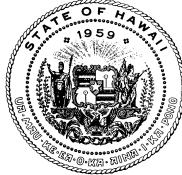


JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII'



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**Testimony COMMENTING on SB2127
RELATING TO WATER POLLUTION**

SENATOR JOY A. SAN BUENAVENTURA
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Hearing Date, Time and Room Number: 02/02/2026, 3:00 pm, 224

- 1 **Fiscal Implications:** Undetermined. This measure may impact the priorities identified in the
- 2 Governor's Executive Budget Request for the Department of Health's (Department's)
- 3 appropriations and personnel priorities.

- 4 **Department Position:** The Department offers comments and proposed amendments for this
- 5 measure.

- 6 **Department Testimony:** The Environmental Management Division, Surface Water Protection
- 7 Branch (EMD-SWPB) provides the following testimony on behalf of the Department.

- 8 As drafted, this measure places responsibility on the Department to enforce against
- 9 runoff-borne pollutants to state lands, which is generally the obligation of the Department of
- 10 Land and Natural Resources, by adding a provision to a Hawaii Revised Statutes (HRS) chapter
- 11 that is intended to protect against pollution put into state waters, not onto state lands.

- 12 This measure proposes to add a new section to HRS Chapter 342D, Water Pollution, that
- 13 subjects large landowners of 10,000 acres or more to liability for fines and damages arising
- 14 from runoff into state waters or onto state lands. Although the Department regulates pollution

1 from agricultural runoff that enters state waters, nonpoint source runoff is regulated under a
2 different chapter, HRS Chapter 342E – Nonpoint Source Pollution Management and Control. The
3 Department recommends that this proposed section be placed in Chapter 342E, HRS.

4 Agricultural stormwater discharges are defined by State law as a “nonpoint source.”
5 Under HRS Section 342E-4, landowners and other persons responsible for nonpoint source
6 pollution are already subject to fines or penalties of up to \$10,000.00 per violation of
7 administrative rules promulgated pursuant to HRS Section 342E-3(a)(2). This measure would
8 subject large landowners in possession of ten thousand or more acres to liability for both
9 damages and fines. As large landowners are already subject to fines, this bill does not need to
10 provide additional authority to the Department, which would not enhance the Department’s
11 ability to do so and could inadvertently result in conflicting statutory authorities. The
12 Department recommends revising the phrase “damages and fines” to read “fines pursuant to
13 section 342E-4 and damages.”

14 This measure places responsibility on the Department to pursue damages for
15 agricultural runoff onto state lands. Including “state lands,” however, is inconsistent with the
16 purpose and powers set forth in both HRS Chapter 342D and HRS 342E. Damage to state lands,
17 instead, appears to fall under the jurisdiction of the Department of Land and Natural Resources
18 to pursue. The Department recommends removing the phrase “or onto state lands.” This
19 measure also directs the Department to prioritize enforcement of water pollution control
20 regulations in rural areas. If the Department receives authority to pursue damages for
21 agricultural runoff onto state lands, this could dramatically increase the Department’s scope of
22 duties. Prioritizing enforcement in rural areas will either shift enforcement away from existing
23 violations or require additional inspectors.

24 The Surface Water Protection Branch continues to establish enforcement and compliance
25 positions, which will be critical to developing enforcement or compliance orders to address
26 nonpoint source pollution. As proposed, this measure would require substantial additions to

1 staff and budget to address increases in enforcement scope and may also require statutory
2 changes authorizing the Department to address damage to state lands.

3 **Offered Amendments:** The Department respectfully offers the following revisions to the
4 measure. Additions appear as underlined and deletions are bracketed strikeouts.

5 SECTION 2, page 2, lines 11-17: "Chapter [342D]342E, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated and to read as follows:
7 "§[342D]342E – Agricultural water pollution; liability. (a) A landowner in possession of ten
8 thousand or more acres shall be liable for [damages and fines] fines pursuant to section 342E-4
9 and damages arising from runoff originating on the land and entering into state waters [or onto
10 state lands].""

