

HB-856

Submitted on: 2/2/2021 12:33:14 AM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lauren Blickley	Individual	Support	No

Comments:

Composting is an important step towards more holistic waste management in Hawaii. This bill will ensure that composting is allowed through school composting and other small-scale composting programs.

HB-856

Submitted on: 2/2/2021 2:52:35 PM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ramona Hussey	Individual	Support	No

Comments:

Composting is so important now. Teaching our children how to do it, and making the very large State agency, DOE, a strong part of our efforts is invaluable for our future.



Environmental Caucus

The Democratic Party of Hawaii

February 2, 2021

Re: **Bill #HB856**

Related to Waste Management Hearing: February 4, 2021

8:30am

Position: **Strong Support**

Aloha Chair Lowen, Vice-Chair Marten and members of the Energy and Environmental Protection Committee,

The Environmental Caucus of the Democratic Party of Hawai'i (The Party) stands in strong support of HB856, Part 1 which: broadens the definition of "food waste" as used in integrated solid waste management. Excludes facilities designed primarily for composting organic material such as food waste and green waste, on-site school campus food waste programs, and recycling drop-off facilities from the requirement that waste or disposal facilities shall not be constructed, modified, or expanded without first establishing a buffer zone of no less than one-half mile from the nearest residential, school, or hospital property line. Part II (HB861): establishes a class of artisan-scale composting operations exempt from department of health regulations to divert organic materials from Hawaii's landfills.

Existing Department of Health regulations for composting are outdated and prohibitive. As we adhere to laws written over 20 years ago, the rest of the nation is moving forward with programs that ease restrictions on composting. This nationwide trend is driven by the need to take decisive action in the era of global warming. Diverting organics to compost piles significantly reduces methane production in landfills, while adding finished compost to soils improves their health and increases their capacity to capture carbon. This bill brings Hawai'i into alignment with reforms being made nationwide. Both Ohio and Guam have had success in their regulations to encourage new programs.

As municipalities across the US take decisive action to reap the many benefits of composting, Hawaii residents are held back by outdated state regulations that treat diverting and processing organic waste as an industrial activity. This bill along with part 2 (HB861) aligns Hawaii with the national trend towards easing restrictions on composting by specifically acknowledging the benefits of small-scale composting efforts that are



Environmental Caucus

The Democratic Party of Hawaii

clearly not industrial in nature and by allowing them to take place on industrial and agricultural lands provided they establish a ½ mile buffer zone around the waste or disposal facility.

Finally, a widespread distributed system of artisan scale composting operations represents the most effective means for capturing and processing organics with the least impact to the environment. Such operations pose no public health threat and there is no reason to hold back operators at this scale as DOH updates the regulations that govern commercial scale operations.

Mahalo for your consideration,

Jeff McKnight

Chair ECDPH Food Security and Agriculture Committee
Vice Chair, Environmental Caucus of the Democratic Party of Hawai'i

HB-856

Submitted on: 2/2/2021 9:08:15 PM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ted Bohlen	Climate Protectors Coalition	Support	No

Comments:

To: The House Committee on Energy and Environmental Protection (EEP)

From: Climate Protectors Coalition

Hearing Date: Thursday, February 2, 2021, 9:00 am

In support of HB856

Aloha Chair Lowen, Vice Chair Marten, and Energy and Environmental Protection Committee members:

The Climate Protectors Coalition **supports HB856.**

The Climate Protectors Coalition is a group inspired by the Mauna Kea Protectors but focused on reversing the climate crisis. As a tropical island State, Hawaii will be among the first places harmed by the global climate crisis, with more intense storms, loss of protective coral reefs, food insecurity, and rising sea levels destroying our shorelines. We must do all we can to reduce our carbon footprint and become at least carbon neutral as soon as possible.

This bill would reduce greenhouse gas emissions by exempting small scale composting and artisan scale composting from certain requirements. The Climate Protectors ask that you pass this bill. Mahalo!

