

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 24, 2009

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 640

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

House Bill 640 excludes 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 Department supports the intent of this bill.**

This proposed legislation would exclude utility connections, access and driveway improvements and other minor work within the highway right-of-way as use of state or county lands for the purposes of triggering an environmental assessment. This action would greatly reduce unnecessary and costly burden of conducting environmental reviews for such minor actions that have little or no significant environmental impact. Passage of this bill would also greatly reduce unnecessary delays that have resulted as an unintended consequence of recent legal rulings on environmental law, greatly benefit the public by eliminating undue bureaucratic requirements without jeopardizing the intent and purpose of Hawaii Revised Statutes Chapter 343, and eliminate agency legal concerns.

House Bill 640 would not impact environmental requirements on public agencies as compliance with Chapter 343 is still required when public funds are used.

Bill No. 640

Support  Y  N

Date 2/23/09

Time 1617

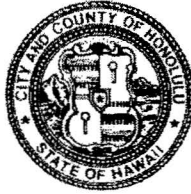
Cat AF  AS  AX  BC

Type 1  2  WI

DEPARTMENT OF ENVIRONMENTAL SERVICES  
**CITY AND COUNTY OF HONOLULU**

1000 ULUOAHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707  
TELEPHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: <http://envhonolulu.org>

MUFI HANNEMANN  
MAYOR



TIMOTHY E. STEINBERGER, P.E.  
ACTING DIRECTOR

MANUEL S. LANUEVO, P.E., LEED AP  
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.  
DEPUTY DIRECTOR

IN REPLY REFER TO:  
WAS 09-62

February 23, 2009

The Honorable Hermina M. Morita, Chair  
and Members of the Committee on Energy & Environmental Protection  
State House of Representatives  
State Capital  
Honolulu, Hawaii 96813

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

Dear Chairs Morita, Ito and Members:

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

The City and County of Honolulu's Department of Environmental Services (ENV) fully supports House Bill No. 640, Relating to Environmental Impact Statements, which would 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.

A public right-of-way or highway has already been identified for the purposes of infrastructure and utilities use and would have been appropriately reviewed for that purpose when initially identified. A subsequent environmental assessment should not be necessary for additional infrastructure or utilities use within that public right-of-way or highway. This legislation would make that clear.

We thank you for your support of this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Steinberger".

Timothy E. Steinberger, P.E.  
Acting Director

Bill No. 640

Support  N

Date 2/23/09

Time 1450

Cat  AF  AS  AX  B  C

Type 1  2  WI

Linda Lingle  
GOVERNOR



KAREN SEDDON  
EXECUTIVE DIRECTOR

**STATE OF HAWAII**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
677 QUEEN STREET, SUITE 300  
Honolulu, Hawaii 96813  
FAX: (808) 587-0600

IN REPLY REFER TO

Statement of  
**Karen Seddon**  
Hawaii Housing Finance and Development Corporation  
Before the

**HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**  
**HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES**

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

In consideration of  
**H.B. 640**

**RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.**

The HHFDC supports H.B. 640, which 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 (EA). This bill 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 or environmental impact statement (EIS). Because access improvements, easements, drainage, waterline, or similar improvements, are now viewed as a use of state or county lands when it touches a state or county road right-of-way, the entire project is then required to prepare an EA for the entire project. Requiring the preparation of a Chapter 343, Hawaii Revised Statutes (HRS) document for projects with insignificant environmental impacts is not appropriate. If the legislative intent was that an EA/EIS would be required any time a 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. 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.

Thank you for the opportunity to provide written comments on this bill.

Bill No. 640

Support  N

Date 2/23/09

Time 1522

Cat AF

Type 1

February 23, 2009

Testimony for HB640 Relating to Environmental Impact Statements

Aloha Chairs Morita and Ito, Vice-Chairs Coffman and Har, and members of the committees:

My name is Thomas Young, Senior Vice-President, Gas Operations of The Gas Company. Thank you for the opportunity to provide testimony on HB640 Relating to Environmental Impact Statements.

