

STAND. COM. REP. NO. 1248

Honolulu, Hawaii

March 16, 2007

RE: S.B. No. 642  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Sir:

Your Committee on Energy & Environmental Protection, to which was referred S.B. No. 642, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENTS,"

begs leave to report as follows:

The purpose of this measure is to require a supplemental environmental impact statement following the acceptance of a final environmental impact statement if:

- (1) Substantial changes are proposed in the action;
- (2) Substantial changes occur with respect to circumstances under which an action is being undertaken; or
- (3) New information becomes available.

Your Committee has received testimony in support of this measure from the Department of Health, Office of Environmental Quality Control; Office of Hawaiian Affairs; Oahu County Committee, Democratic Party of Hawaii; Kuliouou/Kalani Iki Neighborhood Board #2; Na Leo Pohai, the Public Policy Affiliate of the Outdoor Circle; Sierra Club, Hawaii Chapter; Keep the North Shore Country; and four individuals, including a former member of the State Environmental Council. Testimony offering comments was received from the State Environmental Council; University of

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Hawaii at Manoa, Environmental Center; and Hawaii Audubon Society. The Attorney General, Land Use Research Foundation, and Kuilima Resort Company submitted testimony in opposition to this measure and the Office of the Corporation Counsel, County of Hawaii, and Department of Planning and Permitting, City and County of Honolulu, expressed significant concerns with this measure.

Your Committee finds that supplemental environmental impact statements are a valuable and oftentimes necessary tool to accomplish the proper informed decision-making purposes of chapter 343, Hawaii Revised Statutes. Therefore, the trigger for a supplemental environmental impact statement should be stated in statute rather than left solely within the administrative rules that were promulgated under the broad authorization that currently exists for rulemaking under chapter 343, Hawaii Revised Statutes. Accordingly, this measure outlines, strengthens, and clarifies when there is a need for a supplemental environmental impact statement. While your Committee has considered in previous hearings whether an environmental impact should have a "shelf" life, your Committee finds that the selection of any time period would be arbitrary. Your Committee believes that, rather than imposing a specific time period, a supplemental environmental impact statement should be required when there are substantive changes or impacts that would affect the purposes of chapter 343, Hawaii Revised Statutes, that is, the informed decision-making process.

Your Committee further finds that the issue may not be the need for a "shelf" life for an environmental impact statement but rather an expiration period for a zoning change or other land use permit for the proposed action. It may be necessary for county and state agencies to consider a "use it or lose it" approach to ensure that, when an action is proposed and permitted, it is done in a timely manner to better understand the cumulative effects of the build-out on the affected areas.

Your Committee has amended this measure by:

- (1) Clarifying that supplemental environmental impact statements will be required when new or different environmental impacts are anticipated;
- (2) Adding as another reason for requiring a supplemental environmental impact statement the determination not to implement any mitigative measures that were originally planned;



- (3) Defining "new information" to mean facts and data received after the acceptance of the final environmental impact statement that would materially impact the analysis of environmental, social, cultural, or economic issues relevant to the proposed action; and
- (4) Making technical nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 642, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 642, S.D. 2, H.D. 1, and be referred to the Committee on Water, Land, Ocean Resources & Hawaiian Affairs.

Respectfully submitted on  
behalf of the members of the  
Committee on Energy &  
Environmental Protection,



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HERMINA MORITA, Chair