Climate Protectors Coalition (by Ted Bohlen)



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

**Testimony COMMENTING on HB856
RELATING TO WASTE MANAGEMENT.**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
Hearing Date: 2/4/2021 Room Number: Via Videoconference

1 **Fiscal Implications:** Unknown

2 **Department Testimony:** Part I: It is the understanding of the Department of Health
3 (Department) that the main purpose of Part I of this bill is to exclude composting facilities from
4 the buffer zone requirement in Hawaii Revised Statutes (HRS) Section 342H-52. HRS Section
5 342H-52 requires a “waste or disposal facility including a municipal solid waste landfill unit, any
6 component of a municipal solid waste landfill unit, a construction and demolition landfill unit, or
7 any component of a construction and demolition landfill unit,” establish “a buffer zone of no less
8 than one-half mile around the waste or disposal facility”. The Department has concluded that a
9 “waste or disposal facility” is a landfill, and other types of solid waste facilities are excluded
10 given this language in the section itself, the insertion of the buffer zone requirement in Part IV of
11 HRS Chapter 342H that applies to municipal solid waste landfill criteria, and the definition of
12 “facility” in HRS Section 342H-51 to include “...land used for the disposal of solid waste.”
13 Therefore, composting facilities are already excluded from the buffer zone requirement. In order
14 to clarify this further, the Department proposes to (1) remove the extraneous wording “waste or”
15 from the term “waste or disposal facility” in HRS Section 342H-52 and to remove the portion of
16 the statute that excludes redemption centers from the “waste or disposal facility.”

17 Additionally, legislative intent as discussed in a committee report last session, clarified
18 the intent of one of the revisions to HRS 342H-52 was, “Making inapplicable to federal agencies

1 the prohibition on construction, operation, modification, expansion, or closure of a municipal
2 solid waste landfill unit without first obtaining a permit from the Director of Health...”

3 The removal of the Department of Health’s authority from permitting of federal
4 municipal solid waste (MSW) landfills, places the state in non-compliance of 40 Code of Federal
5 Regulations (CFR), Part 239, Subpart C “Requirements for Adequate Permit Programs.” 40
6 CFR Part 239, Section 6, “Permitting requirements,” state, “...(d) The state shall have the
7 authority to collect all information necessary to issue permits that are adequate to ensure
8 compliance with the relevant 40 CFR part 257, subpart B or 40 CFR part 258 federal revised
9 criteria.” Further, 40 CFR 239.13, “Criteria and procedures for withdrawal of determination of
10 adequacy,” states, “(a) The Regional Administrator [of the U.S. Environmental Protection
11 Agency] may initiate withdrawal of a determination of adequacy when the Regional
12 Administrator has reason to believe that: (1) A state no longer has an adequate permit program;
13 or (2) The state no longer has adequate authority to administer and enforce an approved program
14 in accordance with this part.” The loss of a federal approved program will no longer afford other
15 MSW landfills in the State, which are currently all owned by the Counties, the ability to design,
16 operate, close, and monitor their landfill using alternative designs or methods to the federal
17 standard that could be more suitable for local site conditions and more cost-effective. Therefore,
18 the Department respectfully asks that the Department’s authority over federal facilities be
19 reinstated and offer amendments in the section below.

20 Part II: The Department of Health agrees that composting is a great option for organics
21 management and landfill diversion, and respectfully opposes Part II of HB856. The bill proposes
22 to exempt “artisan scale” composting facilities from Department regulations, provided that they
23 do not pose a vector, dust, or odor problem as determined by the Department. “Artisan scale”
24 composting facilities are defined as three different types of composters: (1) receives less than
25 1,000 pounds of organic material per week on average; (2) composts on property under the
26 control of the waste generator; or (3) composts less than 3,000 cubic yards of yard trimmings.

