



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

**Testimony in SUPPORT of SB0369 SD1
RELATING TO WASTEWATER SYSTEMS**

SENATOR DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: February 26, 2021

Room Number: CR 211 &
Via Videoconference

1 **Fiscal Implications:** This measure will impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's (Department) appropriations and
3 personnel priorities. The Department would need at least two full-time staff to manage the
4 inspection and repair program of individual wastewater systems at the time of sale or transfer of
5 ownership of a property.

6 **Department Testimony:** The Department supports this measure with comments.

7 The United States Environmental Protection Agency and the National Oceanic
8 Atmospheric Administration have indicated that an individual wastewater system inspection
9 program that includes a significant majority of the systems in the State is necessary for Hawaii to
10 receive approval of its coastal nonpoint program pursuant to Section 6217 of the Coastal Zone
11 Act Reauthorization Amendments of 1990. The Department and the Department of Business,
12 Economic Development and Tourism could potentially lose approximately \$1.1 million of
13 federal funds if an inspection program is not implemented. This measure would be a starting
14 point for developing an inspection program that is needed to satisfy federal requirements and it
15 would also decrease the number of failing systems, thereby having a beneficial impact on water
16 quality.

1 Requiring the inspection of the individual wastewater systems at the time of sale of a
2 property will protect a potential buyer. Problems with an individual wastewater system can
3 range from simple repairs to very complex replacement which can cost thousands of dollars. The
4 individual wastewater system is considered an extension of the plumbing of a home. During
5 home inspections at the time of sale, it is common for plumbing and electrical systems to be
6 inspected for deficiencies. Inspecting individual wastewater systems at the time of sale to spot
7 deficiencies would be consistent.

8 Furthermore, wastewater systems are approved by the Director of Health and not the
9 Department. Suggested amendment to the bill is provided below.

10 **Offered Amendments:** The proposed amendment to §342D-72(a)(1), “a department-approved
11 wastewater system;” should be revised to “a *director*-approved wastewater system;”

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



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

LATE

Testimony Presented Before the
Senate Committee on Ways and Means
Friday, February 26, 2021 at 9:30 a.m.

By
Darren T. Lerner, Director
Hawaii Sea Grant
University of Hawai'i at Mānoa

SB 369 SD1 – RELATING TO WASTEWATER SYSTEMS

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee:

The University of Hawai'i Sea Grant College Program strongly supports this measure.

Previous research and review, by specialists at The University of Hawai'i Sea Grant College Program, of other state efforts to convert cesspools and outdated onsite wastewater treatment systems (OWTS) supports this additional option/method of conversion to help the state meet the Act 125 mandate. Several states (Arizona, Iowa, Massachusetts, Delaware, and New Mexico) along with many counties and municipalities require an inspection of onsite wastewater systems before a property can transfer ownership. A review of these regulations reveal they are varied and provide flexibility for unique situations. In general, rules such as SB 369 SD1, are thought to provide protection to all parties involved, with minimal burden, and assist with the speed in which outdated and polluting onsite wastewater systems are replaced.

Thank you for the opportunity to testify on this measure.

SB-369-SD-1

Submitted on: 2/24/2021 3:24:58 PM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ted Bohlen	Testifying for Hawaii Reef and Ocean Coalition	Support	No

Comments:

To: The Honorable Donovan Dela Cruz, Chair, The Honorable Gilbert Keith-Agaran, Vice Chair, and members of the Senate Committee on Ways and Means

From: Hawaii Reef and Ocean Coalition (by Ted Bohlen)

Re: Hearing SB369 SD1 RELATING TO WASTEWATER SYSTEMS.

Friday February 26, 2021, 9:30 a.m., by videoconference

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Senate Committee on Ways and Means:

The HAWAI'I REEF AND OCEAN COALITION-HIROC- **STRONGLY SUPPORTS SB369**. HIROC was formed in 2017 by coral reef scientists, educators, local Hawaii environmental organizations, elected officials, and others to address the crisis facing Hawaii's coral reefs and other marine life. Coral reefs are being severely harmed by multiple causes, including particularly by nutrients from cesspools and failing individual wastewater systems.

Effluent from cesspools and failing individual wastewater systems– including untreated human waste, bacteria, viruses, pharmaceuticals, cleaning products, nitrogen, phosphorus, and other contaminants – is discharged directly into the ground. From there, these pollutants can make their way into groundwater systems and near shore marine environments. In coastal areas in Hawai'i with porous soils and substrates, studies have shown that waste from failing individual wastewater systems (such as cesspools, septic systems and aerobic treatment units designed to dispose of not more than 1,000 gallons of domestic wastewater per day) can reach near-shore waters within a matter of minutes to just a few days. Though it sometimes takes longer, the waste does flow toward, and can eventually degrade, surface waters.