The Gas Company supports the intent of HB 640, which would require an environmental assessment to those enumerated actions, with the exception of the installation and development of infrastructure and utilities within a public right-of-way or highway as the use of state or county lands.

The Gas Company notes that it is duly franchised to supply utility gas in the State of Hawaii and respectfully requests that proposed HB 640 be amended at subsection (a)(1)(C) to include gas utility facilities with the other utility facilities listed. The proposed amendment follows in bold

(C) The installation, improvement, renovation, construction, or development of any infrastructure, including but not limited to waterlines and water facilities, wastewater lines and wastewater facilities, drainage facilities, **gas utility lines and facilities**, electrical, communication, or cable television utilities, and 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 for the purposes of this section;

This would ensure that gas utility lines and facilities are included with other utilities in the category of installation, improvement, renovation, construction or development of any infrastructure not deemed to be the use of state of county lands for the purposes of section 343-5, Hawaii Revised Statutes.

Thank you for allowing The Gas Company to present these comments in support of HB 640.

Bill No. 640

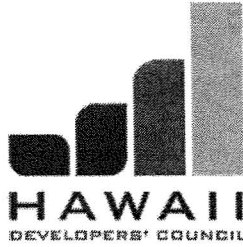
Support  Y  N

Date 2/23/09

Time 1529

Cat AF AS AX  BC

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

Bill No. 640

Support  Y  N

Date 2/23/09

Time 1656

Cat **AF AS AX**  C

Type 1  2  WI

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.

**BIA-HAWAII**  
BUILDING INDUSTRY ASSOCIATION

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

Bill No. 640  
Support  N  
Date 2/23/09  
Time 1650  
Cat AF AS AX  C  
Type 1  WI

Representatives Morita and Ito:

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

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-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.

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.



Bill No. 640

Support  Y  N

Date 2/23/09

Time 1700

Cat AF AS AX  DC

Type 1  2  WI

P.O. Box 3000  
Honolulu, Hawaii 96802-3000

February 23, 2009

Testimony for HB640 Relating to Environmental Impact Statements

Aloha Chairs Morita and Ito, Vice-Chairs Coffman and Har, and members of the committees:

My name is Thomas Young, Senior Vice-President, Gas Operations of The Gas Company. Thank you for the opportunity to provide testimony on HB640 Relating to Environmental Impact Statements.

The Gas Company supports the intent of HB 640, which would require an environmental assessment to those enumerated actions, with the exception of the installation and development of infrastructure and utilities within a public right-of-way or highway as the use of state or county lands.

The Gas Company notes that it is duly franchised to supply utility gas in the State of Hawaii and respectfully requests that proposed HB 640 be amended at subsection (a)(1)(C) to include gas utility facilities with the other utility facilities listed. The proposed amendment follows in bold

(C) The installation, improvement, renovation, construction, or development of any infrastructure, including but not limited to waterlines and water facilities, wastewater lines and wastewater facilities, drainage facilities, **gas utility lines and facilities**, electrical, communication, or cable television utilities, and 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 for the purposes of this section;

This would ensure that gas utility lines and facilities are included with other utilities in the category of installation, improvement, renovation, construction or development of any infrastructure not deemed to be the use of state of county lands for the purposes of section 343-5, Hawaii Revised Statutes.

Thank you for allowing The Gas Company to present these comments in support of HB 640.





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**

Bill No. 640  
Support  Y  N  
Date 2/23/09  
Time 1654  
Cat AF AS AX  B  
Type 1  2  3

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.

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.



**HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO**  
GENTRY PACIFIC DESIGN CENTER, STE. 215A • 560 N. NIMITZ HIGHWAY, #50 • HONOLULU, HAWAII 96817  
(808) 524-2249 • FAX (808) 524-6893

Bill No. 640

Support  Y  N

Date 2/23/09

Time 1544

Cat AF AS AX  BC

Type 1  2  WI

February 23, 2009

**NOLAN MORIWAKI**  
President  
Bricklayers & Ceramic Tile Setters  
Local 1 & Plasterers/Cement  
Masons Local 630

**JOSEPH O'DONNELL**  
Vice President  
Iron Workers Local 625

**DAMIEN T. K. KIM**  
Financial Secretary  
International Brotherhood of  
Electrical Workers Local 1188

**ARTHUR TOLENTINO**  
Treasurer  
Sheet Metal Workers (A) Local 293

**MALCOLM K. AHLO**  
Sergeant-At-Arms  
Carpet, Linoleum, & Soft Tile  
Local 1286

**REGINALD CASTANARES**  
Trustee  
Plumbers & Fitters Local 675

**THADDEUS TOMEI**  
Elevator Constructors Local 128

**JOSEPH BAZEMORE**  
Drywall, Tapers, & Finishers  
Local 1944

**RICHARD TACGERE**  
Glaziers, Architectural Metal &  
Glassworkers Local Union 1689

**JAUGHN CHONG**  
Roofers, Waterproofers & Allied  
Workers United Union of Roofers  
Local 221

**SARY AYCOCK**  
Joiners, Ironship Builders  
Local 627

**LYNN KINNEY**  
District Council 90  
Painters & Allied Trades  
Local 1791

**ALANI MAHOE**  
Operating Engineers Local 3

**EDONARD SEBRESOS**  
International Assoc. of  
Elect & Frost Insulators  
Allied Workers Local 132

Honorable Representative Hermina M. Morita, Chair  
Honorable Representative Denny Coffman, Vice Chair  
Honorable Representative Ken Ito, Chair  
Honorable Representative Sharon E. Har, Vice Chair  
Members of the House Committee Energy & Environmental Protection &  
Members of the House Committee on Water, Land & Ocean Resources  
Hawaii State Capital  
415 South Beretania Street  
Honolulu, HI 96813

RE: **IN SUPPORT OF HB 640**  
**RELATING TO ENVIRONMENTAL IMPACT STATEMENTS**  
Hearing: Tuesday, February 24, 2009, 10:00 a.m.

Dear Chair Morita, Vice Chair Coffman and the House Committee on  
Energy & Environmental Protection & Chair Ito, Vice Chair Har and the  
House Committee on Water, Land & Ocean Resources:

For the Record my name is Buzz Hong the Executive Director for  
the Hawaii Building & Construction Trades Council, AFL-CIO. Our  
Council is comprised of 16-construction unions and a membership  
of 26,000 statewide.

The Council **SUPPORTS** the passage of **HB640** that excludes 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.

Thank you for the opportunity to submit this testimony in support  
of HB 640.

Sincerely,

William "Buzz" Hong  
Executive Director

*Skilled Craftsmanship Makes the Difference.*





# MAUI CONTRACTORS ASSOCIATION

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**

I am Jacqueline Haraguchi, Executive Director of the Maui Contractors Association. Maui Contractors Association has over 250 members and has been the voice of the Building Industry in Maui County for over 40 years.

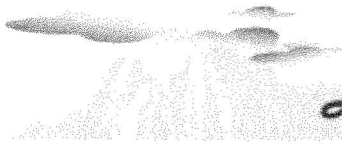
Maui Contractors Association strongly supports HB640, relating to Environmental Impact Statements. The purpose of this bill is to exclude the installation and development of infrastructure and utilities within a public right-of-way or highway from the requirements of Chapter 343, HRS. This bill can help better stimulate our economy by streamlining both permit processing and construction activities for businesses and government.

Thank you for the opportunity to provide testimony on this bill.

Sincerely,

Jacqueline Haraguchi  
Executive Director

Bill No. 640  
Support  Y  N  
Date 2/23/09  
Time 1605  
Cat AF AS AX  C  
Type 1  2  WI



# Hawaii's Thousand Friends

25 Maunuu Ave. Suite 102 PMB 252 • Kaneohe, HI 96734 • Phone/Fax: (808) 262-0682 E-mail: [thf@hawaii.net](mailto:thf@hawaii.net)

February 24, 2007

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Hermina Morita, Chair  
Rep. Danny Coffman, Vice Chair

COMMITTEE ON WATER, LAND & OCEAN RESOURCES

Rep. Ken Ito, Chair  
Rep. Sharon Har, Vice Chair

HB 640

RELATING TO ENVIRONMENTAL IMPACT STATEMENT

Bill No. 640

Support Y  N

Date 2/23

Time 1023

Cat AF AS AX  B C

Type 1  2 WI

Committee Chairs and members:

Thousand Friends, a statewide non-profit land and water use organization, opposes HB 640 that excludes 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.

