

Council Chair  
Kelly T. King

Vice-Chair  
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore  
Tasha Kama

Councilmembers  
Riki Hokama  
Alice L. Lee  
Michael J. Molina  
Tamara Paltin  
Shane M. Sinenci  
Yuki Lei K. Sugimura



**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

September 27, 2019

Director of Council Services  
Traci N. T. Fujita, Esq.

RECEIVED

2019 SEP 27 AM 11: 59

OFFICE OF THE  
COUNTY CLERK

Mr. Josiah K. Nishita, County Clerk  
Office of the County Clerk  
County of Maui  
Wailuku, Hawaii 96793

Dear Mr. Nishita:

**SUBJECT: MAUI COUNTY COUNCIL PROPOSALS FOR  
POSSIBLE INCLUSION IN THE 2020 HAWAII  
STATE ASSOCIATION OF COUNTIES  
LEGISLATIVE PACKAGE**

May I request the attached proposed resolutions be placed on the next Council meeting agenda:

1. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2020 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO AMEND ACT 132, SESSION LAWS OF HAWAII 2018 RELATING TO CESSPOOL CONVERSION WORKING GROUP."
2. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2020 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO ALLOW MEMBERS OF A COUNTY COUNCIL TO ATTEND INFORMATIONAL MEETINGS OR PRESENTATIONS WITHOUT LIMITATION ON THE NUMBER OF ATTENDEES."
3. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2020 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO ALLOW THE COUNTIES TO REGULATE HOSTING PLATFORMS."

COUNTY COMMUNICATION NO. 19-391

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4. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2020 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO CREATE A PAID RESPONSE MECHANISM FOR INVASIVE SPECIES."
5. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2020 HAWAII STATE ASSOCIATION OF COUNTIES A STATE BILL TO SUPPORT AND DIRECT THE HAWAII CLIMATE CHANGE MITIGATION AND ADAPTATION COMMISSION."
6. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2020 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO LOWER THE THRESHOLD OF BLOOD ALCOHOL CONCENTRATION TO 0.05."
7. A proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2020 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO OFFER FINANCIAL ASSISTANCE TO OWNERS OF CESSPOOLS SEEKING TO UPGRADE OR CONVERT THEIR CESSPOOLS."

Sincerely,

A handwritten signature in cursive script that reads "Kelly T. King".

KELLY T. KING  
Council Chair

ocs:proj:hsac:fy2020:legpackage:hsacpackageproposals:ske

Attachments

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2020  
HAWAII STATE ASSOCIATION OF COUNTIES  
LEGISLATIVE PACKAGE A STATE BILL TO  
AMEND ACT 132, SESSION LAWS OF HAWAII  
2018 RELATING TO CESSPOOL CONVERSION  
WORKING GROUP

WHEREAS, Act 132, Session Laws of Hawaii 2018 established the Cesspool Conversion Working Group to develop a long-range, comprehensive plan for the conversion of cesspools statewide by 2050; and

WHEREAS, the Cesspool Conversion Working Group commissioned a statewide study of sewage contamination in nearshore marine areas to further supplement studies and reports conducted by the Department of Health on cesspools; and

WHEREAS, the Cesspool Conversion Working Group convened in 2018 and has been working to meet the objectives set out in Act 132; however, an extension is needed on the lapse date of funding and additional time for the group to meet its objectives; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to amend Act 132, Session Laws of Hawaii 2018 relating to Cesspool Conversion Working Group, and the justification sheet attached as Exhibit "B" are approved for inclusion in the 2020 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

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# A BILL FOR AN ACT

RELATING TO CESSPOOLS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Act 132, Session  
2 Laws of Hawaii 2018, established the cesspool conversion working  
3 group to develop a long-range, comprehensive plan for conversion  
4 of cesspools statewide by 2050 and commissioned a statewide  
5 study of sewage contamination in nearshore marine areas to  
6 further supplement studies and reports conducted by the  
7 department of health on cesspools. The working group convened  
8 in 2018 and has been working to meet the objectives set out in  
9 Act 132; however, the working group needs an extension on the  
10 lapse date of its funding and additional time to meet its  
11 objectives.

12           The purpose of this Act is to:

- 13           (1) Extend various reporting deadlines and the sunset date  
14           of the cesspool conversion working group; and  
15           (2) Extend the lapse date of funds appropriated previously  
16           for the comprehensive statewide study of sewage  
17           contamination in nearshore marine areas and for  
18           research and technical assistance necessary for

1 completion of the comprehensive cesspool conversion  
2 plan.

3 SECTION 2. Act 132, Session Laws of Hawaii 2018, is  
4 amended by adding a new section to read as follows:

5 "SECTION 6. Money appropriated under sections 4 and 5 of  
6 this Act will not lapse at the end of the fiscal year for which  
7 the money has been appropriated; except that any money  
8 appropriated under sections 4 and 5 of this Act that are  
9 unencumbered as of June 30, 2021, will lapse on that date."

10 SECTION 3. Act 132, Session Laws of Hawaii 2018, section  
11 2, is amended as follows:

12 1. By amending subsection (e) to read:

13 "(e) The cesspool conversion working group shall submit an  
14 interim report of its progress, including any preliminary  
15 findings and recommendations, [including] and any proposed  
16 legislation, to the legislature no later than [December 31,  
17 2019,] twenty days prior to the convening of the regular session  
18 of 2021 and no later than twenty days prior to the convening of  
19 the regular session of 2022, and shall submit a final report,  
20 including findings, recommendations, and [any] proposed  
21 legislation, to the legislature no later than [twenty] sixty

.B. NO.     

1 days prior to the convening of the regular session of [~~2021~~]  
2 2023."

3         2. By amending subsection (g) to read:

4         “(g) The working group shall be dissolved on January 14,  
5 [~~2021~~] 2023.”

6         SECTION 4. Act 132, Session Laws of Hawaii 2018, section  
7 3, is amended by amending subsection (b) to read as follows:

8         “(b) The university of Hawaii water resources research  
9 center and the department of health shall submit a report of  
10 their findings and recommendations, including any proposed  
11 legislation, to the cesspool conversion working group and the  
12 legislature no later than [~~October 1, 2019~~] twenty days prior  
13 to the convening of the regular session of 2022.”

14         SECTION 5. Act 132, Session Laws of Hawaii 2018, is  
15 amended by amending section 6 to read as follows:

16         “SECTION [~~6~~] 7. This Act shall take effect on July 1,  
17 2018.”

18         SECTION 6. Statutory material to be repealed is bracketed  
19 and in strikethrough. New statutory material is underscored.