1 The Department is concerned with a blanket exemption of all DOH rules as their purpose
2 is to protect human health and the environment. Although we understand the need to eliminate
3 the burden imposed by certain rules/requirements, eliminating compliance with all DOH rules
4 could compromise public health and welfare.

5 The Department’s concern over composting operations are not limited to vector, dust, and
6 odors, but also fire potential, nutrient loading, water pollution, and the quality of the finished
7 compost (stability, pathogens and other contaminants). We note that there are no proposed
8 restrictions on the compost’s use or distribution. By exempting these facilities from the
9 Department’s regulations, we lose the ability to evaluate the potential impact of the operation
10 and require appropriate controls that are protective of human health and the environment.

11 This bill assumes that the listed categories of “artisan scale” will not create a health and
12 environmental concern, when in fact, the proposed categories are too broad to reach that
13 conclusion. For example, organic material is not defined nor is there a discussion on the type or
14 size of composting operation for a waste generator. Organic material may include treated lumber,
15 sewage sludge, and fats, oils, and grease. Waste generators may include large landowners with
16 multiple property locations.

17 Sewage sludge and other pathogen-containing waste (such as animal waste) may contain
18 pathogenic bacteria, viruses, protozoa, or helminths. If not properly treated through the
19 composting operation, these types of waste could be a source of pathogenic contamination. The
20 proper treatment of sewage sludge for land application is covered under the Department’s
21 Chapter 11-62, Hawaii Administrative Rules. Public health and safety would be compromised if
22 these regulations were exempt.

23 We recognize that not all regulations may be suitable to all types of composting
24 operations. Therefore, the Department already has a tiered solid waste permitting program for
25 relatively small composting facilities that only composts less than 3,000 tons of yard trimmings
26 per year. For this type of operation, the facility receives its solid waste permit after 30 days of
27 submission of a complete application provided that the operation is in conformance with the

1 requirements already listed in the regulations. This type of regulatory oversight of small, low
2 impact operations is preferred over full exemptions such that the Department is notified of its
3 existence and still has an opportunity to evaluate its operations.

4 The Department also regulates the National Pollutant Discharge Elimination System
5 (NPDES) permit program. Composting facilities have federally regulated Standard Industrial
6 Classification codes in 40 CFR 122.26(b)(14) and are required to obtain NPDES permits for
7 industrial storm water discharges. Also, NPDES permits are required for composting facilities
8 that have point source effluent discharges to State surface waters. Therefore, exemption of state
9 regulations regarding NPDES permitting will not absolve the composters' responsibility of
10 complying with federal NPDES permitting requirements.

11 For these reasons we oppose Part II of HB856.

12 **Offered Amendments:**

13 Part I: Section 342H-52, Hawaii Revised Statutes, is amended to read as follows:

14 **“§342H-52 Prohibitions; buffer zones.** (a) No person, including any federal agency,
15 the State, or any county, shall construct, operate, modify, expand, or close a municipal solid
16 waste landfill unit, or any component of a municipal solid waste landfill unit, without first
17 obtaining a permit from the director. All permits for municipal solid waste landfill units shall be
18 subject to any terms and conditions that the director determines are necessary to protect human
19 health or the environment.

20 (b) No person, including the State or any county, shall construct, modify, or expand a
21 [~~waste or~~] disposal facility including a municipal solid waste landfill unit, any component of a
22 municipal solid waste landfill unit, a construction and demolition landfill unit, or any component
23 of a construction and demolition landfill unit without first establishing a buffer zone of no less
24 than one-half mile around the [~~waste or~~] disposal facility. This subsection shall not apply to the
25 continued operation of an existing [~~waste or~~] disposal facility that is properly permitted;

1 provided that continued operation does not require physical expansion, vertical or horizontal, of
2 the facility requiring additional permitting review and a permit modification.

3 For the purposes of this subsection:

4 "Buffer zone" means the distance between the edge of waste or waste activity and the
5 nearest residential, school, or hospital property line.

