containing methane, that can be burned to create clean (i.e., not from fossil fuels) energy using a process called combined heat and power (CHP). Unfortunately, the anaerobic digestion and CHP processes are expensive and complex, and don't become generally cost effective unless the treatment plant capacity exceeds 10 million gallons per day. Wastewater treatment plants smaller than 10 million gallons per day often rely on an aerobic

digestion process to stabilize solids, because of the lower cost, greatly reduced operational complexity, and reduced risk of nuisance odors.

The County of Maui's three existing wastewater reclamation facilities on Maui Island all use aerobic digestion to stabilize solids. Conversion to anaerobic digestion and CHP would be extremely burdensome to Maui County ratepayers at a time when recovery from the tragic fires must be the County's top priority.

There are other ways to produce clean energy at wastewater treatment plants besides anaerobic digestion and CHP. The proposed legislation modifies the language of the original statute to allow compliance with the requirements by implementing clean energy production systems at wastewater treatment plants that don't necessarily create energy "from the sewage", but nevertheless support the State's clean energy goals through solar or wind energy production.

The County of Maui is currently developing the new Central Maui Wastewater Reclamation Facility that will provide wastewater treatment and effluent management capacity to support much-needed affordable housing development on the island. The Central Maui WWRF will not have injection wells for effluent disposal; essentially all of the effluent will be recycled. Effluent that cannot be recycled for any reason will be disposed to an innovative Soil Aquifer Treatment system that will provide a significantly greater level of environmental protection than injection wells. The new facility and will also reduce effluent disposal via injection wells at the existing Wailuku-Kahului Wastewater Reclamation Facility by diverting a portion of the wastewater to the new Central Maui Wastewater Reclamation Facility. The proposed Central Maui Wastewater Reclamation Facility is being designed with cost-effective aerobic digestion to stabilized solids, because the treatment plant capacity will only be 4.0 million gallons per day. Photovoltaic systems will be installed to produce clean energy at the facility in a cost-effective manner. Adoption of HB798 will allow the new Central Maui Wastewater Reclamation Facility to be developed without additional delays, supporting affordable housing construction and reduced reliance on injection wells for effluent disposal.

Thank you for allowing me to testify in **SUPPORT** of **SB946.**