20         SECTION 7. This Act shall take effect upon its approval.

21                                 INTRODUCED BY: \_\_\_\_\_

## **JUSTIFICATION SHEET**

**PROPOSER:** Hawaii State Association of Counties

**TITLE:** A Bill for an Act Relating to Cesspools

**PURPOSE:** The purpose of the proposed bill is to: 1) extend various reporting deadlines and the sunset date of the cesspool conversion working group; and 2) extend the lapse date of funds appropriated previously for the comprehensive statewide study of sewage contamination in nearshore marine areas and for research and technical assistance necessary for completion of the comprehensive cesspool conversion plan.

**MEANS:** Amends Act 132, Session Laws of Hawaii 2018.

**JUSTIFICATION:** The cesspool conversion working group was established through Act 132, Session Laws of Hawaii 2018 to develop a long-range, comprehensive plan for the conversion of cesspools statewide by 2050. Although the working group convened in 2018 and has been working to meet the objectives in Act 132, the working group needs an extension on the lapse date of its funding and additional time to meet its objectives.

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2020  
HAWAII STATE ASSOCIATION OF COUNTIES  
LEGISLATIVE PACKAGE A STATE BILL  
ALLOWING COUNTY COUNCILMEMBERS TO  
ATTEND INFORMATIONAL MEETINGS OR  
PRESENTATIONS WITHOUT LIMITATION ON  
THE NUMBER OF ATTENDEES.

WHEREAS, Section 92-2.5, Hawaii Revised Statutes, currently limits the number of councilmembers allowed to attend an informational or public meeting; and

WHEREAS, while councilmembers strive to engage with the public and be informed about issues facing their districts and the county, they must always be cautious of the number of other councilmembers present at public meetings; and

WHEREAS, removing the limit will enable councilmembers to carry out their duties more efficiently; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to allow county councilmembers to attend informational meetings or presentations without limitation on the number of attendees, and the justification sheet attached as Exhibit "B" are approved for inclusion in the 2020 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.



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A BILL FOR AN ACT

RELATING TO COMMUNITY MEETINGS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 92-2.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§92-2.5 Permitted interactions of members. (a) Two  
4 members of a board may discuss between themselves matters  
5 relating to official board business to enable them to perform  
6 their duties faithfully, as long as no commitment to vote is  
7 made or sought and the two members do not constitute a quorum of  
8 their board.

9           (b) Two or more members of a board, but less than the  
10 number of members which would constitute a quorum for the board,  
11 may be assigned to:

12                   (1) Investigate a matter relating to the official  
13 business of their board; provided that:

14                           (A) The scope of the investigation and the scope  
15 of each member's authority are defined at a  
16 meeting of the board;

1 (B) All resulting findings and recommendations  
2 are presented to the board at a meeting of  
3 the board; and

4 (C) Deliberation and decisionmaking on the  
5 matter investigated, if any, occurs only at  
6 a duly notice meeting of the board held  
7 subsequent to the meeting at which the  
8 findings and recommendations of the  
9 investigation were presented to the board;  
10 or

11 (2) Present, discuss, or negotiate any position which  
12 the board has adopted at a meeting of the board;  
13 provided that the assignment is made and the  
14 scope of each member's authority is defined at a  
15 meeting of the board prior tot the presentation,  
16 discussion, or negotiation.

17 (c) Discussions between two or more members of a board,  
18 but less than the number of members which would constitute a  
19 quorum for the board, concerning the selection of the board's  
20 officers may be conducted in private without limitation or  
21 subsequent reporting.

1           (d) Board members present at a meeting that must be  
2 canceled for lack of quorum or terminated pursuant to section  
3 92-3.5(c) may nonetheless receive testimony and presentations on  
4 items on the agenda and question the testifiers or presenters;  
5 provided that:

6           (1) Deliberation or decisionmaking on any item, for  
7                which testimony or presentations are received,  
8                occurs only at a duly noticed meeting of the  
9                board held subsequent to the meeting at which the  
10              testimony and presentations were received;

11           (2) The members present shall create a record of the  
12              oral testimony or presentations in the same  
13              manner as would be required by section 92-9 for  
14              testimony or presentations heard during a meeting  
15              of the board; and

16           (3) Before its deliberation or decisionmaking at a  
17              subsequent meeting, the board shall:

18                (A) Provide copies of the testimony and  
19                   presentations received at the canceled  
20                   meeting to all members of the board; and

21                (B) Receive a report by the members who were  
22                   present at the canceled or terminated

1 meeting about the testimony and  
2 presentations received.

3 (e) Two or more members of a board, but less than the  
4 number of members which would constitute a quorum for the board,  
5 may attend an informational meeting or presentation on matters  
6 relating to official board business, including a meeting of  
7 another entity, legislative hearing, convention, seminar, or  
8 community meeting open to the public; provided that the meeting  
9 or presentation is not specifically and exclusively organized  
10 for or directed toward members of the board. The board members  
11 in attendance may participate in discussions, including  
12 discussions among themselves; provided that the discussions  
13 occur during and as part of the informational meeting or  
14 presentation; and provided further that no commitment relating  
15 to a vote on the matter is made or sought.

16 At the next duly noticed meeting of the board, the board  
17 members shall report their attendance and the matters presented  
18 and discussed that related to official board business at the  
19 informational meeting or presentation.

20 (f) Discussions between the governor and one or more  
21 members of a board may be conducted in private without  
22 limitation or subsequent reporting; provided that the discussion

1 does not relate to a matter over which a board is exercising its  
2 adjudicatory function.

3 (g) Discussions between two or more members of a board and  
4 the head of a department to which the board is administratively  
5 assigned may be conducted in private without limitation;  
6 provided that the discussion is limited to matters specified in  
7 section 26-35.

8 (h) Communications, interactions, discussions,  
9 investigations, and presentations described in this section are  
10 not meetings for purposes of this part.

11 (i) Notwithstanding section 92-3.1(b), for meetings  
12 described in subsection (e), the limitation on number of  
13 attendees shall not apply to members of a county council."

14 SECTION 2. Statutory material to be deleted is bracketed  
15 and in strikethrough. New statutory material is underscored.

16 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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## **JUSTIFICATION SHEET**

**PROPOSER:** Hawaii State Association of Counties

**TITLE:** A Bill for an Act Relating to Community Meetings

**PURPOSE:** The purpose of the proposed bill is to allow members of a county council to attend informational meetings or presentations without a limitation on the number of attendees.

**MEANS:** Amends Section 92-2.5, Hawaii Revised Statutes

**JUSTIFICATION:** By permitting two or more members of a county council to attend informational meetings and presentations, more councilmembers will be able to be better informed about the issues affecting their constituents.

