
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

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

1 SECTION 1. Chapter 343, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§343- Administrative hearing on finding of no
5 significant impact. (a) Within fifteen days of the notice by
6 the office that an agency reviewing an assessment has determined
7 that an action will have no significant impact and will not
8 require the preparation of a statement, hereafter the
9 "determining agency", any person who has reviewed and commented
10 to the determining agency relating to the assessment may file a
11 petition with the council requesting an administrative hearing
12 on the determining agency's decision and shall serve a copy of
13 the petition with the determining agency.

14 (b) The council as a whole or a panel of not less than
15 three council members, appointed by the director of the office
16 of environmental quality control, shall hold a hearing on the
17 petition, pursuant to chapter 91, within forty-five days of the
18 filing of the petition. The determining agency shall be an



1 adverse party to the hearing. The council or hearing panel may
2 allow other agencies or persons who commented on the assessment
3 to be parties to the hearing.

4 (c) All parties shall file a response to the petition
5 within twenty days of being served with the petition.

6 (d) The council or panel shall have the power to issue
7 subpoenas, administer oaths, hear testimony, find facts, make
8 conclusions of law, and issue written decisions that shall be
9 final and conclusive, unless a party adversely affected by the
10 decision files an appeal in the circuit court under section
11 343-7.

12 (e) The burden of proof, including the burden of producing
13 the evidence and the burden of persuasion, shall be upon the
14 petitioner. Proof of a matter shall be by a preponderance of
15 the evidence.

16 (f) Within fifteen days following the conclusion of the
17 hearing, the council or panel shall issue written findings of
18 fact, conclusions of law, and an order whether the action may
19 have a significant impact and require the preparation of a
20 statement. The order of the council or panel shall be binding
21 on the determining agency.



1 (g) Each party to the hearing shall bear the party's own
2 costs, including attorneys' fees, unless otherwise ordered by
3 the council or panel.

4 (h) Any party to a proceeding under this section who is
5 aggrieved by a final decision of a hearings officer may apply
6 for judicial review of that decision pursuant to section 343-7;
7 provided that any party seeking judicial review shall be
8 responsible for the costs of preparing the record on appeal,
9 including the cost of preparing the transcript of the hearing.

10 (i) The council may adopt rules and forms, pursuant to
11 chapter 91, to effectuate the purpose of this section and to
12 implement its provisions."

13 SECTION 2. Section 343-7, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) Any judicial proceeding, the subject of which is the
16 determination that a statement is required for a proposed
17 action, shall be initiated within sixty days after the public
18 has been informed of such determination pursuant to section
19 343-3. Any judicial proceeding, the subject of which is the
20 determination that a statement is not required for a proposed
21 action, shall be initiated within thirty days after the public
22 has been informed of such determination pursuant to section



1 343-3[-]; provided that in the event a petition is filed
2 pursuant to section 343-A, the time for initiating the judicial
3 review shall be tolled until the issuance of a final order on
4 the petition by the council or hearing panel. The council or
5 the applicant shall be adjudged an aggrieved party for the
6 purposes of bringing judicial action under this subsection.
7 Others, by court action, may be adjudged aggrieved."

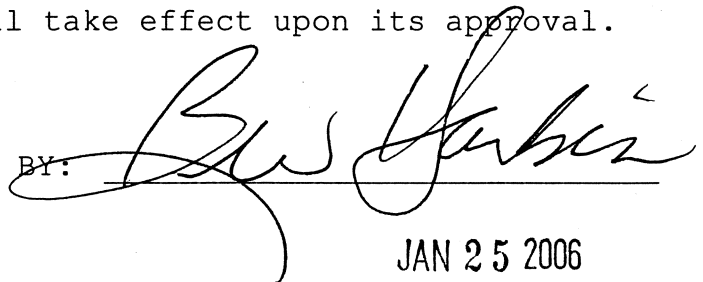
8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun, before its effective date.

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

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

14

INTRODUCED BY:



JAN 25 2006



HB 1790

Report Title:

Environmental Impact Statements

Description:

Provides for an administrative hearing upon an agency determination of a finding of no significant environmental impact after reviewing an environmental assessment.

