

STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:

**Testimony COMMENTING on SB0093
RELATING TO REUSE ZONES**

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

SENATOR LORAIN R. INOUE
SENATE COMMITTEE ON WATER AND LAND

Hearing Date: 1/30/2023

Room Number: 224

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department of Health (Department) would like to provide
3 comments for this measure. Water is a precious resource that needs to be preserved and
4 conserved to ensure sustainability for future generations. The Department is an advocate for
5 promoting the use of recycled water in Hawaii, and believes that a study should be conducted to
6 determine if this requirement will be feasible.

7 The Department is concerned that the cost to install infrastructure for nonpotable water
8 users or developers to use R-1 water from a wastewater treatment plant could be exorbitant. It is
9 our understanding that the various County Wastewater Divisions and the Honolulu Board of
10 Water Supply have and are constructing the R-1 infrastructure for potential users. It is not clear
11 if the intent of this measure is for nonpotable users to construct their own infrastructure to
12 connect to the wastewater treatment plant, but if so, the Department believes that it is much more
13 efficient and practical to have the R-1 transmission lines be provided by the Counties.

14 In addition, if a study is conducted, the Department recommends that it should also
15 include the feasibility of implementing indirect and direct potable reuse in the State.

16 **Offered Amendments:** None.

17 Thank you for the opportunity to testify on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:
S.B. NO. 93, RELATING TO REUSE ZONES.

BEFORE THE:
SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT AND ON
WATER AND LAND

DATE: Monday, January 30, 2023 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Dale K. Sakata, Deputy Attorney General

Chairs Gabbard and Inouye and Members of the Committees:

The Department of the Attorney General has the following comments on this bill.

The purpose of this bill is to add a new section to chapter 342D, Hawaii Revised Statutes (HRS), that requires any nonpotable water users and developers within a certain distance from a wastewater treatment plant to use R-1 water, for nonpotable water usage. This bill establishes positions within the Commission on Water Resource Management (CWRM) and appropriates funds to be expended by the Department of Land and Natural Resources (DLNR).

We note that the term "developers" is undefined in chapter 342D, HRS. "Developer" is defined in other statutes such as sections 46-141 and 302A-1602, HRS, but those definitions may not be appropriate for this bill. We will be happy to work with the Committees to draft a new definition.

We also note that chapter 342D, HRS, is administered by the director of health. Section 342D-2, HRS. The enforcement powers and rule-making authority of DLNR and CWRM are governed by chapters 171 and 174C, HRS, respectively. We can work with the Committees to ensure that the department or commission tasked with oversight of this bill has proper rulemaking and enforcement authority.

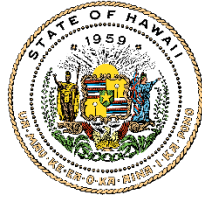
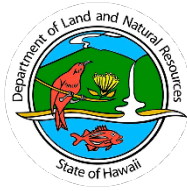
Finally, to clarify that this bill establishes new employment positions, we suggest revising section 4, at page 2, line 15, to read:

". . . for the establishment of full-time (FTE) positions"

Thank you for the opportunity to testify.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'AINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'AINA



**STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

LAURA H.E. KAAKUA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
DAWN N. S. CHANG
Chairperson**

**Before the Senate Committees on
AGRICULTURE AND ENVIRONMENT
and
WATER AND LAND**

**Monday, January 30, 2023
1:00 PM**

State Capitol, Conference Room 224 & Videoconference

**In consideration of
SENATE BILL 93
RELATING TO REUSE ZONES**

Senate Bill 93 proposes to require nonpotable water users or developers within certain distances from a wastewater treatment plant to use R-1 water for nonpotable water usage by amending Chapter 342D, Hawai'i Revised Statutes. The measure also appropriates unspecified general funds and full-time employee positions to the Department of Land and Natural Resources (Department) for the purposes of this bill. **The Department appreciates the intent of this measure and offers the following comments.**

The Commission on Water Resource Management (Commission) supports the appropriate use of recycled wastewater, which reduces the use of potable water for nonpotable demands, is resilient to drought, and prevents potential pollution of nearshore waters by reducing wastewater injection and ocean outfalls. Increasing the reuse of recycled water across the state is essential because climate change is expected to reduce future freshwater availability in many areas of the State of Hawai'i and may also cause an increase in frequency and severity of drought events. In addition, moving in this direction is consistent with the Supreme Court's decision in County of Maui v. Hawaii Wildlife Fund, (2019).

The practicability of mandating the use of recycled water within a specified distance of a wastewater recycling facility (WWRF) is affected by several factors, including the existence of suitable infrastructure to store and distribute recycled water, the salinity and quality of the finished recycled

water, and current reuse guidelines. We understand that in many areas across the state, infrastructure for the distribution of recycled water does not currently exist. The largest WWRF are county-owned, and infrastructure varies greatly between the existing WWRF. To better understand the state of reuse in Hawai‘i, the Commission completed its 2013 Update of the Hawai‘i Water Reuse Survey and Report, which provided an inventory of the wastewater treatment and recycling facilities (WWRF) in the State, and described existing reuse projects and opportunities associated with these WWRF.