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2020  
HAWAII STATE ASSOCIATION OF COUNTIES  
LEGISLATIVE PACKAGE A STATE BILL TO  
ALLOW THE COUNTIES TO REGULATE  
HOSTING PLATFORMS

WHEREAS, illegal and unregulated transient accommodations have caused detrimental impacts to the State's housing supply; and

WHEREAS, preventing further proliferation of illegal transient accommodations preserves residential housing; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to allow the counties to regulate hosting platforms, and the justification sheet attached as Exhibit "B" are approved for inclusion in the 2020 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

\_\_\_ .B. NO. \_\_\_

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# A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS HOSTING PLATFORMS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1.   Illegal and unregulated transient  
2 accommodations have caused detrimental impacts to the State's  
3 housing supply.   Accordingly, the purpose of this act is to  
4 allow the counties to regulate hosting platforms, thereby  
5 preventing further proliferation of illegal transient  
6 accommodations and preserving residential housing.

7           SECTION 2.   Section 46-1.5, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "§46-1.5 General powers and limitation of the counties.  
10 Subject to general law, each county shall have the following  
11 powers and shall be subject to the following liabilities and  
12 limitations:

13           (1) Each county shall have the power to frame and adopt a  
14 charter for its own self-government that shall establish the  
15 county executive, administrative, and legislative structure and  
16 organization, including but not limited to the method of  
17 appointment or election of officials, their duties,



1 responsibilities, and compensation, and the terms of their  
2 office;

3 (2) Each county shall have the power to provide for and  
4 regulate the marking and lighting of all buildings and other  
5 structures that may be obstructions or hazards to aerial  
6 navigation, so far as may be necessary or proper for the  
7 protection and safeguarding of life, health, and property;

8 (3) Each county shall have the power to enforce all claims  
9 on behalf of the county and approve all lawful claims against  
10 the county, but shall be prohibited from entering into,  
11 granting, or making in any manner any contract, authorization,  
12 allowance payment, or liability contrary to the provisions of  
13 any county charter or general law;

14 (4) Each county shall have the power to make contracts and  
15 to do all things necessary and proper to carry into execution  
16 all powers vested in the county or any county officer;

17 (5) Each county shall have the power to:

18 (A) Maintain channels, whether natural or artificial,  
19 including their exits to the ocean, in suitable  
20 condition to carry off storm waters;

21 (B) Remove from the channels, and from the shores and  
22 beaches, any debris that is likely to create an

\_\_\_\_.B. NO. \_\_\_\_\_

1           unsanitary condition or become a public nuisance;  
2           provided that, to the extent any of the foregoing  
3           work is a private responsibility, the  
4           responsibility may be enforced by the county in  
5           lieu of the work being done at public expense;  
6           (C) Construct, acquire by gift, purchase, or by the  
7           exercise of eminent domain, reconstruct, improve,  
8           better, extend, and maintain projects or  
9           undertakings for the control of and protection  
10          against floods and flood waters, including the  
11          power to drain and rehabilitate lands already  
12          flooded;  
13          (D) Enact zoning ordinances providing that lands  
14          deemed subject to seasonable, periodic, or  
15          occasional flooding shall not be used for  
16          residence or other purposes in a manner as to  
17          endanger the health or safety of the occupants  
18          thereof, as required by the Federal Flood  
19          Insurance Act of 1956 (chapter 1025, Public Law  
20          1016); and

1           (E) Establish and charge user fees to create and  
2                           maintain any stormwater management system or  
3                           infrastructure;

4           (6) Each county shall have the power to exercise the power  
5 of condemnation by eminent domain when it is in the public  
6 interest to do so;

7           (7) Each county shall have the power to exercise  
8 regulatory powers over business activity as are assigned to them  
9 by chapter 445 or other general law;

10          (8) Each county shall have the power to fix the fees and  
11 charges for all official services not otherwise provided for;

12          (9) Each county shall have the power to provide by  
13 ordinance assessments for the improvement or maintenance of  
14 districts within the county;

15          (10) Except as otherwise provided, no county shall have  
16 the power to give or loan credit to, or in aid of, any person or  
17 corporation, directly or indirectly, except for a public  
18 purpose;

19          (11) Where not within the jurisdiction of the public  
20 utilities commission, each county shall have the power to  
21 regulate by ordinance the operation of motor vehicle common  
22 carriers transporting passengers within the county and adopt and

\_\_\_\_.B. NO. \_\_\_\_\_

1 amend rules the county deems necessary for the public  
2 convenience and necessity;

3 (12) Each county shall have the power to enact and enforce  
4 ordinances necessary to prevent or summarily remove public  
5 nuisances and to compel the clearing or removal of any public  
6 nuisance, refuse, and uncultivated undergrowth from streets,  
7 sidewalks, public places, and unoccupied lots. In connection  
8 with these powers, each county may impose and enforce liens upon  
9 the property for the cost to the county of removing and  
10 completing the necessary work where the property owners fail,  
11 after reasonable notice, to comply with the ordinances. The  
12 authority provided by this paragraph shall not be self-  
13 executing, but shall become fully effective within a county only  
14 upon the enactment or adoption by the county of appropriate and  
15 particular laws, ordinances, or rules defining "public  
16 nuisances" with respect to each county's respective  
17 circumstances. The counties shall provide the property owner  
18 with the opportunity to contest the summary action and to  
19 recover the owner's property;

20 (13) Each county shall have the power to enact ordinances  
21 deemed necessary to protect health, life, and property, and to  
22 preserve the order and security of the county and its

\_\_\_\_.B. NO. \_\_\_\_\_

1 inhabitants on any subject or matter not inconsistent with, or  
2 tending to defeat, the intent of any state statute where the  
3 statute does not disclose an express or implied intent that the  
4 statute shall be exclusive or uniform throughout the State;

5 (14) Each county shall have the power to:

6 (A) Make and enforce within the limits of the county  
7 all necessary ordinances covering all:

8 (i) Local police matters;

9 (ii) Matters of sanitation;

10 (iii) Matters of inspection of buildings;

11 (iv) Matters of condemnation of unsafe

12 structures, plumbing, sewers, dairies, milk,  
13 fish, and morgues; and

14 (v) Matters of the collection and disposition of  
15 rubbish and garbage;

16 (B) Provide exemptions for homeless facilities and  
17 any other program for the homeless authorized by  
18 part XVII of chapter 346, for all matters under  
19 this paragraph;

20 (C) Appoint county physicians and sanitary and other  
21 inspectors as necessary to carry into effect  
22 ordinances made under this paragraph, who shall

1           have the same power as given by law to agents of  
2           the department of health, subject only to  
3           limitations placed on them by the terms and  
4           conditions of their appointments; and

5           (D) Fix a penalty for the violation of any ordinance,  
6           which penalty may be a misdemeanor, petty  
7           misdemeanor, or violation as defined by general  
8           law;

