



**STATE OF HAWAII
DEPARTMENT OF HEALTH**

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**Testimony to OPPOSE HB 153
RELATING TO TAXATION**

REPRESENTATIVE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Hearing Date: February 10, 2015
Time: 8:30 a.m.

Room Number: 325

Fiscal Implications: This measure may impact the priorities as set forth in the Governor's Executive Budget.

Department Testimony: The Department supports the intent of the bill but must respectfully oppose the method that will be used to fund the tax credit. The use of the Sanitation Special Funds may jeopardize the stability and viability of the Food Safety Program. The Program recently hired Sanitarians I to conduct food inspections of restaurants. Within the next three to four years, these Sanitarians will reach their allocated levels of III or IV, thus increasing the draw down on the Sanitation Special Fund to maintain personnel costs as salaries increase. In addition, operating expenses are also expected to increase and the Department anticipates that the current ceiling of \$1.5 million will need to be raised at some point. The Department is concerned that if this bill is passed, we will not have the ability to increase the ceiling because we will be competing with maintaining the tax credit program to fund cesspool upgrades.

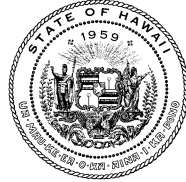
We highly recommend that another source of funding should be used to support this tax credit program. Furthermore, this measure may also impact the priorities as set forth in the Governor's Executive Budget.

Thank you for the opportunity to testify on this measure.

Offered Amendments: None.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION

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To: The Honorable Chris Lee, Chair
and Members of the House Committee on Energy and Environmental Protection

Date: Tuesday, February 10, 2015

Time: 8:30 A.M.

Place: Conference Room 325, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 153, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of this measure to protect the environment and provides the following comments on H.B. 153 for your consideration.

Among other things, H.B.153 provides a non refundable income tax credit equal to the cost of connecting or converting an existing cesspool to a septic system, or for the cost of connecting to a Department of Health approved wastewater system. The measure is effective on July 1, 2015, and would be repealed on July 1, 2019.

The Department also requests that the following language be added to resolve the situations in which the taxpayer is a partnership, S corporation, estate, or trust:

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for qualified costs incurred by the entity for the taxable year. The cost upon which the tax credit is calculated shall be determined at the entity level. Distribution and share of credit shall be determined by rule.

Because the Department has no expertise in cesspools, septic systems, or aerobic treatment unit systems, the Department requests that the taxpayers be required to obtain verification from the respective county agencies in charge of issuing permits for such installations, and the credit be available only after such county agency has approved the installation as meeting the requirements for the credit.

Finally, the Department notes that Section 3 of the measure changes how funds in the sanitation and environmental health special fund is allocated. This section may be beyond the scope

of this measure, which relates solely to taxation. Nevertheless, the Department defers to the Department of Health on this matter.

Thank you for the opportunity to provide comments.

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, Tax credit for cesspool conversion

BILL NUMBER: SB 132; HB 153 (Identical)

INTRODUCED BY: SB by Keith-Agaran, Baker, Dela Cruz, English, Inouye, Riviere, Shimabukuro and 2 Democrats; HB by Souki, Belatti and Luke

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer who connects a cesspool system to a septic system or to a septic or individual wastewater system to claim a tax credit equal to the costs incurred by the taxpayer for such connection. Only one tax credit shall be allowed per cesspool system.

Defines “actual cost,” “cesspool,” “individual wastewater system,” “septic system,” “waste” and “wastewater” for purposes of the measure.

Tax credits in excess of a taxpayer’s tax liability shall be applied to subsequent tax liability in subsequent years until exhausted. Requires all claims, including amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit. Directs the director of taxation to prepare the necessary forms to claim a credit under this section.

Amends HRS section 321-27 to provide that any amount in excess of \$1.5 million each year shall be used to fund the cesspool system upgrade income tax credit instead of being deposited into the general fund.

