

1 with the approval of the governor, to exempt department projects
2 from the special management area permit and shoreline setback
3 variance requirements. This part is repealed on June 30, 2015.

4 Part IV exempts all work involving submerged lands used for
5 state commercial harbor purposes from any permit and site plan
6 review requirements for lands in the conservation district.

7 This part does not sunset.

8 Part V temporarily authorizes a more streamlined process
9 for exempting state and county projects from the environmental
10 review process of chapter 343, Hawaii Revised Statutes. Part V
11 also temporarily reduces the deadline for challenging the lack
12 of an environmental assessment for a state project. This part
13 is repealed on June 30, 2015.

14 PART II

15 SECTION 2. The purpose of this part is to temporarily
16 exempt airport structures and improvements from the special
17 management area permit and shoreline setback variance
18 requirements when the structures and improvements are necessary
19 to comply with Federal Aviation Administration regulations.

20 SECTION 3. Section 261-4, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:



1 "(c) Structures and improvements. [~~All~~] Notwithstanding
2 any law or provision to the contrary, all structures and
3 improvements to land, to be used for airport purposes[~~, may~~]:
4 (1) May be planned, designed, and constructed by the
5 department[~~-~~]; and
6 (2) Shall be exempt from requirements to obtain a special
7 management area minor permit, special management area
8 use permit, or shoreline setback variance; provided
9 that the structures and improvements relating to
10 airports are necessary to comply with Federal Aviation
11 Administration regulations."

PART III

13 SECTION 4. The purpose of this part is to temporarily
14 authorize the heads of the department of land and natural
15 resources and department of transportation, with the governor's
16 approval, to exempt their department projects from the special
17 management area permit and shoreline setback variance
18 requirements. The legislature intends that the exemptions
19 authorized under this part be additional to the current
20 exemptions under chapter 205A or pertinent rule.



1 SECTION 5. Chapter 171, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§171- Exemption from special management area permit
5 and shoreline setback variance requirements; authorized. (a)

6 For the purpose of this section, "state project" means a
7 development as defined in section 205A-22 for which:

8 (1) The contracting agency is the department of land and
9 natural resources; and

10 (2) The funding includes state or federal funds.

11 (b) The board, with the approval of the governor, may
12 exempt any state project from the requirements of part II and
13 part III of chapter 205A; provided that any project exempted
14 under this section shall be subject to:

15 (1) The requirements of chapter 343, unless exempt from
16 the need for an environmental assessment under that
17 chapter; and

18 (2) Consultation with the office of conservation and
19 coastal lands and office of planning.

20 (c) The board may delegate the authority granted under
21 this section to the chairperson."

1 SECTION 6. Chapter 264, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§264- Exemption from special management area permit
5 and shoreline setback variance requirements; authorized. (a)

6 For the purpose of this section, "state project" means a
7 development as defined in section 205A-22 for which:

8 (1) The contracting agency is the department of
9 transportation; and

10 (2) The funding includes state or federal funds.

11 (b) The director of transportation, with the approval of
12 the governor, may exempt any state project from the requirements
13 of part II and part III of chapter 205A; provided that any
14 project exempted under this section shall be subject to:

15 (1) The requirements of chapter 343, unless exempt from
16 the need for an environmental assessment under that
17 chapter; and

18 (2) Consultation with the office of conservation and
19 coastal lands and office of planning."

20 SECTION 7. Chapter 266, Hawaii Revised Statutes, is
21 amended by adding a new section to part I to be appropriately
22 designated and to read as follows:



1 SECTION 9. Chapter 266, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§266- Exemption from conservation district permitting
5 and site plan approval requirements. Notwithstanding any law to
6 the contrary, all work involving submerged lands used for state
7 commercial harbor purposes shall be exempt from any permitting
8 and site plan approval requirements established under chapter
9 183C for lands in a conservation district."

10 PART V

11 SECTION 10. The purpose of this part is to temporarily
12 authorize a more streamlined process for exempting state and
13 county projects from the environmental review process of chapter
14 343, Hawaii Revised Statutes. The legislature emphasizes that
15 this part does not statutorily expand the types of state
16 projects that are exempt under the existing provisions of
17 chapter 343 or pertinent implementing rules.

18 This part also reduces the deadline for challenging the
19 lack of an assessment for a state project.

20 SECTION 11. Chapter 343, Hawaii Revised Statutes, is
21 amended by adding a new section to be appropriately designated
22 and to read as follows:



1 "§343- Exemption list for state; authorization for
2 establishment by governor. Until June 30, 2015, the governor
3 may establish a list of specific types of state projects that
4 are actions exempt from the need for preparation of an
5 environmental assessment because they will probably have minimal
6 or no significant effects on the environment. The governor may
7 include in the list types of state projects already exempt by
8 state agencies and other types of state projects deemed by the
9 governor to qualify for exemption under this section.

