

JAN 25 2006

A BILL FOR AN ACT

RELATING TO PERMIT APPROVALS.

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

1 SECTION 1. The legislature finds that automatic permit
2 approval may lead to unintended consequences. Automatic
3 approval may occur if there is a tie vote by the board, if a
4 deadline passes while an agency is in the midst of conducting
5 public hearings, or if an underfunded agency simply cannot
6 handle the workload. Approving controversial projects without
7 adequate review may leave the community with an unwanted
8 development for years to come.

9 The legislature further finds that while adding certain
10 time extensions to the automatic permit approval law may have
11 the short-term effect of increasing efficiency, the long-term
12 effect will actually be the opposite. For instance, adding an
13 extension for contested case hearings may delay permit approval
14 until after the completion of administrative and judicial
15 proceedings. However, failure to allow an extension for
16 contested cases may result in the automatic approval of a permit
17 in violation of an applicant's due process rights, which may
18 lead to a lawsuit in addition to a subsequent contested case



1 hearing. The added delays, increased complexity, and
2 substantial costs associated with additional litigation will
3 significantly impede efficiency in the long run. Consequently,
4 the provision for automatic approval should be repealed.

5 SECTION 2. Section 91-13.5, Hawaii Revised Statutes, is
6 repealed.

7 ~~["§91-13.5 Maximum time period for business or~~
8 ~~development-related permits, licenses, or approvals; automatic~~
9 ~~approval; extensions. (a) Unless otherwise provided by law, an~~
10 ~~agency shall adopt rules that specify a maximum time period to~~
11 ~~grant or deny a business or development-related permit, license,~~
12 ~~or approval; provided that the application is not subject to~~
13 ~~state administered permit programs delegated, authorized, or~~
14 ~~approved under federal law.~~

15 ~~(b) All such issuing agencies shall clearly articulate~~
16 ~~informational requirements for applications and review~~
17 ~~applications for completeness in a timely manner.~~

18 ~~(c) All such issuing agencies shall take action to grant~~
19 ~~or deny any application for a business or development-related~~
20 ~~permit, license, or approval within the established maximum~~
21 ~~period of time, or the application shall be deemed approved;~~
22 ~~provided that a delay in granting or denying an application~~



1 ~~caused by the lack of quorum at a regular meeting of the issuing~~
2 ~~agency shall not result in approval under this subsection;~~
3 ~~provided further that any subsequent lack of quorum at a regular~~
4 ~~meeting of the issuing agency that delays the same matter shall~~
5 ~~not give cause for further extension, unless an extension is~~
6 ~~agreed to by all parties.~~

7 ~~(d) The maximum period of time established pursuant to~~
8 ~~this section shall be extended in the event of a national~~
9 ~~disaster, state emergency, or union strike, which would prevent~~
10 ~~the applicant, the agency, or the department from fulfilling~~
11 ~~application or review requirements.~~

12 ~~(e) This section shall not apply to any proceedings of the~~
13 ~~public utilities commission.~~

14 ~~(f) For purposes of this section, "application for a~~
15 ~~business or development-related permit, license, or approval"~~
16 ~~means any state or county application, petition, permit,~~
17 ~~license, certificate, or any other form of a request for~~
18 ~~approval required by law to be obtained prior to the formation,~~
19 ~~operation, or expansion of a commercial or industrial~~
20 ~~enterprise, or for any permit, license, certificate, or any form~~
21 ~~of approval required under sections 46-4, 46-4.2, 46-4.5, 46-5,~~
22 ~~and chapters 183C, 205, 205A, 340A, 340B, 340E, 340F, 342B,~~



1 ~~342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, and~~
2 ~~342P.~~"]

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken.

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

6

INTRODUCED BY: 

By Request



SB 2413

Report Title:

Automatic Approval; Permits; Licenses

Description:

Repeals provisions allowing automatic approval of applications for business- or development-related permits, licenses, and approvals when an agency fails to grant or deny the application within established maximum periods of time.

