

LINDA LINGLE
Governor of Hawai'i



KATHERINE PUANA KEALOHA
Director

STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

Department of Health
235 South Beretania Street
Leiopapa A Kamehameha, Suite 702
Honolulu, Hawai'i 96813

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Facsimile (808) 586-4186
Electronic Mail: oeqc@doh.hawaii.gov

Committee on Energy & Environmental Protection

Committee on Water, Land, & Ocean Resources

HB640, Relating to Environmental Impact Statements

Testimony of Katherine Puana Kealoha, Esq.
Director of the Office of Environmental Quality Control

February 24, 2009

Bill No. 640

Support Y N

Date 2/23/09

Time 1414

Cat AF AS AX BC

Type 1 2 WI

- 1 **Department's Position:** The Office of Environmental Quality Control (OEQC) strongly supports this
2 measure.
- 3 **Fiscal Implications:** The approval of HB640, relating to environmental impact statements, will
4 provide relief to hundreds of projects that have been delayed because of the public right-of-way issue. A
5 majority of these projects are minor and do not require environmental studies. The requirement of an
6 environmental assessment because of the public right-of-way issue has created undue costs and delays to
7 these minor projects.
- 8 **Purpose and Justification:** HB640, excludes the installation and development of infrastructure and
9 utilities within a public right-of-way or highway as the use of state or county lands for purposes of
10 requiring an environmental assessment. The safeguards for environmental protection, as provided under
11 Chapter 343, HRS, are adequate and the proposed amendments will allow OEQC to fully direct its
12 resources on reviewing projects that are likely to create more substantive impacts to the state's fragile
13 environment.

1 OEQC has worked diligently with the public, many environmental advocates, State and County
2 Agencies, and private businesses to come up with language that would be appropriate in order to assure
3 environmental compliance with HRS 343.

4 Thank you for considering our testimony.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

MUFI HANNEMANN
MAYOR



DAVID K. TANOUE
ACTING DIRECTOR
ROBERT M. SUMITOMO
DEPUTY DIRECTOR

February 24, 2009

The Honorable Hermina M. Morita, Chair
and Members of the Committee on Energy
and Environmental Protection

The Honorable Ken Ito, Chair
and Members of the Committee on Water,
Land, & Ocean Resources
State House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Morita, Ito and Members:

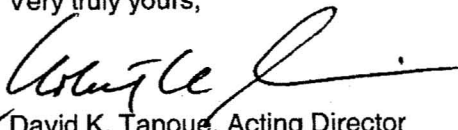
**Subject: HOUSE BILL 640
Relating to Environmental Impact Statements**

The Department of Planning and Permitting (DPP) **supports** House Bill 640, which provides a clear statement that any infrastructure work occurring within a public right-of-way shall not be considered a "trigger" for purposes of HRS Chapter 343 requirements.

This kind of clarification will be very meaningful for accepting agencies. It will help agencies avoid the unnecessary preparation of environmental assessments for projects which otherwise have no adverse environmental impacts.

We strongly recommend that House Bill 640 be approved. Thank you for this opportunity to comment.

Very truly yours,


David K. Tanoue, Acting Director
Department of Planning and Permitting

DKT: jmf
hb640-jpt.doc

Bill No. 640

Support Y N

Date 2/23/09

Time 2:09

Cat AF AS B C

Type 1 2 WI



ENGINEERING SOLUTIONS, INC.

Our Name, Our Mission for a Sustainable Environment

98-1268 Kaahumanu Street, Suite C-7 • Pearl City, Hawaii 96782 • Phone: (808) 488-0477 • Fax: (808) 488-3776

February 22, 2009

Hearing Date: Tuesday, February 24th, 10:00pm, Room 325

House Committee on Energy & Environmental Protection

Representatives Hermina M. Morita, Chair, Denny Coffman, Vice Chair, and Members of the House Committee on Energy & Environmental Protection

House Committee on Water, Land, & Ocean Resources

Representatives Ken Ito, Chair, Sharon E. Har, Vice Chair and Members of the House Committee on Water, Land, & Ocean Resources

RE: HB 640 "Relating to Environmental Impact Statements"

We strongly support HB 640 "Relating to Environmental Impact Statements". We believe the courts have greatly expanded the original intent of the Environmental Impact law to the detriment of Hawaii residents. An EIS should not be required for installation of utilities, or road improvements done for the benefit of our entire community. Unnecessary preparation of an EIS increases the cost to the taxpayers, and greatly increases the time required to design and construct a project.

Engineering Solutions, Inc. strongly supports HB640.

Thank you for the opportunity to express our views.

ENGINEERING SOLUTIONS, INC.