To better understand the potential expansion of recycled water reuse, staff recommends additional study of this matter and outreach to stakeholders. An updated reuse study should include a complete inventory of WWRF, cost of infrastructure – including feasibility assessment, types of reuse options (including direct and indirect potable reuse), amount of water reused, and recommendations for practicable distances for connections and any further regulatory requirements. Should the Legislature concur, funding would be necessary to complete a revised reuse study.

The Commission also notes that the Counties can require reuse of recycled water through county ordinances and county code amendments, such as Chapter 20.30, Maui County Code. Supporting the Counties may be a more efficient way of achieving reuse of recycled water.

Thank you for the opportunity to comment on this measure.

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843
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January 30, 2023

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ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

ERWIN M. KAWATA
Deputy Manager

The Honorable Mike Gabbard, Chair
and Members
Committee on Agriculture and Environment
Hawaii State Capitol, Room 201
Honolulu, Hawaii 96813

The Honorable Lorraine R. Inouye, Chair
and Members
Senate Committee on Water and Land
Hawaii State Capitol, Room 210
Honolulu, Hawaii 96813

Dear Chair Gabbard, Chair Inouye and Members:

Subject: Senate Bill 93: Relating to Reuse Zones

The Honolulu Board of Water Supply (BWS) supports Senate Bill (SB) 93. This bill proposes to require nonpotable water users or developers within certain distances from a wastewater treatment plant to use R-1 water for nonpotable usage.

The BWS operates the Honouliuli Water Recycling Facility, which produces 12 million gallons per day of recycled (R-1) water for irrigation and industrial uses. This recycled water is not intended for drinking, but rather used primarily by large water users such as golf courses and refineries and is suitable for industrial processing, irrigation and non-drinking uses. It is good for the environment, and it cost less than other new water sources. Equally important, recycled water is a drought-proof and renewable supply of water, and is a safe and smart way to extend the life of our water supply. The Facility mainly serves nonpotable water users from Honouliuli to as far as Kapolei area.

While the BWS is working to secure additional water sources conservation remains the most effective and economical way to ensure we have the water we need. Recycled R-1 water helps reduce potable drinking water demand, thereby conserving water needed in times of drought.

Thank you for the opportunity to testify in support of SB93.

Very truly yours,



ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer



HAWAI'I COMMUNITY
FOUNDATION

To: The Honorable Mike Gabbard, Chair
The Honorable Herbert "Tim" Richards, III, Vice Chair
And Members of the Senate Committee on Agriculture & Environment

The Honorable Lorraine Inouye, Chair
The Honolulu Brandon Elefante, Vice Chair
And Members of the Senate Committee on Water & Land

From: Micah Kāne, Chief Executive Officer & President
Hawai'i Community Foundation

Re: Testimony in Support to SB 93 Relating to Stormwater Fees

Date: Monday, January 30, 2023

Time: 1:00 P.M.

Place: Via Conference Room 224 and Videoconference

The Fresh Water Initiative **strongly supports SB 93** which establishes reuse zones, with the following requested **amendments**.

The Fresh Water Initiative has recognized that diverting wastewater to other freshwater applications is a valuable technique for both reusing and preserving water resources. Hawaii Community Foundation is in support of establishing reuse zones since its passage will help to increase water reuse on our islands. We stand ready to collaborate and assist in moving Hawaii towards increased water reuse and strengthened water security.

Revised Language:

Add to beginning of Section 1: *"Studies have shown that Hawaii has seen an 18% reduction in rainfall from 1978 to 2007. Reduced precipitation, rising populations, water quality threats and increased development of our land is making Hawaii's water security more vulnerable than ever."*

SECTION 1. The legislature finds that water is a vital natural resource used to support the people of Hawaii. As water resources across the State are finite, alternatives such as recycled water may provide economic benefits and protection of public health while reducing the reliance on injection wells for the disposal of wastewater effluent. The use of R-1 water may also encourage the use of recycled water for certain activities such as construction and irrigation.

Add to the end of Section 1: *“In 2018, a Water Reuse Task Force was gathered to discuss how to scale water reuse in Hawaii. With representation from all four counties, Department of Health, Department of Agriculture, Department of Land and Natural Resources, and other organizations the group came up with a list of strategies based on research from other states and challenges specific to Hawaii. Based on feasibility and potential for impact, the first of 10 recommendations that resulted from the Task Force was to ‘Establish mandatory recycled water use zones, within reasonable transport distances from major sources of recycled water’”*

Replace 342 D “Any nonpotable water users or developers within miles of a wastewater treatment plant shall utilize R-1 water for nonpotable water usage.” With the following

“Any county agencies producing recycled water shall establish Water Reuse Zones within their service areas by January 1, 2024. New developments and existing users within the Reuse Zones are mandated to use recycled water if the quality of recycled water (R-1, R-2, R-3) is adequate for intended uses, the capacity is available, and the cost of connecting, switching, and using recycled water does not constitute an unreasonable financial burden. Existing users have 5 years to switch to mandated recycled water. Allocation of potable water for nonpotable and irrigation uses in a Water Reuse zone is restricted.”

Economic incentives should be provided including subsidized recycled water rates and connection fees, proportionate share agreements among multiple users to distribute costs to existing and future users over time.

Mahalo for the opportunity to testify.