



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

**Testimony in SUPPORT of SB0445
RELATING TO POLLUTION ABATEMENT**

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Hearing Date: 2/1/2023 Room Number: 224

1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's (Department) appropriations and
3 personnel priorities.
4 **Department Testimony:** The Department strongly supports SB0445 to deter potential violation
5 of law and to remove any economic benefit gained by violating the law. The potential to face
6 severe financial penalties for violations is much more likely to deter persons from taking actions.
7 This will give the Department greater ability to ensure that any financial benefits of such
8 violations are eliminated. For example, if the Department is limited by the statutes to only assess
9 \$25,000 in fines for a single violation, but the violator gained a greater amount of value by
10 violating, there is an economic benefit to such violations. The last time some of these fines were
11 updated was more than twenty years ago. In the intervening years, there have been many
12 changes to the economy, most notably changes due to inflation, which weakens the financial
13 deterrence of these fines.

14 The Department also strongly supports the appropriation to fund one full-time equivalent
15 (1.0 FTE) environmental health specialist within the Clean Water Branch (CWB) of the
16 Department. The additional staffing strengthens the Department's ability to implement and
17 enforce environmental law. Current staffing levels for CWB personnel have not increased in
18 nearly two decades. During the same period, the universe of regulated facilities has dramatically
19 increased as has the stress on Hawaii's water resources. The addition of an FTE to the CWB

1 would support the program’s ability to identify and reduce threats to Hawaii’s surface water
2 resources.

3 Financial deterrence is essential to ensuring that wanton violations to State environmental
4 law are less likely to occur and that the State is taking a strong stance against any such violators.
5 The additional staff in the CWB is also necessary to assist in implementing and enforcing the
6 penalties assessed under the applicable statute as implemented by the CWB. For these reasons,
7 the Department strongly supports passing this bill.

8 Thank you for the opportunity to testify.

9 **Offered Amendments:**

10 The Department would like to offer the following amendments to the proposed bill.

11 The bill proposes to amend the penalties assessed under section 342D-50(a), Hawaii
12 Revised Statutes (HRS), from \$25,000 to \$56,460. However, there are other legislative bills this
13 session (HB1079 and SB1377) which raise the penalty to \$59,973. This number is based on a
14 more recent inflation adjusted penalty promulgated by the United States Environmental
15 Protection Agency (EPA) for similar violations. As such, the Department recommends revising
16 the penalty amount in Section 1, Page 1, Line 6 from “\$56,460” to “\$59,973.”

17 Further, the Department also suggests amending the proposed penalty revisions to
18 sections 342E-4(a) and 342L-10(a), HRS to revise the penalty amounts to \$59,973 for
19 consistency with the Department’s suggested revision to the penalty in 342D-50(a), HRS. As
20 such, the Department recommends revising the penalty amounts in Section 2, Page 2, Line 15;
21 Section 3, Page 3, Line 13; and Section 3, Page 3, Line 18 from “\$56,400” to “\$59,973.”

22 The Department also suggests revising the proposed penalty revision to section
23 342L-10(b), HRS from the proposed \$10,000 to \$25,000 to be consistent with similar proposed
24 penalty amounts contained in sections 342D-50 and 342E-4, HRS. As such, the Department
25 recommends revising the penalty amount in Section 3, Page 4, Line 12 from “\$10,000” to
26 “\$25,000.”

27 The Department also offers the following minor stylistic changes to mirror language in
28 similar HRS statutes. Additions appear as underlined and deletions appear as bracketed
29 strikeouts. To Section 2, Page 3, Line 2: “[~~such a~~] [~~the~~] denial, obstruction, or hampering. Any
30 action...” (i.e., remove the added “the”). To Section 2, Page 3, Line 5: “(c) Any fine or penalty
31 collected shall be [~~placed in~~] deposited into the environmental response revolving fund [~~pursuant~~”

- 1 ~~to~~ established by ~~[section]~~ 128D-2.” To Section 4, Page 4, Line 20: “...year 2024 – 2025 for
- 2 the establishment of one permanent full-time equivalent (1.0 FTE).”

SB-445

Submitted on: 1/28/2023 4:08:17 PM

Testimony for AEN on 2/1/2023 1:00:00 PM

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

Comments:

Wast of Tax Payer Moneys!!!!