Vice President

Bill No. HB 640
 Support Y N
 Date 2/21
 Time 10:00
 Cat AF AS AX B C
 Type 1 2 WI



Bill No. HB 640
Support Y N
Date 2/21
Time 1012
Cat AF AS AX B C
Type 1 2 WI

February 24, 2009

Representative Hermina Morita, Chair
Committee on Energy and Environmental Protection
Representative Ken Ito, Chair
Committee on Water, Land & Ocean Resources
State Capitol, Conference Room 325
415 South Beretania Street
Honolulu, Hawaii 96813

Representatives Morita and Ito:

Subject: **House Bill No. HB 640 Relating to Environmental Impact Statements**

My name is Dean Uchida, Vice President of the Hawaii Developers' Council (HDC). We represent over 200 members and associates in development-related industries. The mission of Hawaii Developers' Council (HDC) is to educate developers and the public regarding land, construction and development issues through public forums, seminars and publications.

It is also the goal of HDC to promote high ethics and community responsibility in real estate development and related trades and professions.

The HDC strongly supports H.B. No. 640, as it proposes to exclude the installation and development of infrastructure and utilities within a public right-of-way or highway as the use of state or county lands for purposes of requiring an environmental assessment.

The legislation is needed because of the recent court decisions where any action that involved the use of a state or county road right of way was a "trigger" for the EA/EIS. Because an access improvement, easement, drainage, waterline, etc., is now viewed as a use of state or county lands when it touches (over, under, across) a state or county road right of way, the entire project is then required to prepare and environmental assessment for the entire project.

Requiring the preparation of a 343 HRS document for projects with insignificant environmental impacts makes a mockery of the EA/EIS process. If the legislative intent was that an EA/EIS would be required any time the project touches a public road, then the law should be changed to require an EA/EIS for all projects because all projects, at some point, connect to a public road.

H.B. No. 640 should be viewed as a short-term or interim fix as we understand that there is a comprehensive review of Chapter 343 HRS that is being conducted by representatives from the University of Hawaii's Richardson School of Law, School of Urban and Regional Planning, and

the Environmental Center. The comprehensive review will allow for an objective review of Chapter 343 HRS with all of its amendments since it was initially passed in 1974.

Although not part of this legislation, we would hope that the group responsible for the comprehensive review of Chapter 343 HRS be expanded to include representatives from the business community who are and will be directly impacted by the legislation.

Again, we strongly support the approval of H.B. No. 640 to address the immediate problems caused by the Courts interpretation of Chapter 343 HRS.

Thank you for this opportunity to express our views.



The Chamber of Commerce of Hawaii
The Voice of Business in Hawaii

Bill No. HB 640

Support Y N

Date 2/21

Time 1239

Cat AF AS AX B C

Type 1 2 WI

**House Committees on Energy and Environmental Protection and
Water, Land & Ocean Resources
February 24, 2009 at 10:00 a.m.
State Capitol, Conference Room 325**

Re: HB 640 relating to Environmental Impact Statements

Chairs Morita and Ito, Vice Chairs Coffman and Har and members of the committee:

My name is Jim Tollefson, President of the Chamber of Commerce of Hawaii. The Chamber of Commerce of Hawaii works on behalf of its members and the entire business community to:

- Improve the state's economic climate
- Help businesses thrive

The Chamber of Commerce of Hawaii strongly supports H.B. No. 640, as it proposes to exclude the installation and development of infrastructure and utilities within a public right-of-way or highway as the use of state or county lands for purposes of requiring an environmental assessment.

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Bill No. 640

Support Y N

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 Water, Land & Ocean Resources
 February 24, 2009 at 10:00 a.m.
 State Capitol, Conference Room 325**

Date 2/21/09

Time 1239

Cat AF AS AX B C

Re: HB 640 relating to Environmental Impact Statements

Type 1 2 WI

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Thank you for this opportunity to express our views.

Committee on Energy & Environmental Protection
and
Committee on Water, Land & Ocean Resources
Hearing
Tuesday, February 24, 2009, 10:00 a.m.
Conference Room 325

Representative Hermina Morita, Chair
and
Representative Ken Ito, Chair

Bill No. HB640

Support Y N

Date 2/23

Time 655



Cat AF AS AX BC

PAHIO RESORTS Type 1 2 WI

Testimony on HB640 Relating to Environmental Impact Statements

Dear Chairs Morita and Ito and Members of the Committee:

My testimony is in STRONG SUPPORT of HB640. My name is Lynn McCrory and I am the President of PAHIO Development, Inc. We are a locally owned and operated time share development company on the island of Kauai. I was the Kauai member of the Board of Land & Natural Resources for eight years.

HB640 provides the changes needed to clarify the section of HRS Chapter 343 relating to requirements for completion of an environmental assessment (EA) for the development of infrastructure and utilities as to the use of state or county lands. This is a short term fix resulting from a court decision for two projects on Kauai that removed multiple conditions placed by the Planning Commission. At one point or another, a project will touch state or county land whether it is the connection to utilities or roadways. For some projects it may be nothing more than a driveway connection to a highway. There should not be an EA completed for what should be an administrative decision by the government agency or a public utility. An EA should be required where there are potentially serious issues that should be explored and mitigated.

