

JAN 20 2012

A BILL FOR AN ACT

RELATING TO NATIVE HAWAIIAN TRADITIONAL AND CUSTOMARY RIGHTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Article XII, section 7 of the state
2 constitution requires the State to "protect all rights,
3 customarily and traditionally exercised for subsistence,
4 cultural and religious purposes and possessed by ahupua'a tenants
5 who are descendants of native Hawaiians who inhabited the
6 Hawaiian Islands prior to 1778, subject to the right of the
7 State to regulate such rights."

8 Act 50, Session Laws of Hawaii 2000, amended chapter 343,
9 Hawaii Revised Statutes, to require that environmental impact
10 statements assess the effects of a proposed action on the
11 cultural practices of the community and State. Act 50
12 specifically acknowledges the State's responsibility to protect
13 native Hawaiian cultural practices. Act 50 states in pertinent
14 part in section 1:

15 "The legislature also finds that native Hawaiian culture
16 plays a vital role in preserving and advancing the unique
17 quality of life and the "aloha spirit" in Hawaii. Articles IX
18 and XII of the state constitution, other state laws, and the



1 courts of the State impose on government agencies a duty to
2 promote and protect cultural beliefs, practices, and resources
3 of native Hawaiians as well as other ethnic groups.

4 Moreover, the past failure to require native Hawaiian
5 cultural impact assessments has resulted in the loss and
6 destruction of many important cultural resources and has
7 interfered with the exercise of native Hawaiian culture. The
8 legislature further finds that due consideration of the effects
9 of human activities on native Hawaiian culture and the exercise
10 thereof is necessary to ensure the continued existence,
11 development, and exercise of native Hawaiian culture."

12 More than ten years after the enactment of Act 50, the
13 legislature finds that the State's environmental impact
14 statement law still does not adequately protect constitutionally
15 protected native Hawaiian traditional and customary rights, due
16 in large part to the absence of language in Act 50 that provided
17 a mechanism for the consideration of cultural practices in the
18 environmental review process.

19 The purpose of this Act is to ensure that native Hawaiian
20 traditional and cultural rights are protected in the
21 environmental impact statement law.



1 SECTION 2. Chapter 343, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§343- Cultural impact assessment and cultural impact
5 statement. (a) All draft and final environmental assessments
6 shall include a cultural impact assessment.

7 (b) All draft and final environmental impact statements
8 shall include a cultural impact statement."

9 SECTION 3. Section 343-2, Hawaii Revised Statutes, is
10 amended by adding two new definitions to be appropriately
11 inserted and to read as follows:

12 "Cultural impact assessment" means a written evaluation to
13 determine whether an action may have a significant effect on the
14 cultural sites and practices of the community and State,
15 including the traditional and customary rights of native
16 Hawaiians protected pursuant to article XII, section 7, of the
17 Hawaii state constitution.

18 "Cultural impact statement" means an informational document
19 that discloses the effects of a proposed action on the cultural
20 sites and practices of the community and State, including the
21 traditional and customary rights of native Hawaiians protected



1 pursuant to article XII, section 7, of the Hawaii state
2 constitution."

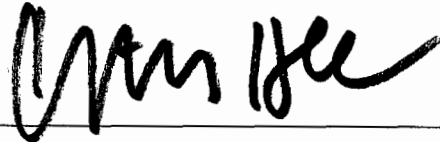
3 SECTION 4. Pursuant to section 343-6, Hawaii Revised
4 Statutes, the environmental council shall adopt rules for the
5 purposes of this Act no later than January 1, 2014.

6 SECTION 5. New statutory material is underscored.

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

8

INTRODUCED BY:



S.B. NO. 2211

Report Title:

Cultural Impact Assessments; Cultural Impact Statements

Description:

Requires that draft and final environmental assessments include a cultural impact assessment. Requires that draft and final environmental impact statements include a cultural impact statement.

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