Repeals this act on July 1, 2019.

EFFECTIVE DATE: July 1, 2015

STAFF COMMENTS: This measure proposes a tax credit for conversion or hookup of a cesspool to a septic system or sewer system. While the measure allows taxpayers to claim the credit regardless of a taxpayer’s need for tax relief, the proposed credit is nothing more than a partial subsidy by the state to taxpayers for such conversion with absolutely no indication of the taxpayer’s need for that subsidy. This type of targeted tax incentive creates winners and losers, the winners being those in the favored industry who receive the incentives and the losers being the rest of us who have to pay for them.

When judging targeted tax incentives such as this one, we all should be mindful of these observations of the 2001-2003 Tax Review Commission: *“Targeted tax incentives are generally only demonstrably good for those relatively few taxpayers that qualify for the benefits, and may not be demonstrably good for anyone else. They are not supported by rules of sound tax policy. In the first instance, they decrease State revenue and add complexity to the tax system. They may also be unfair to other businesses.*

Almost all of the present incentives lack accountability, and therefore create something of a “black hole” in State fiscal responsibility. A targeted tax incentive does not appropriate hard earned and increasingly scarce revenues. Rather, it creates a tax benefit of unknown proportions against future revenues, before the revenues are collected and subjected to the legislative appropriation process.”

Appropriations to favored businesses, or subsidies, are rarely enacted. Every public appropriation is publicly scrutinized. A tax incentive is a potential “black hole,” because it is a future benefit of unknown proportions, which is determined by the favored taxpayer’s interpretation of what the tax credit should be, and is claimed on a tax return which is confidential.

Digested 2/6/15

Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 153 Relating to Taxation
House Committee on Energy and Environmental Protection
Tuesday, February 10, 2015, 8:30AM, Room 325

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life in these islands depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. Today, we actively manage more than 35,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy supports H.B. 153 to provide an income tax credit to incentivize cesspool replacement.

We also recognize that the much larger issue of wastewater impacts on coral reefs, near shore waters, and human health come from untreated sewage overflowing from overburdened wastewater treatment facilities and underground injection wells, especially on Maui and Hawai'i island. We urge the State and counties to consider a thorough review, repair, and retrofit of wastewater treatment facilities, especially if the State will be requiring more people to connect to those already overburdened facilities.

Scientists estimate that populations of many of Hawai'i's near shore reef fishes have declined by more than 75% over the past 100 years. Marine managers, community stewards, and scientists across the state are also cataloguing and working to address increased instances of coral disease, bleaching and reef smothering alien algae. Scientific analysis together with long-term community experience and observation suggest that a number of factors are contributing to and exacerbating these threats to Hawai'i's marine health, including over-harvesting of fishes, land-based sources of pollution, as well as higher temperatures and acidification due to human induced climate change. Degradation of Hawai'i's reefs and near shore environments is not only a detriment to our health and quality of life, but also a grave loss to Hawai'i's economy, safety, and to a cultural heritage that is unique in the world.

Effluent from cesspools – 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 cesspools can reach near-shore waters within a matter of minutes to just a few days. Replacing these coastal cesspools should be a priority.

Caring for the health and future productivity of Hawai'i's fresh and marine waters requires a combination of strategies in an ahupua'a approach. Taking care of watershed forests, upgrading wastewater treatment systems, enhancing water re-use, preventing and controlling invasive species, encouraging responsible resource use, and retiring and replacing outdated infrastructure are all a part of the solution to the variety of threats we face. Prohibiting new cesspools and replacing old ones is one important component of this collective effort.

Thank you for the opportunity to comment.

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February 10, 2015

HEARING BEFORE THE
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

TESTIMONY ON HB 1140 AND HB 153
RELATING TO CESSPOOLS

Room 325
8:30 AM

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

I am Christopher Manfredi, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,932 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 supports HB 1140 and HB 153. Our farmer and rancher members across the islands could benefit from this effort to mitigate the financial hardship that would be caused by any future mandatory cesspool conversions.

