THE SENATE THIRTY-SECOND LEGISLATURE, 2024 STATE OF HAWAII

S.B. NO. 2426

JAN 19 2024

A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 SECTION 1. The legislature finds that the health of 2 Hawaii's people and quality of Hawaii's waters are being harmed 3 by pollution from cesspools. Hawaii has more than eighty 4 thousand cesspools that discharge about fifty million gallons of 5 wastewater into the State's groundwater every day. Cesspools 6 are antiquated, substandard systems that damage public health; 7 pollute drinking water; and lower water quality in streams, 8 ground waters, nearshore marine areas, and the ocean. Cesspool 9 pollution also harms public recreation and the precious coral 10 reefs on which Hawaii's economy, shoreline, fisheries, and 11 native species depend.

12 The purpose of this Act is to implement various 13 recommendations of the working group established by Act 132, 14 Session Laws of Hawaii 2018, including:

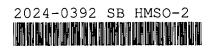
15 (1) Accelerating the dates for required upgrades,16 conversions, or connections of:

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1		(A)	The 13,821 priority level 1 cesspools in the
2			State to 2035, with certain exceptions; and
3		(B)	The 12,367 priority level 2 cesspools in the
4			State to 2040;
5	(2)	Appr	opriating funds to provide financing assistance
6		via	the cesspool compliance pilot grant project
7		esta	blished pursuant to Act 153, Session Laws of
8		Hawa	ii 2022; and
9	(3)	Esta	blishing a cesspool upgrade, conversion, or
10		conn	ection income tax credit.
11			PART II
12	SECT	ION 2	. Chapter 342D, Hawaii Revised Statutes, is
13	amended b	y add	ing a new section to be appropriately designated
14	and to re	ad as	follows:
15	" <u>§</u> 34	2D-	Cesspools; mandatory upgrade, conversion, or
16	connectio	n; pr	iority level 1; priority level 2. (a) Every
17	cesspool	in th	e State categorized as priority level 1 according
18	to the Un	ivers	ity of Hawaii's Hawaii cesspool prioritization
19	tool shal	l be:	
20	(1)	Upgr	aded or converted to a director-approved
21		wast	ewater system; or

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1	(2) Connected to a sewerage system,
2	before January 1, 2035; provided that priority level 1
3	cesspools on recreational residence leases within the Kokee
4	state park and Waimea Canyon state park on the island of Kauai
5	shall be upgraded, converted, or connected before January 1,
6	2040.
7	(b) Every cesspool in the State designated as priority
8	level 2 according to the University of Hawaii's Hawaii cesspool
9	prioritization tool shall be:
10	(1) Upgraded or converted to a director-approved
11	wastewater system; or
12	(2) Connected to a sewerage system,
13	before January 1, 2040.
14	(c) The director may grant an exemption from the
15	requirements of subsections (a) and (b) to the property owner of
16	a cesspool who applies for an exemption and presents
17	documentation showing a legitimate reason that makes it
18	infeasible to upgrade, convert, or connect the cesspool. For
19	the purposes of this subsection, a legitimate reason shall
20	include but not be limited to:
21	(1) Small lot size;

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1	(2) Steep topography;
2	(3) Poor soils;
3	(4) Accessibility issues; or
4	(5) A planned development of sewerage upgrades to an area.
5	(d) The department may grant extensions of up to five
6	years at a time from the requirements of subsections (a) and (b)
7	based on demonstration of financial inability to pay for or
8	finance a cesspool upgrade, conversion, or connection; provided
9	that the department of health may adopt rules pursuant to
10	chapter 91 necessary to effectuate the purposes of this
11	subsection.
12	(e) Notwithstanding any law to the contrary, no penalty or
13	other assessment for any violation of this section shall
14	constitute a lien on the real property. Notwithstanding any law
15	to the contrary, no seizure of real property shall be authorized
16	for any violation of this section.
17	(f) As used in this section, "cesspool" has the same
18	meaning as in section 342D-72."
19	SECTION 3. Section 342D-72, Hawaii Revised Statutes, is

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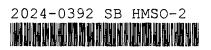
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1	"(a) [Before] Except as otherwise provided in section
2	342D, before January 1, 2050, every cesspool in the State,
3	excluding cesspools granted exemptions by the director of health
4	pursuant to subsection (b), shall be:
5	(1) Upgraded or converted to a director-approved
6	wastewater system; or
7	(2) Connected to a sewerage system."
8	PART III
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 2024-2025 to
12	implement the cesspool compliance pilot grant project
13	established pursuant to Act 153, Session Laws of Hawaii 2022.
14	The sum appropriated shall be expended by the department of
15	health for the purposes of this part.
16	SECTION 5. In accordance with section 9 of article VII of
17	the Hawaii State Constitution and sections 37-91 and 37-93,
18	Hawaii Revised Statutes, the legislature has determined that the
19	appropriations contained in H.B. No. , will cause the state
20	general fund expenditure ceiling for fiscal year 2024-2025 to be
21	exceeded by \$ or per cent. In addition, the



