

ACT 132

S.B. NO. 2567

A Bill for an Act Relating to Cesspools.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that public health and the quality of Hawaii's drinking water, streams, ground waters, nearshore marine areas, and ocean are being harmed by water pollution from cesspools. Drinking water, public recreation, and the precious coral reefs, on which Hawaii's economy, shoreline, recreation, fisheries, and native species depend, are or may be harmed by such pollution.

The purpose of this Act is to:

- (1) Establish a cesspool conversion working group to develop a long-range, comprehensive plan for cesspool conversion statewide of all cesspools by 2050; and
- (2) Commission a statewide study of sewage contamination in nearshore marine areas to further supplement the studies and reports conducted by the department of health related to cesspools.

SECTION 2. (a) The cesspool conversion working group is established within the department of health for administrative purposes. The working group shall have the following objectives:

- (1) Develop a long-range, comprehensive plan for cesspool conversion statewide of all cesspools by 2050, to be known as the cesspool conversion plan;
- (2) Consider and recommend means by which the department of health can ensure that cesspools are converted to more environmentally-responsible waste treatment systems or connected to sewer systems;
- (3) Identify areas where data is insufficient to determine a priority classification of cesspools for conversion and determine methods and resources needed to collect that data and conduct analysis of those areas;
- (4) Modify, amend, and develop definitions and criteria for priority upgrade areas, as identified in the Department's report conducted pursuant to Act 125, Session Laws of Hawaii 2017, identify the pre-

ferred alternative waste treatment systems or sewerage connections for these priority areas, and consider and make recommendations on whether cesspools in these priority areas should be required to convert sooner than 2050;

- (5) Examine financing issues and the feasibility of various mechanisms, including grants, loans, tax credits, fees, special assessment districts, requirements for conversion at point of sale, and any other appropriate mechanisms for accomplishing and funding cesspool conversion, or any combination of these mechanisms;
- (6) Consider owners' ability to pay for cesspool conversions, and, especially how assistance can be provided for lower-income homeowners;
- (7) Consider the most cost-effective approach to cesspool conversion;
- (8) Identify physical, practical, and financial impediments that may be encountered by land owners who are required to connect pre-existing cesspools to a sewer system or convert cesspools to an individual waste treatment system and recommend solutions to those impediments;
- (9) Consider best policies, practices, and laws from other jurisdictions related to cesspool conversions, including but not limited to Rhode Island and New Jersey that have undertaken large efforts to phase-out cesspools in their jurisdictions;
- (10) Include feedback from each county's community members, wastewater divisions, and boards of water supply;
- (11) Consider alternative wastewater equipment and technologies appropriate to the various areas where cesspools are located that may better protect the environment at lower or comparable cost and how the equipment or technologies can be incorporated as part of the long-term solution to wastewater treatment issues. These alternatives may include, without limitation, graywater systems, constructed wetlands, and other available technologies;
- (12) Research and recommend measures to encourage and stimulate research and innovation for new wastewater technologies, including systems that treat waste not only for bacteria but also to remove nutrients and contaminants that impact the environment;
- (13) Evaluate mandatory versus voluntary participation in the cesspool conversion plan;
- (14) Consider whether exemptions should be granted for some mandatory conversions based upon geology, topography, soil type, availability of land, or other relevant factors and make recommendations to the department relating to establishing rules for those exemptions; and
- (15) Consider any other information deemed necessary or appropriate by the department, the cesspool conversion working group, or any third-party consultants.

(b) The cesspool conversion working group shall consist of the following:

- (1) The director of health or the director's designee, who shall serve as chairperson;
- (2) The branch chief of the wastewater branch of the department of health or the branch chief's designee;
- (3) Four members representing the appropriate wastewater agency from each county appointed by the mayor of the county in which the agency is located;

- (4) A member representing the wastewater industry, appointed by the president of the senate;
- (5) A member representing the financial and banking sectors, appointed by the speaker of the house of representatives;
- (6) A member of the University of Hawaii, Hawaii institute of marine biology appointed by the director of the Hawaii institute of marine biology;
- (7) A member of the University of Hawaii water resources research center appointed by the director of the water resources research center;
- (8) A member of the Hawaii Association of REALTORS appointed by the speaker of the house of representatives;
- (9) A member of the Surfrider Foundation appointed by the president of the senate;
- (10) One representative appointed by the speaker of the house of representatives; and
- (11) One senator appointed by the president of the senate.

Working group members may recommend additional members with appropriate specialized expertise to the working group, for approval by the chairperson.

(c) Members of the working group shall serve without compensation, but shall be reimbursed for reasonable expenses incurred, including travel expenses. No member of the working group shall be made subject to chapter 84, Hawaii Revised Statutes, solely because of that members' participation as a member of the working group.

(d) The working group may contract the services of a contractor to provide any services required to establish a cesspool conversion plan or otherwise fulfill its responsibilities under this Act. Any contract executed pursuant to this Act shall be exempt from chapter 103D, Hawaii Revised Statutes.

(e) The cesspool conversion working group shall submit an interim report of its preliminary findings and recommendations, including proposed legislation, to the legislature no later than December 31, 2019, and shall submit a final report, including findings, recommendations, and any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2021.

(f) The department of health shall provide administrative and clerical support required by the working group.

(g) The working group shall be dissolved on January 14, 2021.

SECTION 3. (a) The university of Hawaii water resources research center, in cooperation and consultation with the department of health, shall conduct a comprehensive statewide study of sewage contamination in nearshore marine areas, in supplementation to studies and reports conducted by the department of health related to cesspools.

(b) The university of Hawaii water resources research center and the department of health shall submit a report of their findings and recommendations, including any proposed legislation, to the cesspool conversion working group and the legislature no later than October 1, 2019.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2018-2019 for the university of Hawaii water resources research center, in cooperation and consultation with the department of health, to conduct

a comprehensive statewide study of sewage contamination in nearshore marine areas.

The sum appropriated shall be expended by the university of Hawaii for the purposes of this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2018-2019 for the department of health, to conduct research or gather technical assistance on other issues as identified by the cesspool conversion working group in completing its comprehensive cesspool conversion plan.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 6. This Act shall take effect on July 1, 2018.

(Approved July 5, 2018.)