Hawaii's tourism, recreational lifestyle, and shorelines depend on healthy coral reefs. Hawaii receives over \$1 million per year in grants from the federal coastal zone program that is contingent on the State taking measures to to address and

minimize polluted runoff, including runoff from on-site sewage facilities. In order to preserve federal funding and our environment, replacing coastal cesspools and failing individual wastewater systems should be a priority for Hawaii!

This Bill proposes to reduce the polluted runoff created by cesspools and failing individual wastewater in the State by establishing a program to oversee their inspection and repair at the time of an attached property's transfer or sale. The bill exempts property transfers within families, between joint tenants or tenants in common, or spouses dissolving marriages. If an individual wastewater system fails inspection, the system shall be renovated within one year by the current owner or buyer with written agreement to meet DOH's design and construction standards.

Under Hawaii law, cesspools must be upgraded by 2050. This bill's requiring inspection and possible upgrade on transfer makes good sense financially as well as environmentally. Property buyers and sellers have capital at transfer that most do not have at other times. They can negotiate between them on who shall pay for inspections (and upgrades where one is needed) as part of the transfer. This bill provides a gradual way for some cesspools to be upgraded without State funds, at a time of least hardship to property owners.

Please pass this bill to protect our precious coral reefs and oceans from the harms of wastewater pollution in this cost-effective manner!

Mahalo!

Hawaii Reef and Ocean Coalition (by Ted Bohlen)

February 26, 2021

The Honorable Donovan Dela Cruz, Chair

Senate Committee on Ways and Means

Via Videoconference

RE: S.B. 369 SD1, Relating to Wastewater Systems

HEARING: Friday, February 26, 2021, at 9:30 a.m.

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 10,000 members. HAR **opposes** Senate Bill 369, SD1, which establishes the time of transfer wastewater system inspection program in the Department of Health (“DOH”) to oversee the inspection and repair of any individual wastewater system at the time of sale or transfer of residential real property attached to the wastewater system. Excludes certain sales or transfers. Removes the limitation on specific types of wastewater systems to which cesspools must be upgraded or converted, and instead requires a cesspool to be upgraded or converted to a wastewater system approved by the DOH.

HAR supports the goal of protecting Hawaii's drinking water, streams, ground water and ocean resources. However, it could be years or a property owner may never sell their property. As such, point of sale requirements are not a practical solution to address the issue of individual wastewater system repair.

HAR would note that there are numerous inspection periods during the real estate transaction, which are negotiated between the buyer and seller. Under this measure, this could add delays and financing issues to a real estate transaction, especially if the individual waste water system has to be inspected and possibly renovated within one year to meet construction standards.

Additionally, there already is a shortage of inspectors. As such, this could add additional delays to the home selling process.

Instead we should be focusing on efforts that encourage homeowners to convert their individual wastewater systems, such as educational outreach, tax credits and looking at new cost-effective technologies to support the State's goal of converting all cesspools in the State by 2050, provided they do not have an exemption.

Finally, HAR would note that Act 132, Session Laws of Hawai'i 2018, created a Cesspool Conversion Working group comprised of various government and industry partners, including Hawai'i REALTORS®. The work of the Working Group is not finalized and as such HAR believes that this measure is premature until a comprehensive plan is finalized which is due to the Legislature next year.

Mahalo for the opportunity to testify.

REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.



SB-369-SD-1

Submitted on: 2/25/2021 8:30:44 AM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Bishop	Testifying for Friends of Hanauma Bay	Support	No

Comments:

Aloha Chaor Dela Cruz, Vice Chair Keith-Agaran, and Committee members,

Friends of Hanauma Bay urges passage of SB369 as a means of ensuring healthier near-shore marine environments for current and future generations of Hawai'i residents.

Mahalo for the opportunity to testify!

Lisa Bishop

President

Friends of Hanauma Bay



Feb. 25, 2021

In Support of **SB369 SD1** Relating to Wastewater Systems
Senate Committee on Ways And Means (WAM)
Feb. 26, 9:30am, Decision-Making

Aloha, Chair Dela Cruz, Vice-Chair Keith-Agaran and Members of the Committee:

On behalf of the non-profit WAI: Wastewater Alternatives & Innovations, I am writing in **strong support of SB369 SD1**. This bill would establish the inspection of individual wastewater systems (IWS) upon point of sale (POS) of a property and make sure that substandard cesspools or failing septic systems are replaced during the sale or transfer of real properties (allowing for certain exemptions).

