



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
House Committee on Judiciary & Hawaiian Affairs
Thursday, March 5, 2026 at 2:00 p.m.

By

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and

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and

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HB 1921 HD1 – RELATING TO CESSPOOLS

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

The University of Hawai'i Sea Grant College Program (Hawai'i Sea Grant) and Water Resources Research Center (WRRC) support HB 1921 HD1 relating to cesspools and provide comments.

The conversion of cesspools in Hawai'i is a pivotal component of the state's broader strategy to address water quality issues, promoting a cleaner and healthier environment for current and future generations to enjoy and avoiding the compounding impacts that climate change will have on our already stressed resources. However, the Cesspool Conversion Working Group reported that the vast majority of cesspool owners cannot afford the upgrade of their cesspool to an advanced form of wastewater treatment. And, not all cesspools may be provided the same level of governmental support in converting their cesspools, providing an unequal financial burden to homeowners. HB 1921 HD1, which allows for the construction of additional bedrooms on existing homes in priority level 3 areas, may allow for homeowners that are unlikely to receive significant government assistance to be adaptable to the needs of Hawaiian families.

The Hawai'i Cesspool Prioritization Tool provides priority data at three spatial resolutions (census tracts, block groups, and blocks), but HB 1921 HD1 does not explicitly specify which resolution should be used to assign cesspool priority levels. Without this clarification, the bill could lead to confusion, inconsistent interpretation, and potential legal ambiguity. WRRC strongly recommends that amended bill language clearly specify the intended spatial resolution for determining priority levels. The DOH 2024 report (*Hawai'i Cesspool Hazard Assessment & Prioritization Tool: 2024 Updated*

Report & Technical Appendices) also notes that if no resolution is specified in a management or legislative action, the default should be "Tracts", however this detail is easy to overlook.

Thank you for the opportunity to testify on this measure.



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Testimony COMMENTING on HB1921 HD1
RELATING TO CESSPOOLS.

REPRESENTATIVE DAVID A. TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Hearing Date, Time and Room Number: 03/05/2026, 2:00 pm, 325

1 **Fiscal Implications:** None.

2 **Department Position:** The Department of Health (“Department”) acknowledges the intent of
3 this measure and offers comments and proposed amendments.

4 **Department Testimony:** The Environmental Management Division, Wastewater Branch (EMD-
5 WWB) provides the following testimony on behalf of the Department.

6 The Department acknowledges the intent of this measure to align affordable housing
7 and wastewater policy by allowing reasonable bedroom additions in priority level 3 areas
8 without compromising human safety, health, and water quality.

9 An existing cesspool is consider a large-capacity cesspool (LCC) by the U.S.
10 Environmental Protection Agency (EPA) if the existing cesspool is connected to: 1) more than
11 one (1) dwelling or dwelling unit, 2) a non-residential building that serves 20 or more people in
12 a given day, or 3) a building that contains and is a combined dwelling and home-based business.
13 Having an LCC is a federal violation and enforced by the EPA.

14 **Offered Amendments:** The Department respectfully offers the following amendments . We
15 have highlighted text where we are recommending replacement or addition and have

1 bracketed and struck through the text, where we are recommending deletion. All other text is
2 unchanged.

3 SECTION 2, Page 3, lines 15-19: “(4) No additional structure ~~that the applicable county~~
4 ~~land use ordinance classifies as a separate dwelling unit, accessory dwelling unit, ohana~~
5 ~~dwelling, or other residential dwelling unit~~ is connected to the cesspool.”

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

March 5, 2026

The Honorable David A. Tarnas, Chair

House Committee on Judiciary & Hawaiian Affairs
State Capitol, Conference Room 325 & Videoconference

RE: House Bill 1921, HD1, Relating to Cesspools

HEARING: Thursday, March 5, 2026, at 2:00 p.m.