9           (15) Each county shall have the power to provide public  
10          pounds; to regulate the impounding of stray animals and fowl,  
11          and their disposition; and to provide for the appointment,  
12          powers, duties, and fees of animal control officers;

13          (16) Each county shall have the power to purchase and  
14          otherwise acquire, lease, and hold real and personal property  
15          within the defined boundaries of the county and to dispose of  
16          the real and personal property as the interests of the  
17          inhabitants of the county may require, except that:

18               (A) Any property held for school purposes may not be  
19               disposed of without the consent of the  
20               superintendent of education;

21               (B) No property bordering the ocean shall be sold or  
22               otherwise disposed of; and

\_\_\_\_.B. NO. \_\_\_\_\_

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(C) All proceeds from the sale of park lands shall be expended only for the acquisition of property for park or recreational purposes;

(17) Each county shall have the power to provide by charter for the prosecution of all offenses and to prosecute for offenses against the laws of the State under the authority of the attorney general of the State;

(18) Each county shall have the power to make appropriations in amounts deemed appropriate from any moneys in the treasury, for the purpose of:

- (A) Community promotion and public celebrations;
- (B) The entertainment of distinguished persons as may from time to time visit the county;
- (C) The entertainment of other distinguished persons, as well as, public officials when deemed to be in the best interest of the community; and
- (D) The rendering of civic tribute to individuals who, by virtue of their accomplishments and community service, merit civic commendations, recognition, or remembrance;

(19) Each county shall have the power to:

\_\_\_\_.B. NO. \_\_\_\_\_

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- (A) Construct, purchase, take on lease, lease, sublease, or in any other manner acquire, manage, maintain, or dispose of buildings for county purposes, sewers, sewer systems, pumping stations, waterworks, including reservoirs, wells, pipelines, and other conduits for distributing water to the public, lighting plants, and apparatus and appliances for lighting streets and public buildings, and manage, regulate, and control the same;
- (B) Regulate and control the location and quality of all appliances necessary to the furnishing of water, heat, light, power, telephone, and telecommunications service to the county;
- (C) Acquire, regulate, and control any and all appliances for the sprinkling and cleaning of the streets and the public ways, and for flushing the sewers; and
- (D) Open, close, construct, or maintain county highways or charge toll on county highways; provided that all revenues received from a toll



1 charge shall be used for the construction or  
2 maintenance of county highways;

3 (20) Each county shall have the power to regulate the  
4 renting, subletting, and rental conditions of property for  
5 places of abode by ordinance;

6 (21) Unless otherwise provided by law, each county shall  
7 have the power to establish by ordinance the order of succession  
8 of county officials in the event of a military or civil  
9 disaster;

10 (22) Each county shall have the power to sue and be sued  
11 in its corporate name;

12 (23) Each county shall have the power to establish and  
13 maintain waterworks and sewer works; to collect rates for water  
14 supplied to consumers and for the use of sewers; to install  
15 water meters whenever deemed expedient; provided that owners of  
16 premises having vested water rights under existing laws  
17 appurtenant to the premises shall not be charged for the  
18 installation or use of the water meters on the premises; to take  
19 over from the State existing waterworks systems, including water  
20 rights, pipelines, and other appurtenances belonging thereto,  
21 and sewer systems, and to enlarge, develop, and improve the  
22 same;

\_\_\_\_.B. NO. \_\_\_\_\_

1           (24) (A) Each county may impose civil fines, in addition  
2                           to criminal penalties, for any violation of  
3                           county ordinances or rules after reasonable  
4                           notice and requests to correct or cease the  
5                           violation have been made upon the violator. Any  
6                           administratively imposed civil fine shall not be  
7                           collected until after an opportunity for a  
8                           hearing under chapter 91. Any appeal shall be  
9                           filed within thirty days from the date of the  
10                          final written decision. These proceedings shall  
11                          not be a prerequisite for any civil fine or  
12                          injunctive relief ordered by the circuit court;  
13           (B) Each county by ordinance may provide for the  
14                          addition of any unpaid civil fines, ordered by  
15                          any court of competent jurisdiction, to any  
16                          taxes, fees, or charges, with the exception of  
17                          fees or charges for water for residential use and  
18                          sewer charges, collected by the county. Each  
19                          county by ordinance may also provide for the  
20                          addition of any unpaid administratively imposed  
21                          civil fines, which remain due after all judicial  
22                          review rights under section 91-14 are exhausted,

\_\_\_\_.B. NO. \_\_\_\_\_

1 to any taxes, fees, or charges, with the  
2 exception of water for residential use and sewer  
3 charges, collected by the county. The ordinance  
4 shall specify the administrative procedures for  
5 the addition of the unpaid civil fines to the  
6 eligible taxes, fees, or charges and may require  
7 hearings or other proceedings. After addition of  
8 the unpaid civil fines to the taxes, fees, or  
9 charges, the unpaid civil fines shall not become  
10 a part of any taxes, fees, or charges. The  
11 county by ordinance may condition the issuance or  
12 renewal of a license, approval, or permit for  
13 which a fee or charge is assessed, except for  
14 water for residential use and sewer charges, on  
15 payment of the unpaid civil fines. Upon  
16 recordation of a notice of unpaid civil fines in  
17 the bureau of conveyances, the amount of the  
18 civil fines, including any increase in the amount  
19 of the fine which the county may assess, shall  
20 constitute a lien upon all real property or  
21 rights to real property belonging to any person  
22 liable for the unpaid civil fines. The lien in

\_\_\_\_.B. NO. \_\_\_\_\_

1 favor of the county shall be subordinate to any  
2 lien in favor of any person recorded or  
3 registered prior to the recordation of the notice  
4 of unpaid civil fines and senior to any lien  
5 recorded or registered after the recordation of  
6 the notice. The lien shall continue until the  
7 unpaid civil fines are paid in full or until a  
8 certificate of release or partial release of the  
9 lien, prepared by the county at the owner's  
10 expense, is recorded. The notice of unpaid civil  
11 fines shall state the amount of the fine as of  
12 the date of the notice and maximum permissible  
13 daily increase of the fine. The county shall not  
14 be required to include a social security number,  
15 state general excise taxpayer identification  
16 number, or federal employer identification number  
17 on the notice. Recordation of the notice in the  
18 bureau of conveyances shall be deemed, at such  
19 time, for all purposes and without any further  
20 action, to procure a lien on land registered in  
21 land court under chapter 501. After the unpaid  
22 civil fines are added to the taxes, fees, or

\_\_\_\_.B. NO. \_\_\_\_\_

1 charges as specified by county ordinance, the  
2 unpaid civil fines shall be deemed immediately  
3 due, owing, and delinquent and may be collected  
4 in any lawful manner. The procedure for  
5 collection of unpaid civil fines authorized in  
6 this paragraph shall be in addition to any other  
7 procedures for collection available to the State  
8 and county by law or rules of the courts;