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

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



WENDY GADY
EXECUTIVE DIRECTOR

STATE OF HAWAI'I
AGRIBUSINESS DEVELOPMENT CORPORATION
HUI HO'OUŁU AINA MAHIAI

TESTIMONY OF WENDY L. GADY
EXECUTIVE DIRECTOR
AGRIBUSINESS DEVELOPMENT CORPORATION

BEFORE THE SENATE COMMITTEES ON
HEALTH AND HUMAN SERVICES & AGRICULTURE AND ENVIRONMENT
February 2, 2026
3:00 p.m.
Conference Room 224 & Videoconference

SENATE BILL NO. 2127
RELATING TO WATER POLLUTION

Chairpersons San Buenaventura and Gabbard, Vice Chairs McKelvey and Richards, and Members of the Committees:

We submit this testimony in support of the intent of Senate Bill 2127, which seeks to protect Hawai'i's water resources by addressing runoff that enters State waters. Clean and healthy waters are essential to public health, ecosystems, and agriculture itself, and farmers and land managers share the goal of preventing pollution and maintaining watershed health.

At the same time, we respectfully offer the following comments to help ensure that SB2127 is implemented in a manner that is fair, workable, and aligned with the State's food security and public safety objectives.

Runoff is influenced by a complex combination of factors, including rainfall intensity, slope, soil conditions, historic land use, upstream activities, and extreme weather events. For large landholdings—often spanning multiple watersheds and land uses—it can be challenging to clearly determine:

- The precise origin of runoff.

SENATE BILL NO. 2127
RELATING TO WATER POLLUTION
Page 2 of 3

- Whether runoff is attributable to current agricultural practices versus legacy or adjacent land uses; and
- Whether runoff would have occurred regardless of management practices during extreme rainfall events.

Clarifying how runoff will be monitored, measured, and attributed would improve implementation and reduce uncertainty for landowners while strengthening the bill's environmental outcomes.

The bill's liability and penalty framework may create uncertainty for large agricultural landholders who are actively producing food. Without clear standards and pathways for compliance, this uncertainty could discourage continued cultivation or investment in farming operations.

This concern is particularly important given the State's goals to increase local food production and meet institutional purchasing and food security mandates. Agricultural producers need predictable regulatory frameworks in order to plan, invest, and remain in production.

Active agricultural use—through cultivation, grazing, irrigation, and routine land management—is one of the most effective long-term wildfire mitigation strategies in Hawai'i. These practices reduce unmanaged vegetation and fuel loads that increase wildfire risk.

Policies that inadvertently discourage active agricultural management may result in more fallow or unmanaged lands, increasing fire risk and threatening nearby communities and infrastructure. Aligning SB2127 with wildfire mitigation goals would strengthen its overall public benefit.

The Agribusiness Development Corporation is currently involved in a contested case related to environmental compliance, which highlights the importance of clear standards, monitoring protocols, and proportional enforcement. Even when outcomes are unresolved, uncertainty surrounding liability and penalties can inhibit agricultural production, financing, and long-term planning.

SENATE BILL NO. 2127
RELATING TO WATER POLLUTION
Page 3 of 3

Incorporating clear compliance pathways, technical assistance, and opportunities for corrective action can help SB2127 achieve its environmental objectives while maintaining agricultural viability.

To support the intent of SB2127 while minimizing unintended consequences, we respectfully suggest consideration of:

- Clear scientific standards for runoff attribution and causation.
- Transparent and consistent monitoring methodologies.
- Opportunities for corrective action and compliance prior to punitive enforcement.
- Alignment with State food security and wildfire mitigation goals.
- Recognition that land size alone may not reflect environmental impact or stewardship practices.

SB2127 reflects an important commitment to protecting Hawai'i's water resources, a goal we strongly support. With thoughtful implementation and refinement, the bill can advance water quality objectives while also preserving agricultural production, supporting State food mandates, and enhancing wildfire resilience.

We appreciate the Committee's consideration of these comments and look forward to continued collaboration to achieve shared environmental and agricultural goals.

Thank you for the opportunity to provide testimony.



COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Herbert M. "Tim" Richards, III, Vice Chair

COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair

Senator Angus L.K. McKelvey, Vice Chair

SB2127

RELATING TO WATER POLLUTION

Monday, February 2, 2026, 3:00 PM
Conference Room 224 & Videoconference

Chairs Gabbard & San Buenaventura, Vice Chairs Richards McKelvey, and Members of the Committees,

The Hawaii Cattlemen's Council **respectfully opposes SB2127** which requires a landowner in possession of ten thousand or more acres to be liable for damages and fines arising from runoff originating on the land and entering into state waters or onto state lands.

