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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. Section 343-5, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) Whenever an agency proposes an action in subsection  
4 (a), other than feasibility or planning studies for possible  
5 future programs or projects that the agency has not approved,  
6 adopted, or funded, or other than the use of state or county  
7 funds for the acquisition of unimproved real property that is  
8 not a specific type of action declared exempt under section 343-  
9 6, the agency shall prepare an environmental assessment for such  
10 action at the earliest practicable time to determine whether an  
11 environmental impact statement shall be required.

12           (1) For environmental assessments for which a finding of  
13 no significant impact is anticipated:

14           (A) A draft environmental assessment shall be made  
15 available for public review and comment for a  
16 period of thirty days;

17           (B) The office shall inform the public of the  
18 availability of the draft environmental



1 assessment for public review and comment pursuant  
2 to section 343-3;

3 (C) The agency shall respond in writing to comments  
4 received during the review and prepare a final  
5 environmental assessment to determine whether an  
6 environmental impact statement shall be required;

7 (D) A statement shall be required if the agency finds  
8 that the proposed action may have a significant  
9 effect on the environment; and

10 (E) The agency shall file notice of such  
11 determination with the office. When [~~a conflict~~  
12 ~~of interest may exist because~~] the proposing  
13 agency and the agency making the determination  
14 are the same, the office [~~may~~] shall review the  
15 agency's determination, consult the agency, and  
16 advise the agency of potential conflicts [~~7~~] of  
17 interest, to comply with this section. The  
18 office shall publish the final determination for  
19 the public's information pursuant to section 343-  
20 3.

21 The draft and final statements, if required, shall be  
22 prepared by the agency and submitted to the office. The draft



1 statement shall be made available for public review and comment  
2 through the office for a period of forty-five days. The office  
3 shall inform the public of the availability of the draft  
4 statement for public review and comment pursuant to section 343-  
5 3. The agency shall respond in writing to comments received  
6 during the review and prepare a final statement.

7 The office, when requested by the agency, may make a  
8 recommendation as to the acceptability of the final statement.

9 (2) The final authority to accept a final statement shall  
10 rest with:

11 (A) The governor, or the governor's authorized  
12 representative, whenever an action proposes the  
13 use of state lands or the use of state funds, or  
14 whenever a state agency proposes an action within  
15 the categories in subsection (a); or

16 (B) The mayor, or the mayor's authorized  
17 representative, of the respective county whenever  
18 an action proposes only the use of county lands  
19 or county funds.

20 Acceptance of a required final statement shall be a  
21 condition precedent to implementation of the proposed action.

22 Upon acceptance or nonacceptance of the final statement, the



1 governor or mayor, or the governor's or mayor's authorized  
2 representative, shall file notice of such determination with the  
3 office. The office, in turn, shall publish the determination of  
4 acceptance or nonacceptance pursuant to section 343-3."

5 SECTION 2. Section 343-6, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) After consultation with the affected agencies, the  
8 council shall adopt, amend, or repeal necessary rules for the  
9 purposes of this chapter in accordance with chapter 91  
10 including, but not limited to, rules that shall:

11 (1) Prescribe the procedures whereby a group of proposed  
12 actions may be treated by a single environmental  
13 assessment or statement;

14 (2) Establish procedures whereby specific types of  
15 actions, because they will probably have minimal or no  
16 significant effects on the environment, are declared  
17 exempt from the preparation of an environmental  
18 assessment; provided that the procedures shall require  
19 an exemption of an action by a proposing agency to be  
20 reviewed by and subject to the approval of the  
21 council;



- 1           (3)   Prescribe procedures for the preparation of an
- 2                   environmental assessment;
- 3           (4)   Prescribe the contents of an environmental assessment;
- 4           (5)   Prescribe procedures for informing the public of
- 5                   determinations that a statement is either required or
- 6                   not required, for informing the public of the
- 7                   availability of draft environmental impact statements
- 8                   for review and comments, and for informing the public
- 9                   of the acceptance or nonacceptance of the final
- 10                  environmental statement;
- 11          (6)   Prescribe the contents of an environmental impact
- 12                  statement;
- 13          (7)   Prescribe procedures for the submission, distribution,
- 14                  review, acceptance or nonacceptance, and withdrawal of
- 15                  an environmental impact statement;
- 16          (8)   Establish criteria to determine whether an
- 17                  environmental impact statement is acceptable or not;
- 18                  and
- 19          (9)   Prescribe procedures to appeal the nonacceptance of an
- 20                  environmental impact statement to the environmental
- 21                  council."



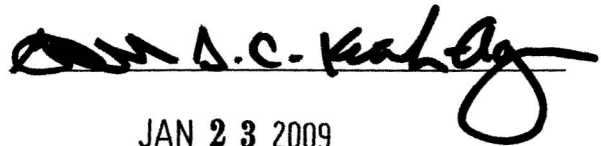
1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun, before its effective date.

6 SECTION 5. This Act shall take effect upon its approval.

7

INTRODUCED BY:

 D.C. Kealey

JAN 23 2009



**Report Title:**

Environmental Impact Statements; Exemptions

**Description:**

Requires the office of environmental quality to review determinations of the necessity for an environmental impact statement where the proposing agency is also the agency making the determination. Requires the environmental council to approve exemptions made by a proposing agency.