9 (C) Each county may impose civil fines upon any  
10 person who places graffiti on any real or  
11 personal property owned, managed, or maintained  
12 by the county. The fine may be up to \$1,000 or  
13 may be equal to the actual cost of having the  
14 damaged property repaired or replaced. The  
15 parent or guardian having custody of a minor who  
16 places graffiti on any real or personal property  
17 owned, managed, or maintained by the county shall  
18 be jointly and severally liable with the minor  
19 for any civil fines imposed hereunder. Any such  
20 fine may be administratively imposed after an  
21 opportunity for a hearing under chapter 91, but  
22 such a proceeding shall not be a prerequisite for

\_\_\_\_.B. NO. \_\_\_\_\_

1 notice to the violator, at the completion of all  
2 appeal proceedings;

3 (F) If no county agency exists to conduct appeal  
4 proceedings for a particular civil fine action  
5 taken by the county, then one shall be  
6 established by ordinance before the county shall  
7 impose the civil fine;

8 (25) Any law to the contrary notwithstanding, any county  
9 mayor, by executive order, may exempt donors, provider agencies,  
10 homeless facilities, and any other program for the homeless  
11 under part XVII of chapter 346 from real property taxes, water  
12 and sewer development fees, rates collected for water supplied  
13 to consumers and for use of sewers, and any other county taxes,  
14 charges, or fees; provided that any county may enact ordinances  
15 to regulate and grant the exemptions granted by this paragraph;

16 (26) Any county may establish a captive insurance company  
17 pursuant to article 19, chapter 431; [and]

18 (27) Each county shall have the power to enact and enforce  
19 ordinances regulating towing operations[.]; and

20 (28) Any law to the contrary notwithstanding, each county  
21 has the power to enact and enforce ordinances regulating the  
22 operation of hosting platforms providing booking services for

\_\_\_\_.B. NO. \_\_\_\_\_

1 transient accommodation operators located within the county.

2 For purposes of this section:

3       (A) "Booking service" means any reservation or  
4               payment service provided by a person who  
5               facilitates a transient accommodations  
6               transaction between a prospective transient user  
7               and a host.

8       (B) "Hosting platform" means a person who  
9               participates in the transient accommodations  
10              business by collecting or receiving a fee,  
11              directly or indirectly through an agent or  
12              intermediary, for conducting a booking  
13              transaction using any medium of facilitation."

14       SECTION 3. Statutory material to be deleted is bracketed  
15 and in strikethrough. New statutory material is underscored.

16       SECTION 4. This Act shall take effect upon its approval.

17

18

INTRODUCED BY: \_\_\_\_\_

19

20

## **JUSTIFICATION SHEET**

- PROPOSER:** Hawaii State Association of Counties
- TITLE:** A Bill for an Act Relating to Transient Accommodations Hosting Platforms
- PURPOSE:** The purpose of the proposed bill is to allow the counties to regulate hosting platforms.
- MEANS:** Amends Section 46-1.5, Hawaii Revised Statutes.
- JUSTIFICATION:** Illegal and unregulated transient accommodations have caused detrimental impacts to the State's housing supply. This bill would help to prevent further proliferation of illegal transient accommodations and preserve residential housing.



# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2020  
HAWAII STATE ASSOCIATION OF COUNTIES  
LEGISLATIVE PACKAGE A STATE BILL TO  
CREATE A PAID RESPONSE MECHANISM FOR  
INVASIVE SPECIES

WHEREAS, responding quickly to newly detected invasive species can prevent the species from becoming firmly established, saving taxpayers money in the long term; and

WHEREAS, State agencies currently lack the resources and response mechanisms to deal with these newly identified threats and may be missing opportunities to eliminate them, which, in turn, allows invasive species to become established in the State, making mitigation efforts more protracted and expensive; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to create a paid response mechanism for invasive species, and the justification sheet attached as Exhibit "B" are approved for inclusion in the 2020 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

\_\_\_ .B. NO. \_\_\_

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# A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that responding quickly  
2 to newly detected invasive species can often prevent the species  
3 from becoming firmly established, saving taxpayers money in the  
4 long term. State agencies currently lack the resources and  
5 response mechanisms to deal with these newly identified threats  
6 and may be missing opportunities to eliminate them. This can  
7 allow invasive species to become established in the State,  
8 making mitigation efforts more protracted and expensive.

9           Accordingly, the purpose of this Act is to create a paid  
10 response mechanism for invasive species so that newly detected  
11 threats may be immediately addressed.

12           SECTION 2. Chapter 194, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15           "§194- Invasive species rapid response special fund.

16           (a) There is established the invasive species rapid  
17 response special fund, into which will be deposited  
18 appropriations by the legislature for the purposes of mitigating

1 or eradicating newly detected invasive species threats in the  
2 State. All interest earned or accrued on money deposited into  
3 the fund will become part of the fund. The council must  
4 administer the special fund and may expend money in accordance  
5 with this section.

6 (b) If the council determines that one or more newly  
7 detected invasive species pose a substantial threat to the  
8 agriculture, commerce, economy, environment, or public health of  
9 the State or otherwise warrant immediate action, the council  
10 must submit a request to the governor to declare that there  
11 exists an invasive species emergency.

12 (c) Upon declaration by the governor pursuant to  
13 subsection (b) that there exists an invasive species emergency,  
14 the council may act in response to the emergency and may make  
15 expenditures from the fund without legislative approval and  
16 without regard to chapters 36, 37, 89, and 103D.

17 (d) The council must make an account of money expended from  
18 the fund and include that information in its annual report to  
19 the legislature."

20 SECTION 3. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$\_\_\_\_\_ or so much  
22 thereof as may be necessary for fiscal year 2020-2021 and the

\_\_\_\_.B. NO. \_\_\_\_\_

1 same sum or so much thereof as may be necessary for fiscal year  
2 2021-2022 for deposit into the invasive species rapid response  
3 special fund.

4 The sums appropriated shall be expended by the department  
5 of land and natural resources for the purposes of this Act.

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.

8

9

INTRODUCED BY: \_\_\_\_\_

10

## **JUSTIFICATION SHEET**

- PROPOSER:** Hawaii State Association of Counties
- TITLE:** A Bill for an Act Relating to Invasive Species
- PURPOSE:** The purpose of the proposed bill is to create a paid response mechanism for invasive species so that newly detected threats may be immediately addressed.
- MEANS:** Amends Chapter 194, Hawaii Revised Statutes.
- JUSTIFICATION:** Responding quickly to newly detected invasive species can often prevent the species from becoming firmly established, saving taxpayers money in the long term. State agencies currently lack the resources and response mechanisms to deal with these newly identified threats and may be missing opportunities to eliminate them. This can allow invasive species to become established in the State, making mitigation efforts more protracted and expensive.

