

Honolulu, Hawaii

April 5, 2012

RE: S.B. No. 2873  
S.D. 1  
H.D. 3

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2873, S.D. 1, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS,"

begs leave to report as follows:

The purpose of this measure is to permanently:

- (1) Exempt secondary actions, limited to the development of infrastructure within an existing public right-of-way or highway, from the environmental impact statements law if certain conditions are met;
- (2) Require applicants to prepare environmental assessments when necessary; and
- (3) Mandate that the Office of Environmental Quality Control determine whether the preparation of the assessment is required by an applicant when there is a question as to which of two or more state or county agencies has the responsibility of determining whether an environmental assessment is required.



The Department of Transportation; Department of Business, Economic Development, and Tourism; Office of Environmental Quality Control; General Contractors Association of Hawaii; NAIOP Hawaii; Land Use Research Foundation of Hawaii; Building Industry Association of Hawaii; and The Chamber of Commerce of Hawaii testified in support of this measure. The Sierra Club Hawaii Chapter testified in opposition to this measure. The Hawaiian Electric Company, Inc.; Hawaii Electric Light Company; and Maui Electric Company provided comments on this measure.

Your Committee finds that this measure will make the current exemption for secondary actions that occur within existing public highways or right-of-ways permanent, which is an extension of Act 87, Session Laws of Hawaii 2009. As such, your Committee finds that certain inconsistencies in the language of this measure as received by your Committee should be amended to better align this bill with Act 87.

Accordingly, your Committee has amended this measure by:

- (1) Deleting "if at the time an application for a secondary action is submitted," from subsection (a) of the new section added to Chapter 343, Hawaii Revised Statutes, relating to exceptions to applicability of the chapter;
- (2) Clarifying that it is the applicant for the primary action who must submit documentation from the appropriate agency confirming that no further discretionary approvals are required in order for the secondary action to be exempt; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2873, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2873, S.D. 1, H.D. 3.



Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,

  
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GILBERT KEITH-AGARAN, Chair