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1	appropriation contained in this Act will cause the general fund
2	expenditure ceiling for fiscal year 2024-2025 to be further
3	exceeded by \$ or per cent. The combined total
4	amount of general fund appropriations contained in only these
5	two Acts will cause the state general fund expenditure ceiling
6	for fiscal year 2024-2025 to be exceeded by
7	\$ or per cent. The reasons for exceeding the
8	general fund expenditure ceiling are that:
9	(1) The appropriation made in this Act is necessary to
10	serve the public interest; and
11	(2) The appropriation made in this Act meets the needs
12	addressed by this Act.
13	PART IV
14	SECTION 6. Chapter 235, Hawaii Revised Statutes, is
15	amended by adding a new section to part I to be appropriately
16	designated and to read as follows:
17	" <u>§235-</u> Cesspool upgrade, conversion, or connection;
18	income tax credit. (a) There shall be allowed to each taxpayer
19	subject to the tax imposed under this chapter a cesspool
20	upgrade, conversion, or connection income tax credit that shall
21	be deductible from the taxpayer's net income tax liability, if



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1	any, imposed by this chapter for the taxable year in which the
2	credit is properly claimed.
3	(b) In the case of a partnership, S corporation, estate,
4	or trust, the tax credit allowable is for qualified expenses
5	incurred by the entity for the taxable year. The expenses upon
6	which the tax credit is computed shall be determined at the
7	entity level. Distribution and share of credit shall be
8	determined by rule.
9	(c) The cesspool upgrade, conversion, or connection income
10	tax credit shall be equal to the qualified expenses of the
11	taxpayer, up to a maximum of \$10,000; provided that, in the case
12	of a qualified cesspool that is a residential large capacity
13	cesspool, the amount of the credit shall be equal to the
14	qualified expenses of the taxpayer, up to a maximum of \$10,000
15	per residential dwelling connected to the cesspool, as certified
16	by the department of health pursuant to subsection (e). There
17	shall be allowed a maximum of one cesspool upgrade, conversion,
18	or connection income tax credit per qualified cesspool. The
19	cesspool upgrade, conversion, or connection income tax credit
20	shall be available only for the taxable year in which the

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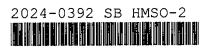
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1	taxpayer'	s qualified expenses are certified by the department of
2	health.	
3	(d)	The total amount of tax credits allowed under this
4	section s	hall not exceed \$ for all taxpayers in any
5	taxable y	ear; provided that any taxpayer who is not eligible to
6	claim the	credit in a taxable year due to the \$ cap
7	being rea	ched for that taxable year shall be eligible to claim
8	the credi	t in the subsequent taxable year.
9	<u>(e)</u>	The department of health shall:
10	(1)	Certify all qualified cesspools for the purposes of
11		this section;
12	(2)	Collect and maintain a record of all qualified
13		expenses certified by the department of health for the
14		taxable year; and
15	(3)	Certify to each taxpayer the amount of credit the
16		taxpayer may claim; provided that if, in any year, the
17		annual amount of certified credits reaches
18		\$ in the aggregate, the department of health
19		shall immediately discontinue certifying credits and
20		notify the department of taxation.

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1	The direct	or of health may adopt rules under chapter 91 as
2	necessary	to implement the certification requirements under this
3	section.	
4	<u>(f)</u>	The director of taxation:
5	(1)	Shall prepare any forms that may be necessary to claim
6		a tax credit under this section;
7	(2)	May require the taxpayer to furnish reasonable
8		information to ascertain the validity of the claim for
9		the tax credit made under this section; and
10	(3)	May adopt rules under chapter 91 necessary to
11		effectuate the purposes of this section.
12	<u>(g)</u>	If the tax credit under this section exceeds the
13	taxpayer's	s income tax liability, the excess of the credit over
14	liability	may be used as a credit against the taxpayer's income
15	tax liabil	ity in subsequent years until exhausted. All claims
16	for the ta	ax credit under this section, including amended claims,
17	shall be f	filed on or before the end of the twelfth month
18	following	the close of the taxable year for which the credit may
19	be claimed	. Failure to comply with the foregoing provision
20	shall cons	stitute a waiver of the right to claim the credit.
21	(h)	As used in this section:



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1	"Ces	spool" has the same meaning as in section 342D-72.
2	<u>"Qua</u>	lified cesspool" means a cesspool that is:
3	(1)	Certified by the department of health to be:
4		(A) Located within a priority level 1 or 2 area
5		according to the University of Hawaii's 2022
6		Hawaii cesspool hazard assessment and
7		prioritization tool; or
8		(B) A residential large capacity cesspool; or
9	(2)	Certified by a county or private sewer company to be
10		appropriate for connection to its existing sewerage
11		system.
12	<u>"Qua</u>	lified expenses" means costs that are necessary and
13	directly	incurred by the taxpayer for upgrading or converting a
14	qualified	l cesspool to a director of health-approved wastewater
15	system, o	or connecting a qualified cesspool to a sewerage system,
16	and that	are certified as such by the department of health.
17	"Res	idential large capacity cesspool" means a cesspool that
18	<u>is connec</u>	ted to more than one residential dwelling.
19	"Sew	verage system" has the same meaning as in
20	section 3	342D-1.
21	"Was	stewater" has the same meaning as in section 342D-1."