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2020  
HAWAII STATE ASSOCIATION OF COUNTIES  
LEGISLATIVE PACKAGE A STATE BILL TO  
INCREASE FUNDING AND DIRECT THE HAWAII  
CLIMATE CHANGE MITIGATION AND  
ADAPTATION COMMISSION

WHEREAS, that Hawaii is already experiencing the impacts of climate change, including rising sea levels, extreme tides, accelerated coastal erosion, and stronger, more frequent storms; and

WHEREAS, even with decisive actions to reduce greenhouse gas emissions, many of the impacts of climate change are inescapable and must be adapted to; and

WHEREAS, the Hawaii Climate Adaptation Initiative was established in 2014 with the purpose of protecting the State's economy, health, environment, and way of life by considering how to best adapt to and mitigate the impacts of climate change; and

WHEREAS, in December 2017, the Hawaii climate change mitigation and adaptation commission produced the first Hawaii sea level rise vulnerability and adaptation report; and

WHEREAS, the report identified areas that are susceptible to sea level rise impacts, urged immediate preparation for a 3.2-foot increase in sea level by 2060, and made a number of recommendations to state and county agencies based on emerging good practices, designed to strengthen Hawaii's overall readiness to face sea level rise and climate change; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to increase funding and direct the Hawaii climate change mitigation and adaptation commission, and the justification sheet attached as Exhibit "B" are approved for inclusion in the

2020 Hawaii State Association of Counties Legislative Package; and

2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

paf:hsac:19-290reso\_managedshorelineretreat-  
option2

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# A BILL FOR AN ACT

RELATING TO SEA LEVEL RISE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawaii is already  
2 experiencing the impacts of climate change, including rising sea  
3 levels, extreme tides, accelerated coastal erosion, and  
4 stronger, more frequent storms. Even with decisive actions to  
5 reduce greenhouse gas emissions, many of the impacts of climate  
6 change are inescapable, and must be adapted to.

7           The Hawaii Climate Adaptation Initiative was established in  
8 2014 with the purpose of protecting the State's economy, health,  
9 environment, and way of life by considering how to best adapt to  
10 and mitigate the impacts of climate change. In December 2017,  
11 the Hawaii climate change mitigation and adaptation commission  
12 produced the first Hawaii sea level rise vulnerability and  
13 adaptation report. The report identified areas that are  
14 susceptible to sea level rise impacts and urged immediate  
15 preparation for a 3.2-foot increase in sea level by 2060. The  
16 report also made a number of recommendations to state and county  
17 agencies based on emerging good practices, designed to



\_\_\_\_.B. NO. \_\_\_\_\_

1 strengthen Hawaii's overall readiness to face sea level rise and  
2 climate change.

3 Therefore, the purpose of this Act is to increase funding  
4 and direct the Hawaii climate change mitigation and adaptation  
5 commission to address impacted areas, further progress towards  
6 addressing the impacts of sea level rise, to identify critical  
7 public infrastructure in impacted areas, to create a plan for  
8 mitigation and adaptation to sea level rise, and to provide  
9 policy direction to the legislature about how to move forward  
10 with concrete strategies.

11 SECTION 2. (a) The Hawaii climate change mitigation and  
12 adaptation commission must:

13 (1) Conduct a thorough inventory of critical public  
14 infrastructure, existing or planned, both constructed  
15 and natural, and determine if the infrastructure is in  
16 or near an area that is vulnerable to the impacts of  
17 sea level rise, and analyze predicted impacts of sea  
18 level rise to identified vulnerable infrastructure;

19 (2) Identify priority areas throughout the State that will  
20 be subject to high rates of coastal erosion and sea  
21 level rise, including public infrastructure and  
22 private properties;

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- 1           (3) Design and propose sea level rise impact zone maps to
- 2                   be adopted by the legislature and provide a guidepost
- 3                   for future sea level rise adaptation policies;
- 4           (4) Work with state and county agencies to develop sea
- 5                   level rise adaptation plans in accordance with the Sea
- 6                   Level Rise Vulnerability and Adaptation report; and
- 7           (5) Make specific recommendations to the legislature for
- 8                   policies that may be adopted for managed retreat,
- 9                   relocation of infrastructure, or mitigation measures
- 10                  to minimize the impacts of sea level rise for public
- 11                  infrastructure and private properties, including
- 12                  information regarding how these recommendations may be
- 13                  funded and consideration of sea level rise policies
- 14                  implemented in other states and nations.

15           (b) The Hawaii climate change mitigation and adaptation  
16 commission must report its findings and recommendations as  
17 required pursuant to this Act to the legislature no later than  
18 twenty days prior to the convening of the regular session of  
19 2022.

20           SECTION 3. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$\_\_\_\_\_ or so  
22 much thereof as may be necessary for fiscal year 2020-2021 to

\_\_\_\_.B. NO. \_\_\_\_\_

1 support the Hawaii climate change mitigation and adaptation  
2 commission to conduct its activities as required by section 2 of  
3 this Act.

4 The sum appropriated shall be expended by the department of  
5 land and natural resources for the purposes of this Act.

6 SECTION 4. There is appropriated out of the general  
7 revenues of the State of Hawaii the sum of \$\_\_\_\_\_ or so  
8 much thereof as may be necessary for fiscal year 2020-2021 and  
9 the same sum or so much thereof as may be necessary for fiscal  
10 year 2021-2022 to fund the climate change mitigation and  
11 adaptation coordinator position established by Act 32, Session  
12 Laws of Hawaii 2017.

13 SECTION 5. This Act shall take effect on July 1, 2020.

14

15

INTRODUCED BY: \_\_\_\_\_

16

## **JUSTIFICATION SHEET**

**PROPOSER:** Hawaii State Association of Counties

**TITLE:** A Bill for an Act Relating to Sea Level Rise

**PURPOSE:** The purpose of the proposed bill is to increase funding and direct the Hawaii climate change mitigation and adaptation commission to further progress towards addressing the impacts of sea level rise, to identify critical public infrastructure in impacted areas, and to provide policy direction to the legislature about how to move forward with concrete strategies for mitigation and adaptation to sea level rise.

**MEANS:** Directs responsibility of the Hawaii climate change mitigation and adaption commission and increases necessary funding.