To protect the quality of Hawaii's near shore waters and drinking water supplies, HFB believes that cesspools which pose a risk to the ocean, surface, or ground water should be converted to septic systems, or where available, a sewer connection should be made to a county treatment system. Because the cost to upgrade is substantial, reportedly approximately \$20,000 per cesspool, Hawaii may accomplish these conversions more quickly if owners have assistance through tax incentives.

Several months ago, the State Department of Health proposed an extremely broad brush regulation to mandate elimination of all cesspools statewide within 180 days of a sale of the subject property. Farmers, homeowners, and others were alarmed that they would be subject to the exorbitant and unexpected costs associated with such a project.

HFB did not agree that every cesspool in the state, even those that pose very little or no risk to either groundwater or surface water quality, needs to be converted, nor do we believe that conversions should be mandatory in the rushed and arbitrary manner proposed by the Department. Additionally, we do not believe that the DOH proposed point of sale approach is appropriate, as it would require many cesspools that are not contributing to water quality degradation to be upgraded, while allowing cesspools that may be causing problems to continue to operate indefinitely, so long as the property is not sold.

HB 1140 and HB 153 would help Hawaii phase out of inappropriately sited cesspools. It follows the lead of other states which have provisions for tax credits to help fund cesspool conversion.

Thank you for the opportunity to testify in support of this bill.



Hawaii Restaurant Association

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February 9, 2015

LATE

To: Rep. Chris Lee, Chair
Members of Committee on Energy and Environmental Protection

From: Victor Lim, GR Chair, Hawaii Restaurant Association

Subject: HB 153 Cesspool System Upgrade Tax Credit Funding

The Hawaii Restaurant Association opposed the proposal to use funds from the Department of Health's Sanitation and Environmental Health Special Fund to fund Cesspool upgrade tax credits.

The Restaurant Industry opposed this because this fund was set up by an increase that our industry paid into to fund the inspectors and the grading system that was recently implemented. We feel very strongly that this fund should be used for just this purpose and not swept into the General Fund to be used for non Food Industry issues.

Thank you for giving us an opportunity to share our views.

February 10, 2015

The Honorable Chris Lee, Chair

Senate Committee on Energy and Environmental Protection
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 153, Relating to Taxation

HEARING: Tuesday, February 10, 2015, at 8:30 a.m.

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

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,400 members. HAR **supports the intent** of H.B. 153, which establishes a cesspool system upgrade income tax credit for taxpayers who connect or upgrade a cesspool system to a septic system or any department of health-approved individual wastewater system, and requires any annual amount over \$1,500,000, in the department of health's sanitation and environmental health special fund, be used to fund the cesspool system upgrade income tax credit rather than having the excess special fund moneys be deposited into the general fund.

The Department of Health (DOH) proposed changes to Hawai'i Administrative Rules, Chapter 11-62, relating to Wastewater Systems. Under the proposed rules, an estimated cesspool residential property count of 50,000 on Hawai'i, 14,000 on Kaua'i, 12,000 on Maui, 11,000 on Oahu, and 1,400 on Molokai would be affected. Additionally, the cost to convert each cesspool system could range from \$10,000, to \$30,000.

Under the DOH's proposed rules, it would create a point of sale mandate by requiring cesspool closure and conversion to either a septic system or public sewer system at the next conveyance or sale of a property. HAR expressed concerns that a property could take years, if ever, before it is sold or transferred, all while the cesspool could be one in a high risk area, as established by the 2014 Geology and Geophysics Report prepared for the DOH.

HAR believes that managing wastewater and its effects on Hawaii's water quality is important. However, it should be done in a rational and practical manner. This proposal is a good and practical approach towards incentivizing owners to convert their cesspool systems. Furthermore, this will help homeowners with the large cost to convert a cesspool system.

Mahalo for the opportunity to testify.