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1	SECT	ION 7. Section 23-92, Hawaii Revised Statutes, is
2	amended b	y amending subsection (c) to read as follows:
3	"(C)	This section shall apply to the following:
4	(1)	Sections 235-12.5 and 241-4.6Credit for renewable
5		energy technology system installed and placed in
6		service in the State. For the purpose of section 23-
7		91(b)(5), this credit shall be deemed to have been
8		enacted for an economic benefit; [and]
9	(2)	Section 235-17Credit for qualified production costs
10		incurred for a qualified motion picture, digital
11		media, or film production $[-;]$ and
12	(3)	Section 235Credit for cesspool upgrade,
13		conversion, or connection."
14	SECT	ION 8. Section 23-94, Hawaii Revised Statutes, is
15	amended b	y amending subsection (c) to read as follows:
16	"(c)	This section shall apply to the following:
17	(1)	Section 235-4.5(a)Exclusion of intangible income
18		earned by a trust sited in this State;
19	(2)	Section 235-4.5(b)Exclusion of intangible income of
20		a foreign corporation owned by a trust sited in this
21		State;

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1	(3)	Section 235-4.5(c)Credit to a resident beneficiary
2		of a trust for income taxes paid by the trust to
3		another state;
4	(4)	Sections 235-55 and 235-129Credit for income taxes
5		paid by a resident taxpayer to another jurisdiction;
6	(5)	Section 235-71(c)Credit for a regulated investment
7		company shareholder for the capital gains tax paid by
8		the company;
9	(6)	Section 235-110.6Credit for fuel taxes paid by a
10		commercial fisher;
11	(7)	Section 235-110.93Credit for important agricultural
12		land qualified agricultural cost;
13	[(8)	Section 235-110.94Credit for organically produced
14		agricultural products;
15	(9)]	(8) Section 235-129(b)Credit to a shareholder of an
16		S corporation for the shareholder's pro rata share of
17		the tax credit earned by the S corporation in this
18		State; and
19	[(10)]	(9) Section 209E-10Credit for a qualified business
20		in an enterprise zone; provided that the review of

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1		this credit pursuant to this part shall be limited in
2		scope to income tax credits."
3	SECT	ION 9. Section 23-95, Hawaii Revised Statutes, is
4	amended by	y amending subsection (c) to read as follows:
5	"(c)	This section shall apply to the following:
6	(1)	Section 235-5.5Deduction for individual housing
7		account deposit;
8	(2)	Section 235-7(f)Deduction of property loss due to a
9		natural disaster;
10	[(3)	Section 235-16.5Credit for cesspool upgrade,
11		conversion; or connection;
12	(4)]	(3) Section 235-19Deduction for maintenance of an
13		exceptional tree;
14	[(5)]	(4) Section 235-55.91Credit for the employment of a
15		vocational rehabilitation referral;
16	[(6)]	(5) Section 235-110.2Credit for in-kind services
17		contribution for public school repair and maintenance;
18		and
19	[(7)]	(6) Sections 235-110.8 and 241-4.7Credit for
20		ownership of a qualified low-income housing building."
21		PART V



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1 SECTION 10. Statutory material to be repealed is bracketed 2 and stricken. New statutory material is underscored. SECTION 11. This Act shall take effect upon its approval; 3 4 provided that: (1) Section 4 shall take effect on July 1, 2024; and 5 6 (2) Part IV shall apply to taxable years beginning after December 31, 2023. 7 8

INTRODUCED BY: (ml. Attal

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Report Title:

Cesspools; Cesspool Conversion Working Group; Mandatory Upgrade, Conversion, or Connection; Prioritization; Income Tax Credit; Appropriation; Expenditure Ceiling

Description:

Part II: Requires certain priority level 1 cesspools to be upgraded, converted, or connected before 1/1/2035, and priority level 2 cesspools to be upgraded, converted, or connected before 1/1/2045, rather than before 1/1/2050. Part III: Appropriates funds to implement the cesspool compliance pilot grant project established pursuant to Act 153, Session Laws of Hawaii 2022. Part IV: Establishes an income tax credit for the cost of upgrading or converting a qualified cesspool to a director of health-approved wastewater system or connecting to a sewerage system.

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