10 The governor may establish the list without necessity of:

- 11 (1) Approval by the environmental council;
12 (2) Compliance with procedures established by the
13 environmental council pursuant to section 343-6(a)(2)
14 or rules of the office of environmental quality
15 control; or
16 (3) Adoption of rules under chapter 91.

17 The office, upon request of the governor, shall provide
18 public notice of the list of exemptions and any amendments
19 through the periodic bulletin prescribed in section 343-3.

20 A list established by the governor and any amendment to it
21 shall take effect on the date specified by the governor, but not



1 earlier that the issuance date of the bulletin by which the
2 office informs the public of the list and amendment."

3 SECTION 12. Section 343-2, Hawaii Revised Statutes, is
4 amended by adding three new definitions of "construction",
5 "county project", and "state project" to be appropriately
6 inserted and to read as follows:

7 "Construction" includes grading, grubbing, stockpiling,
8 excavation, foundation laying, pile driving, demolition,
9 building, reconstruction, rehabilitation, renovation, repairing,
10 maintaining, paving, landscaping, and any other improvement of
11 real property.

12 "County project" means a construction project for which:

- 13 (1) The contracting agency is a county agency; and
14 (2) The funding includes county, state, or federal funds.

15 "State project" means a construction project for which:

- 16 (1) The contracting agency is a state agency; and
17 (2) The funding includes state or federal funds."

18 SECTION 13. Section 343-7, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Any judicial proceeding[7] concerning an applicant's
21 action, the subject of which is the lack of assessment required
22 under section 343-5, shall be initiated within one hundred



1 twenty days of the agency's decision to [~~carry out or~~] approve
2 the action, or, if a proposed action is undertaken without a
3 formal determination by the agency that a statement is or is not
4 required, a judicial proceeding shall be instituted within one
5 hundred twenty days after the proposed action is started. The
6 council or office, any agency responsible for approval of the
7 action, or the applicant shall be adjudged an aggrieved party
8 for the purposes of bringing judicial action under this
9 subsection. Others, by court action, may be adjudged aggrieved.

10 Any judicial proceeding concerning an agency's action, the
11 subject of which is the lack of assessment required under
12 section 343-5, shall be initiated within sixty days of the
13 agency's decision to carry out the action, or, if a proposed
14 action is undertaken without a formal determination by the
15 agency that an assessment is or is not required, a judicial
16 proceeding shall be instituted within sixty days after the
17 proposed action is started. The council, office, or any agency
18 responsible for approval of the action shall be adjudged an
19 aggrieved party for the purposes of bringing judicial action
20 under this subsection."

21 SECTION 14. A list of exempted state projects established
22 by the governor pursuant to this part shall be repealed on June



1 30, 2015; provided that the governor may extend the exemption
2 for any projects identified on the list for which construction
3 has commenced but not concluded by June 30, 2015, after the
4 repeal of this part.

5 PART VI

6 SECTION 15. It is the intent of this Act not to jeopardize
7 the receipt of any federal aid. If any provision of this Act is
8 found to be in conflict with federal requirements that are a
9 prescribed condition for the allocation of federal funds to the
10 State, those provisions shall be void.

11 SECTION 16. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 17. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

20 SECTION 18. The repeal of part II, III, or V of this Act
21 shall not affect rights and duties that matured, penalties that



1 were incurred, and proceedings that were begun before the repeal
2 date, including:

3 (1) The validity of any state project exempted under part
4 II from the special management area permit and
5 shoreline setback variance requirements before the
6 repeal date of that part; and

7 (2) The validity of any state project exempted under part
8 III from the environmental assessment requirement
9 before the repeal date of that part.

10 SECTION 19. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 20. This Act shall take effect on July 1, 2012;
13 provided that:

14 (1) Parts II, III, and V shall be repealed on June 30,
15 2015; and

16 (2) On July 1, 2015, the following sections of the Hawaii
17 Revised Statutes shall be reenacted in the form in which they
18 existed on the day before the effective date of this Act: 261-4,
19 343-2, and 343-7.



Report Title:

Economic Development; Special Management Area Permits, Shoreline Setback Variances, Environmental Assessment Exemptions

Description:

Part II temporarily exempts airport structures and improvements from the special management area permit and shoreline setback variance requirements when the structures and improvements are necessary to comply with FAA regulations. Part III temporarily authorizes the department of land and natural resources and department of transportation, with the approval of the governor, to exempt department projects from the special management area permit and shoreline setback variance requirements. Part IV exempts all work involving submerged lands used for state commercial harbor purposes from any permit and site plan review requirements for lands in the conservation district. Part V temporarily authorizes a more streamlined process for exempting state and county projects from the environmental review process of chapter 343, HRS, and reduces the deadline for challenging the lack of an environmental assessment for a state or county project. (SB755 HD2)

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

