

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
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In reply, please refer to:
File:

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT

HB 1116, Relating to Water Pollution

**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

February 5, 2009

9:00 AM

1 **Department's Position:** The Department of Health strongly supports this Administration Bill.

2 **Fiscal Implications:** None. This bill only applies when federal funding is available.

3 **Purpose and Justification:** This is an Administration Bill. This measure will allow the Department of
4 Health to establish and fill not more than two federally funded total maximum daily load coordinator
5 positions without regard to chapter 76, Hawaii Revised Statutes to meet federal law.

6 Current civil service position series are not sufficient for recruiting and retaining staff with the
7 technical expertise and multidisciplinary skills necessary to build and maintain the Department's
8 capacity for meeting federal water pollution control requirements that are increasingly complex and
9 continually growing. Clean Water Act section 303 requires that total maximum daily loads be prepared
10 for waters that fail to meet water quality standards over time. Total maximum daily load coordinators
11 function at a high level in the water pollution control program designing technically based studies to
12 address watershed health problems unique to Hawaii's environment. This requires collaborating with
13 University colleagues to conduct applied research and training, designing and evaluating watershed
14 inventory and water quality assessment campaigns, and synthesizing the results of environmental

1 sampling, regional investigations, and new scientific and policy developments for use by water pollution
2 control engineers, environmental health decision-makers, and land use planners. The department has
3 had difficulty for over two years filling a water quality position with lower technical demands than the
4 total maximum daily load coordinator position.

5 The department has only one total maximum daily load coordinator now but would like the
6 opportunity to hire another if we can secure more federal funding.

7 Hawaii needs highly qualified and experienced total maximum daily load coordinators to protect
8 the State from water pollution and to carefully repair the damages incurred to minimize impacts on our
9 people and economic environment.

10 Thank you for the opportunity to testify on this important measure.

A 8:44 2/4

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Deputy Director

SWQ 09-039

February 4, 2009

The Honorable Hermina M. Morita, Chair
and Members of the Committee on Energy and
Environmental Protection Committee
State House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Morita and Members:

Subject: House Bill No. 1116 - Relating to Water Pollution

The Department of Environmental Services (ENV) supports House Bill No. 1116, which authorizes the State Department of Health (DOH) to "establish not more than two exempt 'total maximum daily load coordinator' positions." The positions are to be funded by Federal grants to the State under the Clean Water Act.

The total maximum daily load (TMDL) program, administered by the State Department of Health, has a vital role in improving water quality of impaired streams and coastal waters of the State listed under Section 303(d) of the Clean Water Act. Passage of this measure helps ensure that the State will meet its obligations required by the Act. Failure to do so could result in the program being administered by court order or EPA consent decree, as is the case in many other areas, including the City of Los Angeles and the States of Washington and Oregon.

The Department of Environmental Services is supportive of the DOH having adequate resources to perform all its various functions, including the development of updated water quality standards such as those which have been at issue in the EPA's denial of waivers from secondary treatment at the City's Sand Island and Honouliuli Wastewater Treatment Plants.

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Steinberger", is written over a faint, larger version of the signature.

Timothy E. Steinberger, P.E., Acting Director
Department of Environmental Services

A BILL FOR AN ACT

RELATING TO WATER POLLUTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 342D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§342D- Total maximum daily load coordinator. The
5 department may establish not more than two exempt positions
6 entitled "total maximum daily load coordinator". The total
7 maximum daily load coordinator positions shall, among other
8 duties, assist the department to meet federal requirements for
9 establishing total maximum daily loads in Hawaii. This includes
10 quantifying waste load allocations and load allocation limits on
11 pollutant loading of Hawaii inland and marine waters and
12 developing technically based plans for achieving the State's
13 stated water quality goals. The positions shall be appointed by
14 the director without regard to chapter 76. These positions
15 shall be funded by federal grants to the State under the Clean
16 Water Act."

17 SECTION 2. New statutory material is underscored.

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1 SECTION 3. This Act shall take effect upon its approval.

2
3
4

INTRODUCED BY: Calvin K. Ay
BY REQUEST

JAN 26 2009

H.B. NO. 1116

Report Title:

Water Pollution

Description:

Establish exempt positions entitled Total Maximum Daily Load
Coordinator.

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JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO WATER POLLUTION.

PURPOSE: To establish exempt coordinator positions within the Department of Health (DOH) to plan and oversee the preparation of total maximum daily loads (TMDLs) in Hawaii.

MEANS: Add a new section to chapter 342D, Hawaii Revised Statutes (HRS).

JUSTIFICATION: To meet federal Clean Water Act requirements, DOH must prepare pollutant loading budgets, otherwise known as TMDLs, for state waters that exceed water quality standards and are considered "impaired" (see 40 CFR §130.7). These federal regulations also require a review of all Hawaiian water bodies every two years and an updating of the Hawaii Listing of Impaired Waters. Currently, there are approximately seven hundred TMDLs, expressed as water body - pollutant combinations, which have been identified for completion in Hawaii. More are being added every two years. The Listing of Impaired Waters and the resultant state TMDL decisions are submitted to the U.S. EPA for review and approval after public review and comments.

Currently this work is done by an exempt project position under section 76-16(b)(12), HRS, within the department's Environmental Health Administration, and is funded through a grant from the United States Environmental Protection Agency (U.S. EPA). The responsibilities charged to this exempt position are continually growing due to the ever expanding list of Impaired Waters and related concerns at the federal, state, county, and community levels. The current project position coordinates, oversees, and

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writes technically-based plans which establish WLAs for pollutant-impaired State water bodies identified on the State's Clean Water Act 303(d) list and the corresponding federal enabling regulations. Historically, this position is renewed each year as a project position, but the department has been told the exemption will not be administratively renewed. Establishing this exempt position by statute better ensures that the department can continue to gather data and prepare decisions by people who understand Hawaii's unique environmental and cultural needs.

Without this position, U.S. EPA will be compelled to conduct the TMDL process and the decisions rendered may not serve the best interests of the State of Hawaii.

Impact on the public: Passage of this measure will allow for continued TMDL development and implementation that is sensitive to Hawaii's unique environmental and cultural heritage. The State will continue to ensure compliance with any limitations necessary to implement the approved TMDLs.

Impact on the department and other agencies: The primary impact is that DOH will continue to establish the TMDLs and subsequently implement them through National Pollutant Discharge Elimination System Permit conditions, polluted runoff control and coastal nonpoint pollution control programs, and the Clean Water Act Revolving Fund, all of which serve the state Water Quality Standards.

GENERAL FUND:	None.
OTHER FUNDS:	U.S. EPA, Section 106 Grant.
PPBS PROGRAM DESIGNATION:	HTH-849.

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OTHER AFFECTED
AGENCIES:

None.

EFFECTIVE DATE:

Upon approval.