**JUSTIFICATION:** Hawaii is already experiencing the impacts of climate change, including rising sea levels, extreme tides, accelerated coastal erosion, and stronger, more frequent storms. Even with decisive actions to reduce greenhouse gas emissions, many of the impacts of climate change are inescapable, and must be adapted to. The Hawaii Climate Adaptation Initiative was established in 2014 with the purpose of protecting the State's economy, health, environment, and way of life by considering how to best adapt to and mitigate the impacts of climate change. In December 2017, the Hawaii climate change mitigation and adaptation commission produced the first Hawaii sea level rise vulnerability and adaptation report. The report identified areas that are susceptible to sea level rise impacts and urged immediate preparation for a 3.2-foot increase in sea level by 2060. The report also made a number of recommendations to state and county agencies based on emerging good practices, designed to strengthen Hawaii's overall readiness to face sea level rise and climate change.

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2020  
HAWAII STATE ASSOCIATION OF COUNTIES  
LEGISLATIVE PACKAGE A STATE BILL TO  
LOWER THE THRESHOLD OF BLOOD  
ALCOHOL CONCENTRATION TO 0.05

WHEREAS, according to the National Transportation Safety Board, a driver with a Blood Alcohol Concentration of 0.05 would be affected by exaggerated behavior, loss of small-muscle control and eye focus, impaired judgment, lowered alertness, and release of inhibition; and

WHEREAS, a Blood Alcohol Concentration of 0.05 would result in reduced coordination, reduced ability to track moving objects, difficulty steering, and reduced response to emergency driving situations; and

WHEREAS, lowering the threshold of Blood Alcohol Concentration to 0.05 for the offense of operating a vehicle while under the influence of an intoxicant would save lives, prevent catastrophic injuries, and decrease medical costs; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to lower the threshold of Blood Alcohol Concentration to 0.05, and the corresponding justification sheet attached as Exhibit "B" are approved for inclusion in the 2020 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

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# A BILL FOR AN ACT

RELATING TO THE USE OF INTOXICANTS WHILE OPERATING A VEHICLE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that in 2013, the  
2 National Transportation Safety Board recommended that all fifty  
3 states adopt a Blood Alcohol Concentration (BAC) cutoff of 0.05  
4 compared to the 0.08 standard. According to the National  
5 Transportation Safety Board, lowering the rate to 0.05 would  
6 save about five hundred to eight hundred lives annually.

7           According to the National Transportation Safety Board, a  
8 driver with a BAC of 0.05 would be affected by exaggerated  
9 behavior, loss of small-muscle control and eye focus, impaired  
10 judgment, lowered alertness, and release of inhibition. This  
11 would result in reduced coordination, reduced ability to track  
12 moving objects, difficulty steering, and reduced response to  
13 emergency driving situations.

14           The legislature further finds that lowering the threshold  
15 of BAC cutoff to 0.05 would save lives, prevent catastrophic  
16 injuries, and decrease medical costs.

17

\_\_\_\_.B. NO. \_\_\_\_\_

1           The purpose of this Act is to lower the threshold of blood-  
2 alcohol content for the offense of operating a vehicle while  
3 under the influence of an intoxicant.

4           SECTION 2. Section 291E-61, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           “(a) A person commits the offense of operating a vehicle  
7 under the influence of an intoxicant if the person operates or  
8 assumes actual physical control of a vehicle:

9           (1) While under the influence of alcohol in an amount  
10           sufficient to impair the person’s normal mental  
11           faculties or ability to care for the person and guard  
12           against casualty;

13           (2) While under the influence of any drug that impairs the  
14           person’s ability to operate the vehicle in a careful  
15           and prudent manner;

16           (3) With [~~0.08~~] 0.05 or more grams of alcohol per two  
17           hundred ten liters of breath; or

18           (4) With [~~0.8~~] 0.05 or more grams of alcohol per one  
19           hundred milliliters or cubic centimeters of blood.”

20           SECTION 3. Section 291E-61.5, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:

\_\_\_\_.B. NO. \_\_\_\_\_

1           “(a) A person commits the offense of habitually operating  
2 a vehicle under the influence of an intoxicant if:

3           (1) The person is a habitual operator of a vehicle while  
4           under the influence of an intoxicant; and

5           (2) The person operates or assumes actual physical control  
6           of a vehicle:

7           (A) While under the influence of alcohol in an amount  
8           sufficient to impair the person’s normal mental  
9           faculties or ability to care for the person and  
10          guard against casualty;

11          (B) While under the influence of any drug that  
12          impairs the person’s ability to operate the  
13          vehicle in a careful and prudent manner;

14          (C) With [~~0.8~~] 0.05 or more grams of alcohol per two  
15          hundred ten liters of breath; or

16          (D) With [~~0.8~~] 0.05 or more grams of alcohol per one  
17          hundred milliliters or cubic centimeters of  
18          blood.”

19           SECTION 4. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



\_\_\_\_.B. NO. \_\_\_\_\_

1           SECTION 5. Statutory material to be repealed is bracketed  
2 and in strikethrough. New statutory material is underscored.

3           SECTION 6. This Act shall take effect upon its approval.

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5                                   INTRODUCED BY: \_\_\_\_\_

6

## **JUSTIFICATION SHEET**

- PROPOSER:** Hawaii State Association of Counties
- TITLE:** A Bill for an Act Relating to the Use of Intoxicants While Operating a Vehicle
- PURPOSE:** The purpose of the proposed bill is to lower the threshold of Blood Alcohol Concentration to 0.05 for the offense of operating a vehicle while under the influence of an intoxicant.
- MEANS:** Amends Sections 291E-61 and 291E-61.5, Hawaii Revised Statutes.
- JUSTIFICATION:** According to the National Transportation Safety Board, a driver with a Blood Alcohol Concentration of 0.05 would be affected by exaggerated behavior, loss of small-muscle control and eye focus, impaired judgment, lowered alertness, and release of inhibition, resulting in reduced coordination, reduced ability to track moving objects, difficulty steering, and reduced response to emergency driving situations. Lowering the threshold of Blood Alcohol Concentration to 0.05, from 0.08, would save lives, prevent catastrophic injuries, and decrease medical costs.

# Resolution

No. \_\_\_\_\_

APPROVING FOR INCLUSION IN THE 2020  
HAWAII STATE ASSOCIATION OF COUNTIES  
LEGISLATIVE PACKAGE A STATE BILL TO  
OFFER FINANCIAL ASSISTANCE TO OWNERS  
OF CESSPOOLS SEEKING TO UPGRADE OR  
CONVERT THEIR CESSPOOLS

WHEREAS, the State's streams, groundwater, and ocean are being harmed by water pollution from nonpoint contamination sources that flow off the land directly, rather than through pipes or ditches; and

WHEREAS, cesspools constitute a nonpoint contamination source of grave concern; and

WHEREAS, by offering financial assistance to owners of cesspools seeking to upgrade or convert their cesspools; or connect their cesspools to a sewer system, the State can hasten efforts to eliminate cesspools and protect our water resources; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A," to offer financial assistance to owners of cesspools seeking to upgrade or convert their cesspools, and the justification sheet attached as Exhibit "B" are approved for inclusion in the 2020 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

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A BILL FOR AN ACT

RELATING TO CESSPOOLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1           SECTION 1. Section 235-16.5, Hawaii Revised Statutes, is amended to  
2 read as follows:

3           "§235-16.5    Cesspool upgrade, conversion, or connection; income tax  
4 credit. (a) There shall be allowed to each taxpayer subject to the tax  
5 imposed under this chapter, a cesspool upgrade, conversion, or connection  
6 income tax credit that shall be deductible from the taxpayer's net income tax  
7 liability, if any, imposed by this chapter for the taxable year in which the  
8 credit is properly claimed.