The Hawaii Dept. Of Health (DOH) and the people of Hawaii need this law to make sure their wastewater systems aren't polluting the groundwater or nearby surface waters. WAI also supports the SD1 amendment (from SB368) because it would create more options for cesspool conversions and upgrades and include newer and more efficient, innovative and affordable wastewater systems that will help reduce sewage pollution and improve our water quality across the state.

As a member of the State's Cesspool Conversion Working Group, I believe this bill is an important policy tool for the state to fulfill its mandate under Act 125 to convert all cesspools by 2050. Hawaii has more than 88,000 cesspools across the state, discharging 53 million gallons of raw sewage each day into Hawaii's waters. That's like a massive sewage spill every day!

Hawaii is struggling to deal with this sewage pollution problem and meet the mandate to convert all cesspools in the next three decades. Most homeowners don't have enough money to convert their individual cesspools, but with this law, buyers and sellers can negotiate and/or share the cost while there is money on the table during the point of sale. Otherwise, unimproved cesspools become a liability for all involved.

WAI is dedicated to protecting our drinking water, groundwater and near-shore ecosystems by reducing sewage pollution from cesspools and failing septic systems. Our goal is to help communities and homeowners find more innovative, affordable, and eco-friendly solutions to wastewater management. Better sanitation systems reduce sewage pollution and make properties more valuable, while also protecting our groundwater, streams, and the health of our coral reefs and coastal areas. By allowing these PPP's, the state will encourage the counties and technology companies to partner and find affordable solutions, as well as opportunities to grow our economy.

This bill creates a common sense and expedient way to inspect and convert cesspools and failing septic systems during the point of sale or transfer of a property. It will also help the state and the DOH tackle the problems of cesspools and wastewater management. Mahalo for your leadership on this issue and support of this bill. Please let me know if you have any questions.

Aloha,

Stuart H. Coleman

WAI: Wastewater Alternatives & Innovations * 2927 Hibiscus Pl. * Honolulu, HI 96815
808-381-6220 * info@waicleanwater.org * www.WaiCleanWater.org

SB-369-SD-1

Submitted on: 2/25/2021 9:24:40 AM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lauren Blickley	Testifying for Surfrider Foundation	Support	No

Comments:

On behalf of the non-profit Surfrider Foundation and its 4 Hawaii Chapters, I am writing in strong support of SB369 SD1. This bill would establish the inspection of individual wastewater systems (IWS) upon point of sale (POS) of a property and make sure that substandard cesspools or failing septic systems are replaced during the sale or transfer of real properties (allowing for certain exemptions).

Hawaii is currently home to over 88,000 cesspools which discharge over 50 million gallons of untreated waste each day. This law is important to ensure that wastewater systems aren't polluting the groundwater or nearby surface waters. Surfrider Foundation also supports the SD1 amendment (from SB368) because it would create more options for cesspool conversions and upgrades and include newer and more efficient, innovative and affordable wastewater systems that will help reduce sewage pollution and improve our water quality across the state.

Mahalo for your support of this bill!

SB-369-SD-1

Submitted on: 2/25/2021 8:44:15 AM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Hannah Hubanks	Individual	Support	No

Comments:

Aloha, Chair Gabbard, Vice-Chair Nishihara and Members of the Committee:

I am writing in strong support of SB369. This bill would establish the inspection of individual wastewater systems (IWS) upon point of sale (POS) of a property and make sure that substandard cesspools or failing septic systems are replaced during the sale or transfer of real properties (allowing for certain exemptions). The Hawaii Dept. Of Health (DOH) and the people of Hawaii need this law to make sure their wastewater systems aren't polluting the groundwater or nearby surface waters.

As a member of Sierra Club's executive committee and as a local watershed restoration professional dealing with the implications of cesspool damage, I believe this bill is an important policy tool for the state to fulfill its mandate under Act 125 to convert all cesspools by 2050. I regularly work with residents in the Waimanalo and Kahaluu regions where there is a desperate need for conversion from cesspools. Most homeowners don't have enough money to convert their individual cesspools, but with this law, buyers and sellers can negotiate and/or share the cost while there is money on the table during the point of sale. Otherwise, unimproved cesspools become a liability for all involved.

This bill creates a common sense and expedient way to inspect and convert cesspools and failing septic systems during the point of sale or transfer of a property. It will also help the state and the DOH tackle the problems of cesspools and wastewater management. Mahalo for your leadership on this issue and support of this bill.

Aloha,

Hannah Hubanks

SB-369-SD-1

Submitted on: 2/25/2021 9:12:41 AM

Testimony for WAM on 2/26/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel Solemsaas	Individual	Support	No

Comments:

I support the passing of this bill. AS we address and meet the requirements to protect our water and our environment through cesspool requirements, clearly defined role for the Department of Health will be essential.