In 2008 the legislature passed Act 1 that appropriated funds to contract with the University of Hawai`i at Manoa to conduct a study of the State's environmental review process.

That research is presently on going led by Karl Kim, Department of Urban and Regional Planning with Denise Antolini, Environmental Law Program and Peter Rappa, the Hawai`i Environmental Center. During this process they are conducting interviews with non-government organizations, state, federal and county officials, consultants and many others.

Until this comprehensive environmental review is completed and recommendations made to the legislature HB 640 is premature and could possible be counter to the findings of the study.

For the Protection of Hawaii's Native Wildlife

# HAWAII AUDUBON SOCIETY

850 Richards Street, Suite 505, Honolulu, HI 96813-4709  
 Phone/Fax: (808) 528-1432; hiaudsoc@piki.com  
 www.hawaii-audubon.com



February 24, 2009

**House Committee on Energy & Environmental Protection**  
**Rep. Hermina M. Morita, Chair & Rep. Denny Coffman, Vice Chair**

**House Committee on Water, Land & Ocean Resources**  
**Rep. Ken Ito, Chair, & Rep. Sharon Har, Vice Chair**

**Tuesday, February 24, 2009; 10:00 A.M., Conference Rm. 325**

**Re: HB 640, Relating to the Environmental Impact Statements.**

Bill No. 640

Support **Y**  **N**

Date 2/24

Time 523

Cat AF AS AX  B C

Type 1  2 WI

## TESTIMONY IN OPPOSITION

Chair Morita and Chair Ito, and members of the joint committees. My name is George Massengale and I a long time member of the Hawaii Audubon Society, during session I also serve as their Legislative Analyst. Thank you for the opportunity to submit our testimony in opposition of HB640, which would exclude the need of an environmental impact statement for certain improvements in public right-of-ways for various utility, wastewater, drainage, and roadway improvements.

The Hawaii Audubon Society was founded in 1939, and has over 1,500 members statewide. The Society's primary mission is the protection of Hawaii's native wildlife and habitats. We believe that Environmental Impact Statements (EIS) play a critical role in providing wildlife and habitat protection.

We understand that some believe that the need for a environmental impact statement for smaller project can be bothersome. However given Hawaii's fragile ecosystems even small improvement to various utility, wastewater, and drainage right-of-ways could have a negative impact of the habitat of endangered or threatened species. **We need to ensure that when right-of-way improvements are made, that some thought was given to the possible impact—positive or negative—that a proposed project may have on the natural environment.** Also we believe that HB640 is vague in the sense that it lacks specificity. Is it ment to cover just a 20' drange ditch or 1,000' water pipeline, or television cable conduit that is on the right-or-way on critical habitat?

We believe that HB640, as written is problematic, and will at some piont trigger judiciail review. At this point in time we would ask the committees's to defer this measure.

Thank you for the opportunity provide written testimony on this matter.

Sincerely,



George Massengale, JD  
Legislative Analyst

## EEPtestimony

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**From:** Brad Parsons [mauibrad@hotmail.com]  
**Sent:** Monday, February 23, 2009 3:10 PM  
**To:** EEPtestimony  
**Subject:** Regarding HB 640 RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

Aloha Chairs Morita and Ito, and Members of the Committees:  
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**"*

It is my understanding that this 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.  
Exempt large subdivisions on private agricultural lands that interface with highways via dedicated public access roads.  
Exempt building an elevated road above any existing road, including the Nimitz.

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.