While protecting our land and water is important, this bill will unfairly penalize large landowners. It is difficult to determine where runoff originates, and also difficult to determine what practices contributed to the runoff. Ranchers work hard to put sound practices in place to keep the land covered with forage, manage grazing, and ensure the land is healthy for generations to come. However, when drought conditions occur followed by large rain events resulting in runoff, it is unreasonable to blame the landowner for what amounts to an uncontrollable act of nature. We must move forward as a state to encourage good land stewardship practices, but this bill will unnecessarily hurt our local food producers.

We appreciate the opportunity to testify on this measure. The Hawaii Cattlemen's Council (HCC) is the Statewide umbrella organization comprised of the four county-level Cattlemen's Associations. Ranchers produce a high-quality protein and are the stewards of almost 750 thousand acres of land in Hawaii, or nearly 20% of the State's total land mass. We represent the interests of Hawaii's cattle producers.

Nicole Galase
Hawaii Cattlemen's Council
Managing Director





P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

February 2, 2026

HEARING BEFORE THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

TESTIMONY ON SB 2127
RELATING TO WATER POLLUTION

Conference Room 224 & Videoconference
3:00 PM

Aloha San Buenaventura and Chairs Gabbard, Vice-Chairs McKelvey and Richards, and Members of the Committees:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau respectfully opposes SB 2127, which imposes liability and fines on landowners with 10,000 or more acres for any runoff originating on their property and requires the Department of Health to prioritize enforcement in rural areas. While we recognize the importance of protecting coastal waters and marine ecosystems, this bill places an unrealistic and disproportionate burden on agricultural producers without adequately accounting for extreme weather events, existing regulatory frameworks, or shared responsibility across land uses.

HFB has the following concerns:

1. The bill threatens large-scale agriculture and food security. Hawai'i is working to increase local food production and reduce reliance on imports, but SB 2127 creates an additional financial and legal burden on farmers and ranchers. The uncertain and expansive liability discourages investment in large-scale agriculture, which is essential to achieving the state's goal of doubling food production, replacing imports, and supporting Regional Kitchens and Farm to School.
2. The bill imposes an unrealistic expectation by effectively holding farmers and ranchers responsible for all runoffs, without accounting for force majeure events such as extreme rainfall or natural disasters. It does not distinguish between runoff caused by negligence and runoff resulting from extraordinary weather conditions. Even well-managed agricultural operations using best management practices

cannot fully prevent runoff given Hawai'i's heavy rainfall, steep terrain, and increasing frequency of severe storm events.

3. SB 2127 unfairly singles out agriculture while ignoring other sources of pollution. Urban development, stormwater drainage systems, and industrial activities also contribute significantly to water pollution, yet this bill applies only to agricultural landowners. A comprehensive approach that addresses all major contributors to runoff would be more effective and equitable.
4. Existing laws and best management practices (BMPs) already regulate agricultural runoff. Hawai'i's farmers and ranchers follow stringent regulations, soil conservation plans, and state and federal compliance programs to mitigate environmental impact. Instead of imposing punitive measures, the state should focus on providing incentives, such as grants and technical assistance, to encourage the further adoption of sustainable water management practices.

The success of Hawai'i's farmers and ranchers is critical to the state's economic and food security goals. Any new law or regulation must be practical, enforceable, and fair. SB 2127, as written, places an unrealistic burden on agricultural landowners and discourages investment in farming and ranching.

We urge the committee to reject SB 2127 and instead support collaborative solutions that balance environmental protection with the sustainability of local agriculture.

Thank you for the opportunity to testify in opposition to this measure.

SB-2127

Submitted on: 2/1/2026 5:13:45 AM
Testimony for HHS on 2/2/2026 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Woody Child	Individual	Oppose	Written Testimony Only

Comments:

I strongly Oppose SB2127.

SB-2127

Submitted on: 2/1/2026 12:08:54 PM
Testimony for HHS on 2/2/2026 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Randy Cabral	Individual	Oppose	Written Testimony Only

Comments:

Strong opposition