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# A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

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

1           SECTION 1. The legislature finds that recent court  
2 decisions have expanded the application of environmental  
3 assessments beyond legislative intent. The courts have found,  
4 among other things, that any use of state or county lands or  
5 funds requires an environmental assessment to make a  
6 determination of whether an environmental impact statement is  
7 required. The courts have stated that an agency making a  
8 determination must consider every phase and every expected  
9 consequence of the proposed action, requiring the agency to  
10 consider primary and secondary impacts of a project on the  
11 environment if any of the project abuts a public roadway. This  
12 means that any action involving the use of a right of way  
13 involving a state or county road triggers an environmental  
14 impact assessment and possibly an environmental impact  
15 statement.

16           Rights of way are necessary in the installment of  
17 easements, drainage, waterlines, and access improvements, which



1 commonly are tangential to an existing state or county road.  
 2 Consideration of the cumulative impacts from a small portion of  
 3 a project, such as a minor utility easement that abuts a state  
 4 or county roadway, means that the entire project needs an  
 5 environmental assessment. The legislature finds that this  
 6 interpretation was never its intention in the enactment of the  
 7 law on environmental impact statements.

8 The purpose of this Act is to clarify that environmental  
 9 assessments do not apply to:

- 10 (1) State or county lands that include the use of existing  
 11 streets, roads, highways, or trails or bikeways for  
 12 limited purposes, and
- 13 (2) A modification or disposal of highway access rights or  
 14 use, occupancy, or work within a public highway right-  
 15 of-way to serve private development outside the  
 16 highway right-of-way, under certain conditions.

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

20 **"§343- Environmental assessment not required; when. (a)**  
 21 **For purposes of section 343-5(a), an environmental assessment**  
 22 **shall not be required for:**



- 1       (1) An action that proposes the use of state or county
- 2       lands or the use of state or county funds, if the use
- 3       of the state or county land or the expenditure of
- 4       state or county funds is limited to an existing public
- 5       street, road, or highway, as defined in section 291-1,
- 6       for an easement, drainage, waterlines, access
- 7       improvements, utility right of way, or the like; or
- 8       (2) A modification or disposal of highway access rights or
- 9       use, occupancy, or work within a public highway right-
- 10       of-way to serve private development outside the
- 11       highway right-of-way; provided that the proposed
- 12       development outside the highway right-of-way does not
- 13       involve:
- 14       (A) Any action by the state land use commission or
- 15       board of land and natural resources;
- 16       (B) Use of five or more acres of land that has not
- 17       been disturbed by intensive human uses since
- 18       1840; or
- 19       (C) Any use of plants or animals that are not, but
- 20       potentially could become established in Hawaii.
- 21       (b) This section shall not be interpreted as exempting the
- 22       entirety of a development project from this chapter.



1        (c) All exemptions under this section shall be  
2 inapplicable when the cumulative impact of planned successive  
3 actions in the same place, over time, is significant, or when an  
4 action that is normally insignificant in its impact on the  
5 environment may be significant in a particularly sensitive  
6 environment."

7        SECTION 3. New statutory material is underscored.

8        SECTION 4. This Act shall take effect July 1, 2050;  
9 provided that this Act shall be repealed one year after the  
10 effective date of this Act.



**Report Title:**

Environmental Assessments; Exemptions

**Description:**

Exempts from environmental assessments, state or county lands that include the use of existing streets, roads, highways, or trails or bikeways for limited purposes, or a modification or disposal of highway access rights or use, occupancy, or work within a public highway right-of-way to serve private development outside the highway right-of-way, under certain conditions. (SD1)