**Please hold (kill) HB 640.**

Mahalo,  
Brad Parsons  
Hanalei, HI

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Bill No. 640  
Support Y  N  
Date 2/23/09  
Time 1511  
Cat AF AS AX  C  
Type 1  2  WI



**EEPttestimony**

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**From:** Bobby [mcbobby@hawaii.rr.com]  
**Sent:** Monday, February 23, 2009 3:18 PM  
**To:** EEPtestimony  
**Subject:** HB 640, February 24, 2009 10A, Conf Rm 325

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.

**Please hold HB 640**

**This is a bad bill with bad consequences if passed. Please do not support this!**

Bobby McClintock, Honolulu, HI

Bill No. 640

Support Y  N

Date 2/23/09

Time 1518

Cat AF AS AY P

Type 1  2 W

## EEPt testimony

---

**From:** Jeff Sacher [jsacher@kona.net]  
**Sent:** Monday, February 23, 2009 3:25 PM  
**To:** EEPtestimony  
**Subject:** HB 640

Aloha,

Please do not pass HB 640. The change to the Environmental Impact Statement law is not in the interest of what our environmental laws are meant to protect.

Jeff Sacher  
Kawaihae, Big Island

Bill No. 640

Support Y  N

Date 2/23/09

Time 1525

Cat AF AS AX B  C

Type 1  2 WI

Mail

Calendar

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**Say "no" to weakening EIS review**  
 Janice Palma-Glennie [palmtree7@earthlink.net]

This message was sent with High importance.

**Sent:** Monday, February 23, 2009 9:17 PM  
**To:** EEPtestimony

Aloha,  
 Please distribute my comments to the following representatives who sit on the COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION As well as the COMMITTEE ON WATER, LAND, & OCEAN RESOURCES. Mahalo.

Rep. Hermina M. Morita, Chair  
 Rep. Denny Coffman, Vice Chair  
 Rep. Ken Ito, Chair  
 Rep. Sharon E. Har, Vice Chair

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

Re: HB 640 RELATING TO ENVIRONMENTAL IMPACT STATEMENTS  
[http://www.capitol.hawaii.gov/session2009/Bills/HB640\\_.HTM](http://www.capitol.hawaii.gov/session2009/Bills/HB640_.HTM)

Aloha Chairs Morita and Ito, and Members of the above Committees:

Please vote against HB 640 that would amend the State Environmental Impact Statement law. Using "economic downturn" as an excuse to burden our childrens' future is unconscionable and unjustifiable.

Along with other unsavory changes, this law would exempt the building or modifying overhead transmission lines and underground gas lines along public hiking trails in conservation districts and along residential sidewalks. Large subdivisions on private agricultural lands that interface with highways via dedicated public access roads would be exempted from EIS purview. This proposed bill would modify the EIS law in the mid-review and further complicating that valuable process.

Again, environmental review process is necessary and hard-won. Please say "no" to HB 640.

Mahalo,  
 Janice Palma-Glennie  
 PO Box 4849  
 Kailua-Kona, HI 96745

Bill No. 640

Support Y  N

Date 2/23

Time 2:17

Cat AF AS AX B  C

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- Calendar
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- 090210 testimony
- 090212 Testimony
- 090217 Testimony
- 090224 Testimony
- Manage Folders...

**Testimony for HB640 on 2/24/2009 10:00:00 AM**  
 mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Tuesday, February 24, 2009 12:02 AM  
**To:** EEPtestimony  
**Cc:** kehaulani.watson@gmail.com

Testimony for EEP/WLO 2/24/2009 10:00:00 AM HB640

Conference room: 325  
 Testifier position: support  
 Testifier will be present: No  
 Submitted by: Trisha Kehaulani Watson, JD, PhD  
 Organization: Individual  
 Address: PO Box 61395 Honolulu  
 Phone: (808) 392-1617  
 E-mail: kehaulani.watson@gmail.com  
 Submitted on: 2/24/2009

Bill No. 640  
 Support  Y  N  
 Date 2/23  
 Time 2402  
 Cat AF AS AX  B  C  
 Type 1   2  WI

**Comments:**

Dear Chair Morita, Vice Chair Coffman, Chair Ito and Vice Chair Har,

Thank you for this opportunity to testify in strong support of HB 640.

