

STAND. COM. REP. NO.

2061

Honolulu, Hawaii

FEB 04 2022

RE: S.B. No. 2172
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committees on Health and Agriculture and Environment, to which was referred S.B. No. 2172 entitled:

"A BILL FOR AN ACT RELATING TO UNDERGROUND FUEL STORAGE TANKS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit the department of health from issuing new permits for underground fuel storage tanks within one-half mile from the outer edge of an aquifer;
- (2) Prohibit the renewal of permits for underground fuel storage tanks within one-half mile from the outer edge of an aquifer, beginning January 1, 2050; and
- (3) Create a new definition for "underground fuel storage tanks" to include tanks with a capacity at or greater than one hundred gallons.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources; City and County of Honolulu Board of Water Supply; one member of the Hawai'i County Council; Sierra Club of Hawai'i; Hawaii State Teachers Association; Hawai'i Public Health Institute; Honolulu Youth Commission; Faith Action for Community Equity; Environmental Caucus of the



Democratic Party of Hawai'i; Americans for Democratic Action Hawai'i; Hawai'i Peace and Justice; Council for Native Hawaiian Advancement; Earthjustice; Hawai'i Food+ Policy; 350 Hawai'i; Hawai'i Alliance for Progressive Action; Hawai'i SEED; Hawai'i Workers Center; Hawai'i Youth Climate Coalition; Honolulu County Republican Party; Livable Honolulu; Native Hawaiian & Pacific Islander Hawai'i COVID-19 Response, Recovery, and Resilience; Protect Kaho'olawe 'Ohana; Papa Ola Lōkahi; Puakalehua Early Learning Consortium; Surfrider Foundation Hawai'i Region; Hawai'i Alliance for Community-Based Economic Development; Ke One O Kākuhihewa; Ko'olauloa Hawaiian Civic Club; Kanaeokana Network; Lahui Foundation; Moanalua Gardens Foundation; Windward Coalition; and two hundred eighty individuals. Your Committees received testimony in opposition to this measure from one individual. Your Committees received comments on this measure from the Department of Health, City and County of Honolulu Department of Transportation Services, City and County of Honolulu Department of Facility Maintenance, Hawaii Petroleum Marketers Association, Hawaii Military Affairs Council, and three individuals.

Your Committees find that underground storage tanks containing fuel and their related plumbing have a significant risk of leaking and contaminating potable drinking water aquifers. In December 2021, the United States Navy confirmed that the Red Hill Bulk Fuel Storage Facility on Oahu leaked petroleum into the Navy's water system. This measure mitigates that risk by prohibiting the installation or continuance of underground fuel storage tanks within one-half mile of the outer edge of aquifers.

Your Committees heard testimony from the Honolulu Board of Water Supply and Sierra Club, which noted that the measure as currently drafted could have unintended consequences by unnecessarily limiting viable sites for above-ground storage tanks and adversely impacting underground storage tank operators that pose little risk of contamination. Your Committees also heard concerns that the measure, as drafted, could be read as legislation targeting specific federal facilities, namely the Red Hill Bulk Fuel Storage Facility, which would subject it to federal preemption. Your Committees note that this measure does not target the Red Hill Bulk Fuel Storage Facility, but rather is intended to apply to any underground storage tank that threatens to leak fuel into the State's aquifer system of freshwater supply.



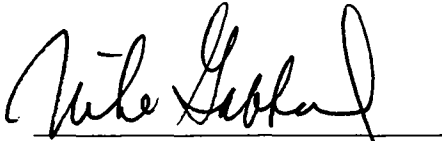
Therefore, your Committees have amended this measure by:

- (1) Amending the preamble to reflect the following changes including deleting references to any particular underground fuel storage facility to accurately reflect the purpose of this measure;
- (2) Amending the prohibited area in which a person can operate an underground fuel storage tank from within one-half mile of the outer edge of an aquifer to mauka of the underground injection control line as recommended by the Department of Health;
- (3) Removing the Department of Health's authority to issue a permit for replacing an underground fuel storage tank within the prohibited area after July 1, 2022, and instead authorize the Department of Health to issue permits to remove such underground fuel storage tanks;
- (4) Amending the date by which any person is prohibited from operating an underground fuel storage tank in the prohibited area from January 1, 2050 to January 1, 2023;
- (5) Amending the definition of "underground fuel storage tank";
- (6) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Health and Agriculture and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2172, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2172, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.



Respectfully submitted on
behalf of the members of the
Committees on Health and
Agriculture and Environment,



MIKE GABBARD, Chair



JARRETT KEOHOKALO, Chair



