

Honolulu, Hawaii  
A-04 , 2008

RE: S.B. No. 2808  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Sir:

Your Committees on Energy & Environmental Protection and  
Judiciary, to which was referred S.B. No. 2808, S.D. 2, entitled:

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

beg leave to report as follows:

The purpose of this measure is to clarify proposed actions  
that will be exempt from the preparation of an environmental  
assessment.

Specifically, this measure exempts the following proposed  
actions from the preparation of an environmental assessment:

- (1) Certain projects that involve the use of state or county  
lands or the expenditure of state or county funds if  
such use or expenditure is limited to an existing public  
street, road, or highway for an easement, drainage,  
waterlines, access improvements, utility right of way,  
or the like; and
- (2) Certain projects that involve 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.



Upon further consideration, your Committee proposed an H.D.1 that would replace this measure's contents with amendments to clarify the role of the Office of Environmental Quality Control to determine which agency has the responsibility of preparing an environmental assessment when two or more agencies have jurisdiction over a proposed action. The proposed H.D.1 also would make technical clarifications to the rulemaking powers of the Environmental Council.

Testimony in support of the proposed H.D.1 was submitted by the Department of Transportation, Office of Environmental Quality Control, the Chamber of Commerce of Hawaii, National Association of Industrial and Office Properties, General Contractors Association of Hawaii, Kaiser Permanente, Royal Contracting Co., Ltd., Building Industry Association-Hawaii, Ralph S. Inouye, Co., Ltd., The Gas Company, and one concerned individual. Testimony opposed to the proposed H.D.1 was submitted by the Office of Hawaiian Affairs and the Land Use Research Foundation of Hawaii. Comments on the proposed H.D.1 were submitted by the University of Hawaii Environmental Center and the Associated Builders and Contractors of Hawaii.

Your Committee finds that, rather than creating additional classifications of exempt actions, a more flexible and prudent approach would be to clarify the Office of Environmental Quality Control's role in determining the lead and accepting agency and to provide more clarity in resolving conflicting interpretations of the statutes and rules that address the exemption process and general chronology of the existing environmental review process. Therefore, these amendments clarify and update the existing law to be internally consistent and procedurally correct. Your Committee believes that this approach will help to resolve unintended conflicts and confusion relating to exemptions for actions that involve state or county rights-of-way and also establishes a clear process for other actions that may not be on a predetermined exemption list authorized by the Council.

Accordingly, your Committee has amended this measure by replacing its contents with amendments that:

- (1) Clarify that when two or more state or county agencies have jurisdiction, the Office of Environmental Quality Control shall determine which agency has the responsibility of preparing an environmental assessment after consultation with and assistance from the affected state or county agencies;

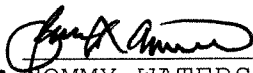


(2) Clarify the rulemaking powers of the Environmental Council; and

(3) Succinctly state the purpose of the measure.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2808, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2808, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committees on Energy &  
Environmental Protection and  
Judiciary,

  
for TOMMY WATERS, Chair

  
HERMINA MORITA, Chair





