



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

**Testimony in SUPPORT of SB3142 SD1
RELATING TO WATER INFRASTRUCTURE**

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

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date: 3/1/2024

Room Number: 211

- 1 **Fiscal Implications:** No impact to State funds. This affects federal moneys only.
- 2 **Department Testimony:** The Department of Health (Department) strongly supports this
- 3 measure. Based on review and consultation with the Department of the Attorney General and
- 4 federal agencies, the need for conforming amendments after this measure was submitted to the
- 5 Governor was revealed. The conflicts proposed for correction include:
- 6 1) The requirement that validation by the attorney general for the ability to transfer funds
- 7 need only be certified on the initial transfer. (Title 40 Code of Federal Regulations
- 8 (40 CFR) §35.3530 (c)(1)(i))
- 9 2) Designate the authority to transfer to the Governor and not the director of health
- 10 (although the Governor may elect to delegate to another state authority of their selection).
- 11 (40 CFR §35.3530 (c))
- 12 3) Clarify that the transfer is available for fund transfer between programs and not limited to
- 13 the capitalization grant. This would make transfer of Bipartisan Infrastructure Law
- 14 grants such as the Emerging Contaminant grants under BIL and other future grants
- 15 available and not limited to the base capitalization grant. (40 CFR §35.3530 (c))
- 16 The measure would give the Department the authority to transfer up to 33% of any year's grant
- 17 between the Drinking Water Treatment Revolving Loan Fund (also known as the Drinking

1 Water State Revolving Fund [DWSRF]) and the Water Pollution Control Revolving Fund (also
2 known as the Clean Water State Revolving Fund [CWSRF]).

3 The Department currently administers these two low interest loan programs for the
4 improvement of public drinking water systems and wastewater treatment and distribution
5 systems in Hawaii. These loan programs are funded principally by capitalization grants
6 provided by the U.S. Environmental Protection Agency (EPA). Previously, these grants
7 provided approximately \$8 million per year to each program. From federal fiscal year 2022 to
8 2026, the Bipartisan Infrastructure Law capitalization grants will provide the largest
9 capitalization grants into both programs since their establishment. At the present time, these
10 grants provide approximately \$66 million per year to the DWSRF program and \$25 million per
11 year to the CWSRF program. This measure would allow the Department to direct loan monies
12 more efficiently towards the drinking water or wastewater infrastructure needs across the State,
13 including for the recovery of the Maui water and wastewater infrastructure, resulting in the
14 greatest benefit to public health or environmental protection.

15 This measure will help ensure the continued and consistent award of these two annual
16 capitalization grants. The EPA oversees the State's implementation of the DWSRF and the
17 CWSRF programs and can withhold or delay future capitalization grants whenever a program is
18 struggling to expeditiously disburse their funds. The ability to move funds between programs
19 and direct them towards projects that are ready to proceed will help facilitate timely
20 disbursements.

21 This measure would also bring the state program in line with 40 CFR §35.3530(c)
22 Drinking Water State Revolving Funds: Transfers, which already allows this transfer authority.
23 Revisions to Section 2 and Section 3 of the measure are offered for consistency with 40 CFR
24 §35.3530(c).

25 **Offered Amendments:** The Department respectfully suggests the following revisions to the
26 proposed HRS amendments. Additions appear as underlined and deletions appear as strikeouts.

27 SECTION 2, Page 3, lines 4-21 and Page 4, lines 1-4: “§340E- Drinking water treatment
28 revolving loan fund; transfers. The director~~Director~~Governor, or a state official acting pursuant to an
29 authorization from the Governor, may transfer an amount up to or equal to thirty-three per cent
30 of a fiscal year’s drinking water treatment revolving loan fund capitalization grant ~~amount~~from

1 the drinking water treatment revolving loan fund to the water pollution control revolving fund
2 established under section 342D-83, or an equivalent dollar amount from the water pollution
3 control revolving fund to the drinking water treatment revolving loan fund established under
4 section 340E-35. The following conditions shall apply:

5 (1) ~~Each year in which the director transfers~~When the state initially decides to
6 transfer funds pursuant to this section:

7 (A) The attorney general, or someone designated by the attorney general's
8 designee, shall certify in writing, must sign or concur in a certification for
9 the drinking water treatment revolving loan fund and water pollution
10 control revolving fund that state law permits the ~~director~~state to transfer
11 funds ~~between the drinking water treatment revolving loan fund and water~~
12 ~~pollution control revolving fund~~; and

13 (B) The ~~director shall amend the~~ operating agreements or other parts of the
14 capitalization grant agreements for the drinking water treatment revolving
15 loan fund and water pollution control revolving fund must be amended to
16 ~~document~~ detail the method the state will used to transfer funds;”

17 SECTION 3, Page 5, lines 1-20 and Page 6, lines 1-2: “§342D- Water pollution control
18 revolving fund; tranfers. The ~~director~~Governor, or a state official acting pursuant to an
19 authorization from the Governor, may transfer an amount up to or equal to thirty-three per cent
20 of a fiscal year's ~~water pollution control revolving~~ drinking water treatment revolving loan fund
21 capitalization grant ~~amount~~from the water pollution control revolving fund to the drinking water
22 treatment revolving loan fund established under section 340E-35, or an equivalent dollar amount
23 from the drinking water treatment revolving loan fund to the water pollution control revolving
24 fund, established under section 342D-83. The following conditions shall apply:

25 (1) ~~Each year in which the director~~When the state initially decides to transfers funds
26 pursuant to this section:

27 (A) The attorney general, or someone designated by the attorney general's
28 designee, shall certify in writing, must sign or concur in a certification for
29 the drinking water treatment revolving loan fund and water pollution
30 control revolving fund that state law permits the ~~director~~state to transfer

1 funds ~~between drinking water treatment revolving loan fund and water~~
2 ~~pollution control revolving fund~~; and;

- 3 (B) The ~~director shall amend the~~ operating agreements or other parts of the
4 capitalization grant agreements for the drinking water treatment revolving
5 loan fund and water pollution control revolving fund must be amended to
6 ~~document~~ detail the method the state will used to transfer funds;”

7 SECTION 3, Page 6, lines 9-15: “(4) Funds ~~amounts~~ may be ~~transmitted~~ transferred on a
8 net basis between the water pollution control revolving fund and drinking water treatment
9 revolving loan fund; provided that the thirty-three per cent transfer allowance associated with
10 ~~water pollution control revolving~~ drinking water treatment revolving loan fund capitalization
11 grants received is not exceeded.”

12 Thank you for the opportunity to testify.



Email: communications@ulupono.com

SENATE COMMITTEES ON WAYS & MEANS AND JUDICIARY
Friday, March 1, 2024 — 10:31 a.m.

Ulupono Initiative supports SB 3142 SD1, Relating to Water Infrastructure.

Dear Chair Dela Cruz, Chair Rhoads, and Members of the Committees:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food, renewable energy, clean transportation choices, and better management of freshwater resources.

Ulupono supports SB 3142 SD1, which authorizes the Department of Health (DOH) to transfer federal capitalization grant funds between the Water Pollution Control Revolving Fund (CWSRF) and the Drinking Water Treatment Revolving Fund (DWSRF), in accordance with title 40 Code of Federal Regulations section 35.3530(c).

The DOH currently administers these two low-interest loan programs for the improvement of public drinking water systems and wastewater treatment and distribution systems in Hawai'i. These loan programs are funded principally by capitalization grants provided by the U.S. Environmental Protection Agency.

SB 3142 does not require any state funding. Rather, it provides DOH the authority to transfer up to 33% of any year's capitalization grants between the CWSRF and the DWSRF, allowing DOH to direct loan monies more efficiently towards the drinking water or wastewater infrastructure, according to community needs across the State. This provides DOH with another tool to respond to a crisis, such as the Red Hill fuel spill or the Maui fires.

This measure would also bring the state program in line with the Code of Federal Regulations, which already allows this transfer authority.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i

SB-3142-SD-1

Submitted on: 2/29/2024 12:35:55 AM

Testimony for WAM on 3/1/2024 10:31:00 AM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

NO !!!!