

JAN 19 2018

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# A BILL FOR AN ACT

RELATING TO WATER POLLUTION.

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

1       SECTION 1. The legislature finds that the public health  
2 and the water quality in Hawaii's streams, groundwater, and  
3 ocean are being harmed by water pollution from cesspools and  
4 other nonpoint sources, including raw sewage and stormwater,  
5 that flows off the land into state waters directly, rather than  
6 through pipes or ditches. Public recreation is harmed by such  
7 nonpoint source pollution with the frequent "brown water  
8 advisories" that follow heavy rain events. Nonpoint source  
9 pollution is also harmful to the precious coral reefs on which  
10 Hawaii's economy, shoreline, recreation, fisheries, and native  
11 species depend. Cesspool owners pay no fees for the pollution  
12 that they place in the public's groundwater and surface waters,  
13 whereas those who are served by sewers pay substantial fees,  
14 averaging nearly \$100 per month on Oahu. Upgrading cesspools  
15 can be expensive for homeowners, averaging \$20,000, presenting a  
16 barrier to improving water quality.



1       The purpose of this Act is to improve the State's ability  
2 to control and reduce water pollution from cesspools and other  
3 nonpoint sources by:

4       (1) Establishing the cesspool compliance grant program to  
5 provide financial assistance for low and moderate  
6 income cesspool owners upgrading to septic or other  
7 advanced treatment systems or connecting to sewers;

8       (2) Providing funds for such grants by requiring the  
9 director of health to propose cesspool operating fees  
10 by rule by June 30, 2020; and

11       (3) Authorizing the department of health to order cesspool  
12 upgrades in specific areas by July 1, 2028.

13       SECTION 2. Chapter 342D, Hawaii Revised Statutes, is  
14 amended by adding four new sections to part IV to be  
15 appropriately designated and to read as follows: .

16       "§342D-A Cesspool compliance grant program. (a) There is  
17 established in the department the cesspool compliance grant  
18 program to assist homeowners in meeting the costs of:

19       (1) Upgrading or converting a cesspool to a septic system,  
20 aerobic treatment unit system, or other advanced  
21 treatment system approved by the department; or



(2) Connecting a cesspool to a sewerage system.

(b) No grant under this section shall be awarded to a homeowner who is:

(1) A taxpayer filing a single return or a married person filing separately with a Hawaii adjusted gross income of \$70,000 or more;

(2) A taxpayer filing as a head of household with a Hawaii adjusted gross income of \$105,000 or more; or

(3) A taxpayer filing a joint return or as a surviving spouse with a Hawaii adjusted gross income of \$140,000 or more.

(c) The department shall adopt rules, pursuant to chapter 91, necessary to carry out the purposes of the grant program. Rules adopted pursuant to this section shall include a method of calculating a sliding scale grant amount based on the Hawaii adjusted gross income of the homeowner.

**§342D-B Cesspools; upgrades, conversion, or connection**

**required in priority areas.** (a) The department shall

investigate the number, scope, location, and priority of

cesspools statewide that require upgrade, conversion, or

connection based on each cesspool's impact on public health or



1 the environment, and may order that cesspools in such areas be  
2 upgraded, converted, or connected to a sewerage system by  
3 July 1, 2028, excluding cesspools granted exemptions by the  
4 director pursuant to subsection (b).

5 (b) The director may grant exemptions from the  
6 requirements of subsection (a) to cesspool owners who apply for  
7 an exemption and present documentation showing a legitimate  
8 reason that makes it infeasible to upgrade, convert, or connect  
9 the cesspool. For the purposes of this subsection, a legitimate  
10 reason shall include but not be limited to:

- 11 (1) Small lot size;  
12 (2) Steep topography;  
13 (3) Poor soils; or  
14 (4) Accessibility issues.

15 §342D-C Water pollution control account. (a) There is  
16 established within the water pollution control revolving fund  
17 established under section 342D-83 a separate account to be  
18 designated as the water pollution control account, into which  
19 shall be deposited:

- 20 (1) All revenues generated from fees authorized by rules  
21 adopted pursuant to chapter 91, under section 342D-D;



(2) Any moneys appropriated from the general revenues of the State for these purposes; and

(3) All interest earned or accrued on moneys deposited in the water pollution control account.

(b) The moneys in the water pollution control account shall be expended by the department for controlling and reducing pollution from septic systems and cesspools and nonpoint source pollution, including by:

(1) Preparing generally applicable rules or guidelines;

(2) Implementing and enforcing the terms and conditions of any rules, permits, waivers, and department-approved plans;

(3) Monitoring discharges and water quality in state waters;

(4) Performing or reviewing modeling, analyses, and demonstrations;

(5) Conducting the outreach program under section 342E- ;

(6) Implementing the cesspool compliance grant program established under section 342D-A; and

(7) Administering the water pollution control account.



1        For purposes of this section, "nonpoint source pollution"  
2 shall have the same meaning as in section 342E-1.

3        **§342D-D Fees.** No later than June 30, 2020, the director  
4 shall propose for adoption rules pursuant to chapter 91  
5 establishing operating fees for owners of cesspools and  
6 determining how these fees shall be collected. The director  
7 shall determine in consultation with each county the most  
8 efficient way to collect these fees. Counties that collect fees  
9 pursuant to rules under this section shall timely remit the  
10 fees, minus reasonable collection charges, for deposit into the  
11 water pollution control account established under section  
12 342D-C."

13        SECTION 3. Chapter 342E, Hawaii Revised Statutes, is  
14 amended by adding a new section to be appropriately designated  
15 and to read as follows:

16        **"§342E-    Nonpoint source pollution and cesspool outreach**  
17 **and assistance.** The director shall establish an outreach  
18 program to provide information on controlling nonpoint source  
19 pollution, including:



1        (1) Information on sewerage system connections and  
2        upgrades to approved individual wastewater systems;  
3        and

4        (2) Opportunities for financial assistance for sewer  
5        connections and upgrades to approved individual  
6        wastewater systems.

7        For purposes of this section, "nonpoint source pollution"  
8        shall have the same meaning as in section 342E-1."

9        SECTION 4. There is appropriated out of the general  
10       revenues of the State of Hawaii the sum of \$                      or so  
11       much thereof as may be necessary for fiscal year 2018-2019 for  
12       deposit into the water pollution control revolving fund.

13       SECTION 5. There is appropriated out of the water  
14       pollution control revolving fund the sum of \$                      or so  
15       much thereof as may be necessary for fiscal year 2018-2019 for  
16       implementation of the cesspool compliance grant program.

17       The sum appropriated shall be expended by the department of  
18       health for the purposes of this Act.

19       SECTION 6. In codifying the new sections added by section  
20       2 of this Act, the revisor of statutes shall substitute



# S.B. NO. 2117

1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 SECTION 7. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 8. New statutory material is underscored.

7 SECTION 9. This Act shall take effect on July 1, 2018.

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# S.B. NO. 2117

**Report Title:**

Cesspools; Cesspool Compliance Grant Program; Cesspool Upgrades; Outreach Program; Appropriation

**Description:**

Establishes the cesspool compliance grant program for low and moderate income cesspool owners to mitigate the costs of upgrading to septic or other advanced treatment systems or connecting to sewers. Provides funds for grants by requiring the director of health to propose cesspool operating fees by rule by June 30, 2020. Authorizes the department to order cesspools to be upgraded, converted, or connected to sewerage systems by July 1, 2028, in specific areas that are needed for protecting public health and the environment. Requires the director to establish a program on nonpoint source pollution and cesspool outreach and assistance. Appropriates funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