The dire economic situation requires two forms of relief from the Legislature:

1. Support for economic revitalization; and
2. Legislation that reduces duplicative and undue regulatory processes.

HB 640 allows for an opportunity to accomplish both objectives. Minor projects without any potential for significant environmental impact should be excluded from HRS 343. I am a strong supporter of environmental protection and feel that the tremendous burden of processing minor projects ultimately comes at the price of reviewing major projects. Therefore, I support HB 640 as it would allow for critical projects essential to our economic revitalization that do not negatively impact our environment move forward, while improving the regulatory process that protects the environment we all share.

Thank you for this opportunity to testify.

## EEPTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 24, 2009 12:03 AM  
**To:** EEPTestimony  
**Cc:** kehaulani.watson@gmail.com  
**Subject:** Testimony for HB640 on 2/24/2009 10:00:00 AM

Testimony for EEP/WLO 2/24/2009 10:00:00 AM HB640

Conference room: 325  
Testifier position: support  
Testifier will be present: No  
Submitted by: Trisha Kehaulani Watson, JD, PhD  
Organization: Individual  
Address: PO Box 61395 Honolulu  
Phone: (808) 392-1617  
E-mail: [kehaulani.watson@gmail.com](mailto:kehaulani.watson@gmail.com)  
Submitted on: 2/24/2009

Bill No. 640  
Support  Y  N  
Date 2/24  
Time 1203  
Cat AF AS AX B  C  
Type 1  2  WI

**Comments:**

Dear Chair Morita, Vice Chair Coffman, Chair Ito and Vice Chair Har,

Thank you for this opportunity to testify in strong support of HB 640.

The dire economic situation requires two forms of relief from the Legislature:

1. Support for economic revitalization; and
2. Legislation that reduces duplicative and undue regulatory processes.

HB 640 allows for an opportunity to accomplish both objectives. Minor projects without any potential for significant environmental impact should be excluded from HRS 343. I am a strong supporter of environmental protection and feel that the tremendous burden of processing minor projects ultimately comes at the price of reviewing major projects. Therefore, I support HB 640 as it would allow for critical projects essential to our economic revitalization that do not negatively impact our environment move forward, while improving the regulatory process that protects the environment we all share.

Thank you for this opportunity to testify.



# Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803  
808.537.9019 hawaii.chapter@sierraclub.org

Bill No. HB640  
Support Y  N  
Date 2/24  
Time 647  
Cat AF AS AX  B C

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION Type 1 2  WI  
HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES  
February 24, 2009, 10:00 A.M.

(Testimony is 3 pages long)

## TESTIMONY IN STRONG OPPOSITION TO HB 640

Aloha Chair Morita, Chair Ito, and Members of the Committees:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, is strongly opposed to HB 640. This measure would weaken our three-decade old Hawai'i Environmental Protection Act, not only by eliminating the environmental review of potentially damaging projects, but upsetting the current process that is in place with the Environmental Council and the exemption requirements. Hawaii's sustainability is at risk if we provide sweeping exemptions to our environmental disclosure process. We also believe any changes to our environmental review law are premature until a thorough and objective analysis of the law is complete. The following testimony details our strong opposition to HB 640.

### Hawaii's Environmental Protection Act Has Served Hawai'i Well

Hawai'i residents have benefited from our environmental review law for nearly 30 years. It is a process that has been tested time and time again—and it works. Because of the law, Hawai'i is better planned, offers a higher quality of life, and is more sustainable.

The eloquent mandate of Chapter 343 is simple: it requires agencies and developers to tell the truth. The intent of our environmental review law is quite clear—to ask tough questions and disclose impacts of actions using state land or money. Please remember: the environmental review law is not about permitting; it is about disclosure. The law requires that environmental, cultural, and socio-economic impacts are fully disclosed so that decision makers can make informed decisions about permitted activities.