9           (b) In the case of a partnership, S corporation, estate, or trust, the  
10 tax credit allowable is for qualified expenses incurred by the entity for the  
11 taxable year. The expenses upon which the tax credit is computed shall be  
12 determined at the entity level. Distribution and share of credit shall be  
13 determined by rule.

14           (c) The cesspool upgrade, conversion, or connection income tax credit  
15 shall be equal to the qualified expenses of the taxpayer, up to a maximum of  
16 \$10,000; provided that, in the case of a qualified cesspool that is a  
17 residential large capacity cesspool, the amount of the credit shall be equal  
18 to the qualified expenses of the taxpayer, up to a maximum of \$10,000 per  
19 residential dwelling connected to the cesspool, as certified by the  
20 department of health pursuant to subsection (e). There shall be allowed a  
21 maximum of one cesspool upgrade, conversion, or connection income tax credit  
22 per qualified cesspool. The cesspool upgrade, conversion, or connection

1 income tax credit shall be available only for the taxable year in which the  
2 taxpayer's qualified expenses are certified by the appropriate government  
3 agency.

4 (d) The total amount of tax credits allowed under this section shall  
5 not exceed \$5,000,000 for all taxpayers in any taxable year; provided that  
6 any taxpayer who is not eligible to claim the credit in a taxable year due to  
7 the \$5,000,000 cap having been exceeded for that taxable year shall be  
8 eligible to claim the credit in the subsequent taxable year.

9 (e) The department of health shall:

10 (1) Certify all qualified cesspools for the purposes of this section;  
11 provided that, as a pilot program, the department of health, in its  
12 discretion, may certify no more than two residential large capacity cesspools  
13 as qualified cesspools;

14 (2) Collect and maintain a record of all qualified expenses certified  
15 by an appropriate government agency for the taxable year; and

16 (3) Certify to each taxpayer the amount of credit the taxpayer may  
17 claim; provided that if, in any year, the annual amount of certified credits  
18 reaches \$5,000,000 in the aggregate, the department of health shall  
19 immediately discontinue certifying credits and notify the department of  
20 taxation.

21 The director of health may adopt rules under chapter 91 as necessary to  
22 implement the certification requirements under this section.

23 (f) The director of taxation:

24 (1) Shall prepare any forms that may be necessary to claim a tax credit  
25 under this section;

26 (2) May require the taxpayer to furnish reasonable information to  
27 ascertain the validity of the claim for the tax credit made under this  
28 section; and

29 (3) May adopt rules under chapter 91 necessary to effectuate the  
30 purposes of this section.

1 (g) If the tax credit under this section exceeds the taxpayer's income  
2 tax liability, the excess of the credit over liability may be used as a  
3 credit against the taxpayer's income tax liability in subsequent years until  
4 exhausted. All claims for the tax credit under this section, including  
5 amended claims, shall be filed on or before the end of the twelfth month  
6 following the close of the taxable year for which the credit may be  
7 claimed. Failure to comply with the foregoing provision shall constitute a  
8 waiver of the right to claim the credit.

9 (h) This section shall not apply to taxable years beginning after  
10 December 31, [2020.] 2025.

11 (i) As used in this section:

12 "Aerobic treatment unit system" means an individual wastewater system  
13 that consists of an aerobic treatment unit tank, aeration device, piping, and  
14 a discharge method that is in accordance with rules adopted by the department  
15 of health relating to household aerobic units.

16 "Cesspool" means an individual wastewater system consisting of an  
17 excavation in the ground whose depth is greater than its widest surface  
18 dimension, which receives untreated wastewater, and retains or is designed to  
19 retain the organic matter and solids discharged into it, but permits the  
20 liquid to seep through its bottom or sides to gain access to the underground  
21 geographic formation.

22 "Qualified cesspool" means a cesspool that is certified by the  
23 department of health as being[:

24 (1) Located within:

1 (A) Two hundred feet of a shoreline, perennial stream, or wetland;

2 or

3 (B) A source water assessment program area (two year time of travel  
4 from a cesspool to a public drinking water source); or

5 (2) A] a residential large capacity cesspool.

6 "Qualified expenses" means costs that are necessary and directly  
7 incurred by the taxpayer for upgrading or converting a qualified cesspool  
8 into a septic system or an aerobic treatment unit system, or connecting a  
9 qualified cesspool to a sewer system, and that are certified as such by the  
10 appropriate government agency.

11 "Residential large capacity cesspool" means a cesspool that is connected  
12 to more than one residential dwelling.

13 "Septic system" means an individual wastewater system that typically  
14 consists of a septic tank, piping, and a drainage field where there is  
15 natural biological decontamination as wastewater discharged into the system  
16 is filtered through soil.

17 "Sewer system" means a system of piping, with appurtenances, for  
18 collecting and conveying wastewater from source to discharge following  
19 treatment.

20 "Wastewater" means any liquid waste, whether or not treated and whether  
21 animal, mineral, or vegetable, including agricultural, industrial, and  
22 thermal wastes."  
23

\_\_\_\_.B. NO. \_\_\_\_\_

1           SECTION 2. Statutory material to be deleted is bracketed and in  
2    strikethrough. New statutory material is underscored.

3           SECTION 3. This Act shall take effect upon its approval and shall be  
4    repealed on December 31, 2025.

5

6

INTRODUCED BY: \_\_\_\_\_

7



## **JUSTIFICATION SHEET**

**PROPOSER:** Hawaii State Association of Counties

**TITLE:** A Bill for an Act Relating to Cesspools

**PURPOSE:** The purpose of the proposed bill is to: 1) eliminate the geographical limitations for qualified cesspools; and 2) extend the income tax credit to December 31, 2025.

**MEANS:** Amends Act 120, Session Laws of Hawaii 2015.

**JUSTIFICATION:** Some cesspools are located in residential areas, and not limited to shorelines, perennial streams, or wetlands. Extending the income tax credit to December 31, 2025 would allow for additional cesspools to be addressed by this Act.