6 [~~"Waste or disposal facility" excludes individual, state-certified, non-industrial~~
7 ~~redemption centers.~~]

8 Part II: Delete all proposed language.

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

HB-856

Submitted on: 2/3/2021 8:33:06 AM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ruta Jordans	Individual	Support	No

Comments:

Statewide composting is essential for Hawaii to become self-sustaining and a circular economy where nothing, especially foodscraps, is wasted.



**HAWAII
FARM BUREAU**

LATE

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February 4, 2021

HEARING BEFORE THE
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

TESTIMONY ON HB 856
RELATING TO WASTE MANAGEMENT

Conference Room 325
9:00 AM

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

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau respectfully offers comments on HB 856, which excludes certain waste processing or collection facilities from the mandatory half-mile buffer zone from the nearest residential, school, or hospital property line and establishes a class of operations **exempt** from Hawaii Department of Health regulations.

HFB recognizes and supports the diversion of discarded food and other useful wastes away from landfills. The benefits of this and of composting are well-known. We also appreciate the desire to make compost available to Hawaii farmers; however, we do not necessarily agree with the statement (on lines 6 through 11 on page 5) copied below and would prefer that all claims in the preamble are science and evidence-based:

"The legislature further finds that the use of composted organics with their vast stores of macro-and micronutrients greatly improves the health of all soils in ways that protect and enhance natural systems, while imported, petroleum-based, and energy-intensive fertilizers destabilize a healthy soil microbiome."

Because there are dire potential hazards and threats to public health, the environment, agriculture, and our rural communities from unregulated composting operations, HFB feels strongly that *no* commercial composting facility or operation should be exempt from DOH regulatory oversight, restrictions, inspection, and control. **The smaller size of an operation does not eliminate the valid concerns regarding public health and it certainly does not prevent the transmission of destructive invasive species such as Little Fire Ants and Coconut Rhinoceros Beetle.**

Thank you for taking our concerns into consideration and for your continued support of Hawaii agriculture.

LATE

HB-856

Submitted on: 2/3/2021 12:54:02 PM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Gretchen Losano	West Maui Green Cycle, Zero Waste Maui	Support	No

Comments:

Aloha Chair Lowen, Vice chair Marten, and members of the Committee on Energy and Environmental Protection,

I am the co-founder of West Maui Green Cycle commercial compost facility on Maui, and an active member of both Zero Waste Maui and the statewide Tiered Composting Hui.

I am writing in support of HB 856 with additional comments.

- The intent of the first part of this bill was to exempt composting and recycling initiatives from the buffer zone requirements of Act 73. Upon review of the intended remediating language, it was brought to our attention that there were a couple of types of important recycling facilities that could still be negatively impacted if this bill’s amending language goes through as is. I support the Dept of Health’s proposed language updates to 1) remove the extraneous wording “waste or” from the term “waste or disposal facility” in HRS Section 342H-52 and 2)to remove the portion of the statute that excludes redemption centers from the “waste or disposal facility.”
- I also believe it is very important to reinstate the Hawaii Department of Health’s authority over federal facilities, that was an unintended negative consequence of Act 73 as well.
- In Hawaii, we have very unique environmental factors that affect operating procedures of composting facilities here in different ways than the continental United States. The moisture content of our environment alone provides a very unique incubation opportunity for pathogens, therefore in matters of composting regulations, it is always best to defer to the department whose sole purpose is to protect the health and wellbeing of our environment and citizens given our unique environment, that is unparalleled in any other municipality in the continental US. That being said, we are working in conjunction with the Department of Health to create a Tiered Structure for different types of permit requirements based on the size, therefore the “Artisan Scale” composting operation size will be covered in bill HB1349 and SB 587. Our collective energy would best be spent focusing one

bill on all the different levels of Tiered Composting at once rather than fragmenting the issue into two separate bills.

