
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

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

1 SECTION 1. 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- Exception to applicability of chapter. (a)

5 Notwithstanding any other law to the contrary, if at the time an
6 application for a secondary action is submitted, a primary
7 action that requires a permit or approval is not subject to
8 discretionary consent, and that secondary action is ancillary
9 and limited to the installation, improvement, renovation,
10 construction, or development of infrastructure within an
11 existing public right-of-way or highway, the agency may exempt
12 that secondary action from this chapter; provided that the
13 applicant for the primary action shall submit documentation from
14 the appropriate agency confirming that no further discretionary
15 approvals are required.

16 (b) As used in this section:

17 "Discretionary consent" means:

18 (1) An action defined in section 343-2; or



1 (2) An approval from a decision-making authority in an
2 agency, which approval is subject to a public hearing.

3 "Infrastructure" includes waterlines and water facilities;
4 wastewater lines and wastewater facilities; gas lines and gas
5 facilities; drainage facilities; electrical, communications,
6 telephone, and cable television utilities; and highway, roadway,
7 and driveway improvements.

8 "Primary action" refers to any action outside of the
9 highway or public right-of-way that is on private property.

10 "Secondary action" refers to any action on infrastructure
11 within the highway or public right-of-way that is ancillary or
12 incidental to the primary action."

13 SECTION 2. Section 343-5, Hawaii Revised Statutes, is
14 amended by amending subsections (c) and (d) to read as follows:

15 "(c) Whenever an applicant proposes an action specified by
16 subsection (a) that requires approval of an agency and that is
17 not a specific type of action declared exempt under section
18 343-6, the agency initially receiving and agreeing to process
19 the request for approval shall require the applicant to prepare
20 an environmental assessment of the proposed action at the
21 earliest practicable time to determine whether an environmental
22 impact statement shall be required; provided that, for an action



1 that proposes the establishment of a renewable energy facility,
2 a draft environmental impact statement shall be prepared at the
3 earliest practicable time. The final approving agency for the
4 request for approval is not required to be the accepting
5 authority.

6 For environmental assessments for which a finding of no
7 significant impact is anticipated:

- 8 (1) A draft environmental assessment shall be made
9 available for public review and comment for a period
10 of thirty days;
- 11 (2) The office shall inform the public of the availability
12 of the draft environmental assessment for public
13 review and comment pursuant to section 343-3; and
- 14 (3) The applicant shall respond in writing to comments
15 received during the review, and the agency shall
16 prepare a final environmental assessment to determine
17 whether an environmental impact statement shall be
18 required. A statement shall be required if the agency
19 finds that the proposed action may have a significant
20 effect on the environment. The agency shall file
21 notice of the agency's determination with the office,
22 which, in turn, shall publish the agency's



1 determination for the public's information pursuant to
2 section 343-3.

3 The draft and final statements, if required, shall be
4 prepared by the applicant, who shall file these statements with
5 the office.

6 The draft statement shall be made available for public
7 review and comment through the office for a period of forty-five
8 days. The office shall inform the public of the availability of
9 the draft statement for public review and comment pursuant to
10 section 343-3.

11 The applicant shall respond in writing to comments received
12 during the review and prepare a final statement. The office,
13 when requested by the applicant or agency, may make a
14 recommendation as to the acceptability of the final statement.

15 The authority to accept a final statement shall rest with
16 the agency initially receiving and agreeing to process the
17 request for approval. The final decision-making body or
18 approving agency for the request for approval is not required to
19 be the accepting authority. The planning department for the
20 county in which the proposed action will occur shall be a
21 permissible accepting authority for the final statement.



1 Acceptance of a required final statement shall be a
2 condition precedent to approval of the request and commencement
3 of the proposed action. Upon acceptance or nonacceptance of the
4 final statement, the agency shall file notice of such
5 determination with the office. The office, in turn, shall
6 publish the determination of acceptance or nonacceptance of the
7 final statement pursuant to section 343-3.

8 The agency receiving the request, within thirty days of
9 receipt of the final statement, shall notify the applicant and
10 the office of the acceptance or nonacceptance of the final
11 statement. The final statement shall be deemed to be accepted
12 if the agency fails to accept or not accept the final statement
13 within thirty days after receipt of the final statement;
14 provided that the thirty-day period may be extended at the
15 request of the applicant for a period not to exceed fifteen
16 days.

17 In any acceptance or nonacceptance, the agency shall
18 provide the applicant with the specific findings and reasons for
19 its determination. An applicant, within sixty days after
20 nonacceptance of a final statement by an agency, may appeal the
21 nonacceptance to the environmental council, which, within thirty
22 days of receipt of the appeal, shall notify the applicant of the



1 council's determination. In any affirmation or reversal of an
2 appealed nonacceptance, the council shall provide the applicant
3 and agency with specific findings and reasons for its
4 determination. The agency shall abide by the council's
5 decision.

6 (d) Whenever an applicant requests approval for a proposed
7 action and there is a question as to which of two or more state
8 or county agencies with jurisdiction has the responsibility of
9 ~~[preparing the]~~ determining whether an environmental
10 ~~[assessment,]~~ assessment is required, the office, after
11 consultation with and assistance from the affected state or
12 county agencies, shall determine ~~[which agency shall prepare]~~
13 whether preparation of the [assessment.] assessment by the
14 applicant is required."

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Environmental Impact Statements; Exemption

Description:

Authorizes agencies to exempt certain secondary actions from the environmental impact statements law. Requires that applicants proposing certain actions identified in the environmental impact statements law prepare environmental assessments. Requires the office of environmental quality control to determine whether preparation of an environmental assessment by an applicant is required in cases where it is uncertain which agency has the responsibility of determining whether an environmental assessment is required. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