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 10,000 members. HAR **supports** House Bill 1921, HD1, which allows an existing cesspool that lawfully serves a single dwelling or dwelling unit in a priority level 3 area to continue serving that dwelling or dwelling unit and additional bedrooms constructed on the same parcel and within the existing dwelling or dwelling unit, subject to certain conditions. Authorizes the Department of Health to adopt rules and authorizes the restriction of additional bedrooms where evidence demonstrates that continued cesspool use impacts water quality or human health. Effective 7/1/3000.

Hawaii continues to face a housing shortage and multigenerational living has become more common as families seek to stay together, reduce housing costs, and remain in Hawaii and their communities. As such, this measure can help with our housing challenges for bedroom additions for existing homes in priority level 3 areas, where the risk to water resources is lower than in higher-priority zones. Additionally, this measure provides added safeguards to ensure that any additional bedrooms would not have an impact on health or water quality.

Mahalo for the opportunity to provide testimony on this measure.

Testimony on HB1921 HD1: Public Trust and Nearshore Ecosystem Concerns

Aloha Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

My name is Frederick Smith. I live in the Kealakekua ahupua'a in South Kona on Hawai'i Island, and am a homeowner who would benefit from the passage of this bill. I respectfully offer testimony in **opposition to HB1921 HD1**.

Priority Level Designation Does Not Reflect Ecological Risk

The Priority Level cesspool designation does not account for potential environmental impacts on nearshore ecosystems or the marine life that depends on them. This raises important concerns under Hawai'i's Public Trust Doctrine, including impacts to subsistence fishing and other Native Hawaiian traditional and customary practices.

The Hawai'i Cesspool Prioritization Tool was developed to identify which cesspools should be replaced first based on relative risk to water resources and human health, evaluating factors such as proximity to drinking water wells, groundwater depth, and population exposure. The Priority Level designation, therefore, reflects relative urgency for cesspool conversion, not ecological sensitivity.

Priority Level 3 Areas and Nearshore Ecosystems

As a result, areas classified as Priority Level 3 should not be interpreted as environmentally low risk. State mapping data shows that clusters of Priority Level 3 cesspools occur immediately upslope of major nearshore marine systems, including Kealakekua Bay MLCD, Kāne'ohe Bay, and parts of the north shore of Kaua'i. In Hawai'i's volcanic geology, groundwater frequently moves rapidly through permeable basalt and discharges directly into coastal waters through submarine groundwater discharge, allowing wastewater pollutants to reach nearshore marine ecosystems.

Allowing additional bedrooms to be served by existing cesspools effectively increases the number of occupants and therefore the volume of wastewater entering those systems. Hawai'i has already recognized the long-term environmental and public health risks posed by cesspools and adopted a statewide policy to phase them out by 2050. Expanding their use moves policy in the opposite direction.

The bill allows restrictions only where evidence demonstrates that a cesspool is impacting water quality or human health. In practice, this standard is extremely difficult to apply. Wastewater pollution from cesspools is diffuse and cumulative, and demonstrating impacts from a specific system often requires expensive groundwater tracer studies or long-term monitoring that are rarely conducted. As a result, this provision is unlikely to function as a meaningful safeguard.

Public Trust Doctrine and Subsistence Fishing

The bill's cumulative effects on nearshore fisheries also raise concerns under Hawai'i's Public Trust Doctrine. Under Article XI, Sections 1 and 7 of the Hawai'i Constitution, the State has an affirmative duty to protect and conserve water resources for the benefit of present and future generations. Hawai'i courts have recognized that this duty extends to all waters of the State and the ecosystems they support.

Because groundwater and coastal waters are hydrologically connected in Hawai'i, pollution entering groundwater can directly affect public trust resources, including coral reefs and the fisheries they support. Healthy reef ecosystems are essential to sustaining nearshore fisheries that many local communities rely upon for subsistence fishing and traditional practices protected under Article XII, Section 7 of the Hawai'i Constitution.

For these reasons, I respectfully urge the Committee to **reject HB1921 HD1**.

Mahalo nui for the opportunity to testify.

Frederick Smith

Captain Cook, Hawai'i

HB-1921-HD-1

Submitted on: 3/3/2026 7:10:26 PM

Testimony for JHA on 3/5/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

STRONG SUPPORT!!!

Mahalo!