The intent behind Haw. Rev. Stat. Chapter 343, Hawai'i's Environmental Impact Statement statute ("HEPA"), is clear and broad:

*§343-1 Findings and purpose. The legislature finds that the quality of humanity's environment is critical to humanity's well being, that humanity's activities have broad and profound effects upon the interrelations of all components of the environment, and that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions. **The legislature further finds that the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and***

*society as a whole. It is the purpose of this chapter to establish a system of environmental review which will ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations.*

(emphasis added)

The lawmakers who enacted HEPA (which was a parallel to the National Environmental Policy Act) had the foresight to provide a mechanism to disclose environmental, economic, and social impacts of government actions. The purpose of the environmental review law was to ensure adequate disclosure of impacts from activities using state funds or land. The law provides for comments from the public and serves as a tool for decision makers to use in selecting the optimal choice for public resources. Public oversight of public resources is essential in a democracy. It provides for checks and balances between government and the public at large. HEPA ensures some form of accountability of our agencies—if they plan to take action that may diminish the quality of life or adversely impact the environment that everyone shares, HEPA discloses those impacts before they occur. Without such a disclosure, the state would blindly take actions without knowing what the future costs or benefits would be. The essence of our environmental review process is used to understand and fix problems *before they occur.*

#### **HB 640 Is Unnecessary and Undermines Our Existing Review Process**

The proposed amendment to Haw. Rev. Stat. Ch. 343 is unnecessary, as a process exists to deal with minor projects. While the Sierra Club is sympathetic to those who are concerned about the potential for complete environmental reviews being required on projects with little real impact, the law already wisely provides for an exemption process. If a triggered project is truly minor, then it would be excluded via categorical exemption. The Hawai'i Supreme Court went through this analysis in the Maui Kahana Sunset case, but correctly ruled that a new subdivision didn't qualify as a "minor improvement" that was exempt.

By right, the Sierra Club believes that every development should be automatically subject to our environmental review law, subject to exemption. Notably, the California's equivalent of our law (California Environmental Quality Act) does not contain any triggers, but rather applies broadly, subject to exemptions.

Finally, if the "exempt classes of action" are outdated or the interpretation of the exemptions dramatically changed, the proper amendment process would be to request the Environmental Council to review and suggest changes to Hawaii Administrative Rules (11-200-8). This has been done repeatedly in the past.

#### **HB 640 Would Eliminate Environmental Review of Potentially Damaging Projects**

The real effect of HB 640 would be that some major projects avoid environmental scrutiny provided by Haw. Rev. Stat. Ch. 343. Consider one of the frequently cited case law cases for this measure, Koa Ridge.

Castle & Cooke's massive Koa Ridge development was required by the Supreme Court (unanimous ruling) to complete an environmental review before they could seek their Land Use Commission reclassification. Koa Ridge was proposed as a master-planned community of 7500 housing units and a hospital on 1250 acres of some of the best prime agricultural land in the State of Hawai'i.

The development had significant environmental and social impacts. The development was outside of the county development plan when it was proposed. The project was to use an

estimated 3.76 million gallons of freshwater daily while potentially reducing the groundwater recharge of the existing agricultural land on which it was to be built. The U.S. Department of Agriculture stated in their testimony on the development that "[t]his project would consume a significant acreage of prime farm lands." Urban centers surrounding the project actually decreased in population during the decade prior to the Koa Ridge proposal. According to the developer's analysis, the traffic from the massive project would contribute to the deterioration in traffic flow around the project and increase commute time along the H2 and H1 freeways. At full build-out, the project would have required over 50 megawatts of new electricity. Koa Ridge would have completely altered the landscape of Central Oahu, converting over 1000 acres of high-quality agricultural land to urban uses permanently.

***If any project should undergo an environmental review, Koa Ridge was it. Yet the ONLY trigger to require this review was the fact that their sewer trunk line was to go underneath Kamehameha Highway.***

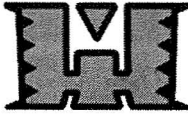
**No Changes Should Be Made to the Hawaii Environmental Protection Act Until a Comprehensive Study Is Complete.**

Any changes to Haw. Rev. Stat. Ch. 343 are premature before a thorough analysis of the entire law is complete. Changes may do lasting damage if the consequences of such amendments are not fully analyzed at the outset. Further, it is not fair to developers or communities to continue to change the rules of the game. The University of Hawai'i is already midway in completing its two year study, which includes interviews with hundreds of stakeholders and a careful analysis of other state's laws. A change to HEPA would delay this process and necessitate that all of the interviews currently completed be conducted again (at some cost).