There is currently a comprehensive review of HRS Chapter 343 being completed by the University of Hawaii's Richardson School of Law. This review should provide for any changes to HRS Chapter 343 in a future Legislative session. I humbly ask for your consideration for SUPPORT of HB640. Mahalo!

Me ke aloha pumehana
With warm aloha,

PAHIO DEVELOPMENT, INC.

Lynn P. McCrory
President



LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai'i 96817

Phone: 533-3454; E: henry.lifeoftheland@gmail.com

Bill No. HB 640
Support Y N
Date 2/23
Time 759
Cat AF AS AX BC
Type 1 2 WI

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Hermina M. Morita, Chair

Rep. Denny Coffman, Vice Chair

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Ken Ito, Chair

Rep. Sharon E. Har, Vice Chair

Tuesday, February 24, 2009

10:00 a.m.

Conference Room 325

re HB 640 RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

Aloha Chairs Morita and Ito, and Members of the Committees

My name is Henry Curtis and I am the Executive Director of Life of the Land, Hawai'i's own energy, environmental and community action group advocating for the people and `aina for almost four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

HB 640 would amend the State Environmental Impact Statement law as follows:

HRS 343-5 (1) (C) The installation, improvement, renovation, construction, or development of any infrastructure including, ... highway or roadway improvements, within any public right-of-way or highway shall not be deemed to be the use of state or county lands

The State Legislature has mandated that the University of Hawai'i's Environmental Center review the EIS Law (HRS Chapter 343) and suggest improvements. This proposed bill would modify the EIS law in the middle of the review, greatly complicating the review. the overhaul of the EIS law should be done as a package rather than through piecemeal approaches.

Many unintended consequences could result from this bill.

The bill would exempt the building or modifying overhead transmission lines and underground gas lines along public hiking trails in conservation districts and along residential sidewalks.

The bill would exempt large subdivisions on private agricultural lands that interface with highways via dedicated public access roads

The bill would exempt building an elevated road above any existing road, including the Nimitz

It will be interesting to see who is supporting this bill and what project(s) they think are so critical to pass without prior disclosure and discussion.

From: Lance Holter [holter@maui.net]
Sent: Monday, February 23, 2009 9:34 AM
To: EEPtestimony
Subject: HB640 Not in support

Please distribute 25 copies

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Hermina M. Morita, Chair

Rep. Denny Coffman, Vice Chair

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Ken Ito, Chair

Rep. Sharon E. Har, Vice Chair

Tuesday, February 24, 2009

10:00 a.m.

Conference Room 325

Dear Committee members,

Please hold HB640, Relating to Environmental Impact Statements.
We are not in favor and do not support HB640.

Lance Holter,
Chairman Maui County Democratic Party
PO Box 790656
Paia, HI 96779
Tele 579-9442

Bill No. HB640
Support Y N
Date 2/23
Time 9:34
Cat AF AS AX B C
Type 1 2 WI

Bill No. HB640

From: docberry@aol.com
Sent: Sunday, February 22, 2009 9:05 PM
To: EEPtestimony
Subject: HB 640

Support Y N

Date 2/22

Time 2:05

Cat AF AS AX BC

Type 1 2 WI

Rep. Mina Morita Rep. Denny Coffman
Rep. Ken Ito, Rep. Sharon E. Har

Re: HB 640

Thank you for receiving my testimony.

This bad bill would jettison vitally needed Environmental Impact Statements for many public projects. It encourages a variety unchecked urban disasters. Please vote no on it and urge others to do so as well..

Better measures are available to speed up needed EIS assessments .Don't abandon solid environmental policies.

Thanks for your attention to this vital public issue.
aloha,

Paul "Doc" Berry
46-158 Kiowai St, #2411
Kaneohe, Hi 96744
808-247-4090
pbdocberry@gmal.com

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

EEPtestimony

From: Marge Freeman [freeman@aloha.net]
Sent: Monday, February 23, 2009 11:14 AM
To: EEPtestimony
Subject: HB 640 RELATING TO ENVIRONMENTAL IMPACT STATEMENTS. - against

Bill No. 640

Support Y (N)

Date 2/23/09

Time 1115

Cat AF AS AX B (C)

Type (1) 2 WI

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Tuesday, February 24, 2009 10:00 a.m. Room 325

re HB 640 RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

Aloha Chairs Morita, and Members of the Committee,

HB 640 would amend the State Environmental Impact Statement law in a way that seems poor to me. The public needs to have a chance to read and comment on EIS studies and not have that right removed. Until University of Hawai'i's Environmental Center review on the EIS Law is completed and their suggestions studied no changes should be made in the present law.

Please vote against HB 640.

Sincerely,
Marge Freeman - Kauai
6448 Kaahele St.
Kapaa, HI 96746