

STAND. COM. REP. NO.

1335

Honolulu, Hawaii

APR 09 2009

RE: H.B. No. 640
H.D. 1
S.D. 2

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred H.B. No. 640, H.D. 1, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to amend chapter 343, Hawaii Revised Statutes (chapter 343), to clarify that any primary action that requires a permit or approval not subject to the discretionary consent of the approving agency and that involves a secondary action within an existing public right-of-way or highway is exempt from chapter 343.

Your Committee understands that recent court rulings and agency interpretations have suggested that private applications that use or "touch" state or county roadways or rights-of-way, such as easements, drainage facilities, connections to waterlines and sewer lines, private driveways and access improvements, and utility rights of way for overhead or underground connections, would require preparation of an environmental assessment document due to the "use of state or county lands", pursuant to section 343-5(a)(1), Hawaii Revised Statutes. As a result, private applicant proposals for minor work within the state or county right-of-way now triggers the preparation of an environmental assessment by the applicant. Your Committee finds that the unintended results of these court decisions and agency interpretations have caused the Department of Transportation (DOT)

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and the Office of Environmental Quality Control (OEQC) to be deluged with hundreds of minor work project reviews, significantly increasing the time required for the DOT to review and process applications affecting the state highway right-of-way. This interpretation has also created unnecessary expense and delay for private applicants.

Your Committee notes that the exemption provided by this measure will not apply if the infrastructure is not within an existing public right-of-way or highway, or if the infrastructure may have a significant effect on the environment.

Your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 2075, to continue the discussions on this matter; and
- (2) Making technical, nonsubstantive amendments.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 640, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 640, H.D. 1, S.D. 2.

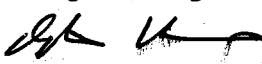
Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,


BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Government Operations
JGO

Bill / Resolution No.:*		Committee Referral:		Date:	
HB 640, HD 1, SDI		ENE/TIA, JGO		4/7/2009	
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____					
The Recommendation is:					
<input type="checkbox"/> Pass, unamended 2312		<input checked="" type="checkbox"/> Pass, with amendments 2311		<input type="checkbox"/> Hold 2310	
<input type="checkbox"/> Recommit 2313					
Members		Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)		✓			
TAKAMINE, Dwight Y. (VC)		✓			
BUNDA, Robert		✓			
GABBARD, Mike		✓			
NISHIHARA, Clarence K.		✓			
SLOM, Sam		✓			
TOTAL		6	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					
Chair's or Designee's Signature: 					
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy					

*Only one measure per Record of Votes