We support funding a comprehensive, objective study of Hawaii's environmental review law as a means to further improve planning for Hawaii's sustainable future. We strongly urge you to hold HB 640 in committee today.

Thank you for the opportunity to testify.





**Hawaii Island Hardwoods** me

P.O. Box 390267 • Keauhou, HI 96739 • Office: 808 331 8363 • Fax: 808-331-0778

<http://www.hawaiiislandhardwoods.com>

Bill No. 640

Support  Y  N

Date 2/24/09

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February 24, 2009

State of Hawaii  
Hearing on HB 640

Testimony in support of HB 640

Our company is in the process of developing a sawmill and lumber finishing operation at Kea'au near Hilo. We are trying to obtain Three Phase electric power from HELCO.

The site has been used for various operations for over 20 years. Single Phase power, county water and telephone service have been established and the site possesses a dedicated left turn lane for south bound traffic to enter our site. The site is adjacent to the Humane Society and it is less than ¼ mile from the Kea'au Waste Transfer Station. Three phase power runs down the opposite side of Highway 130 and feeds the power needs at the transfer station.

We have an NPDES permit and a grading permit. Helco has informed us that it will be relatively easy and not expensive to install the necessary transformers and bring 3 phase across to our facility. They are, however, concerned that an EIS would be required to increase the power supply to this already existing commercial operation.

House Bill 640 looks to have significant potential to help us move forward with our construction and the expansion of our operation.

We urge the committees to approve and accept this bill.

Respectfully yours,

James E. Quinn  
Member Manager



LAND USE RESEARCH  
FOUNDATION OF HAWAII  
700 Bishop Street, Ste. 1928  
Honolulu, Hawaii 96813  
Phone 521-4717  
Fax 536-0132

Via Capitol Website

February 24, 2009

**House Committee on Energy and Environmental Protection and  
House Committee on Water, Land & Ocean Resources  
Hearing Date: February 24, 2009 at 10:00 AM in CR Room 325  
Testimony in Support of HB 640: Relating to Environmental Impact  
Statements  
(Environmental Assessment Exemptions)**

Honorable Chair Hermina Morita, Vice-Chair Denny Coffman and Members of the Energy and Environmental Protection Committee, and Honorable Chair Ken Ito, Vice Chair Sharon E. Har and Members of the Water, Land & Ocean Resources Committee,

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawai'i's significant natural and cultural resources and public health and safety.

LURF **supports HB 640**, which amends HRS §343-5(a) by excluding 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 (EA).

**HB 640.** The purpose of HB 640 is to amend HRS §343-5(a) to clarify when an environmental assessment is necessary when involving the use of state or county lands.

HB 640 amends HRS §343-5(a) by adding the following underscored language:

(a) Except as otherwise provided, an environmental assessment shall be required for actions that:

(1) Propose the use of state or county lands or the use of state or county funds, other than funds to be used for feasibility or planning studies for possible future programs or projects that the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real property; provided that ~~the~~:

**LURF's Position.** HB 640 is immediately necessary to clarify that the EA requirement should not be interpreted and expanded to include minor work touching public roadways.

We understand that a comprehensive review of Chapter 343 HRS is being conducted by representatives from the University of Hawaii Environmental Center, together with the William S. Richardson School of Law and the U.H. Urban Planning Department, which will be presented to the Legislature at the beginning of the 2010 session, however, we also recognize that this legislation is immediately needed to address the unintended consequences of recent government policies which have expanded the situations under which an environmental assessment is required beyond those originally intended by the legislature.

Based on the above, we respectfully request your **favorable consideration of HB 640.**

Thank you for the opportunity to express our **support for HB 640.**