- Mahalo for your consideration

HB856

Aloha, council members. Mahalo for taking the time to hear this bill. For the section of this bill regarding exemptions of composting operations from buffer zone requirements, I support the DOH's suggested amendments pivoting to restoring appropriate oversight authority.

Part I: Section 342H-52, Hawaii Revised Statutes, is amended to read as follows:

“§342H-52 Prohibitions; buffer zones. (a) No person, including any federal agency, the State, or any county, shall construct, operate, modify, expand, or close a municipal solid waste landfill unit, or any component of a municipal solid waste landfill unit, without first obtaining a permit from the director. All permits for municipal solid waste landfill units shall be subject to any terms and conditions that the director determines are necessary to protect human health or the environment.

(b) No person, including the State or any county, shall construct, modify, or expand a ~~[waste or]~~ disposal facility including a municipal solid waste landfill unit, any component of a municipal solid waste landfill unit, a construction and demolition landfill unit, or any component of a construction and demolition landfill unit without first establishing a buffer zone of no less than one-half mile around the ~~[waste or]~~ disposal facility. This subsection shall not apply to the continued operation of an existing ~~[waste or]~~ disposal facility that is properly permitted; provided that continued operation does not require physical expansion, vertical or horizontal, of the facility requiring additional permitting review and a permit modification.

For the purposes of this subsection:

"Buffer zone" means the distance between the edge of waste or waste activity and the nearest residential, school, or hospital property line.

~~["Waste or disposal facility" excludes individual, state certified, non-industrial redemption centers.]~~

The section addressing “artisan-scale” composting exemptions *could* address a niche scale of composting, however there are a number of details missing on the specific types of feedstocks that could be construed as “organic materials.” While 1,000 lbs per week of total feedstocks could be considered a low enough volume to be managed effectively with proper training and testing protocols, it is still a significant volume of material to pose some public health risk IF there was no oversight or verification of process. Given that, I would recommend that this section be given much more detail on the types of feedstocks allowed for this exemption level, add requirements for curing, testing any final product that is distributed off-site, and/or lower the exemption threshold to a range more palatable to DOH regulators, such as 500 lbs of organic feedstock per week limited to green waste, pre-consumer vegetative food waste, coffee grinds, spent mushroom substrate, spent grain, and other lower pathogenic organics.

Ultimately, more accessible regulation and permitting on composting (green waste only) and co-composting (green waste plus other organics like food, coffee, manure, grain, etc.) is urgently needed. The hundreds of thousands of tons of food waste alone in our waste stream are creating dire situations for the counties who bear the exorbitant costs of managing those materials that could be diverted for much more effective use; saving hundreds of millions of dollars and preventing environmental justice abuses with new landfill siting. The current composting and co-composting system is overloaded with an abundance of caution and does not serve the public interest by making the barriers to legal compliance so challenging and labor-intensive. While acknowledging that reforming composting regulations will take a lot of work, there are many existing tiered compost models across the country, so we do not need to reinvent the wheel. This issue is more pressing than many realize, and needs to be seen as a high priority, drawing on local and national expertise and energy to expedite reform.

Mahalo for the opportunity to provide comments on HB856.
Jennifer Milholen

LATE

HB-856

Submitted on: 2/3/2021 5:48:44 PM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Fern Anuenue Holland	Individual	Support	No

Comments:

Strong support for this bill! Mahalo Representatives.

LATE

HB-856

Submitted on: 2/4/2021 10:36:51 AM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
ROBERT DUERR	Individual	Support	No

Comments:

Compost now. Composting is the key to healthy living soil and nutrient rich food crops. Proper balancing of nitrogen (food waste) and carbon (green waste) eliminates odors. Compost makes the humus particle. Hawaii as a tropical soil leaches microorganisms and nutrients from sun and rain. I have micro composted for decades and now take food waste from neighbors and my family. Our ohana eats daily from the fruit of compost.