



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 1, 2012

HB 2611
RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

HOUSE COMMITTEE ON TRANSPORTATION

The Department of Transportation supports HB 2611 to permanently amend Chapter 343, Hawaii Revised Statutes, to clarify current exemptions for secondary actions and require that applicants prepare environmental assessments when required.

The amendment will save the Department of Transportation unnecessary work effort and man hours on the processing of minor work project reviews. Without the exemption, we're looking at a range of processing times and costs from several months and several thousands of dollars (for simple projects such as a home driveway access) to possibly a year or more and tens of thousands of dollars if a consultant needs to be retained to process an environmental review due to any opposition to the minor work project.

The Department of Transportation has been inundated with a large number of minor work project reviews that increases the processing time for applications affecting rights-of-way. Amending this chapter will relieve the DOT from conducting an environmental assessment (EA) when they are not the initiators of the EA process and will prevent unnecessary delays for actions that are clearly exempt from the EA requirements.

Thank you for the opportunity to provide testimony.





STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY
CONTROL

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COMMITTEE ON TRANSPORTATION

HB 2611, RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

Testimony of Gary Hooser
Director of the Office of Environmental Quality Control

February 1, 2012

1 **Office's Position:** Support intent however oppose existing language and offer amendments.

2 **Fiscal Implications:** None

3 **Purpose and Justification:** This measure proposes to permanently amend chapter 343, Hawaii
4 Revised Statutes to clarify and make permanent current exemptions for secondary actions that
5 occur within the highway or public right-of-way.

6 While the OEQC supports the intent of allowing the exemption of minor highway
7 improvements occurring within a highway or public right-of-way, we feel fundamentally that
8 this measure is not necessary as provisions for exempting minor and inconsequential actions
9 from Chapter 343 already exist.

10 The primary purpose and focus of Chapter 343 is based on evaluating environmental
11 impacts. The existing law is clear that agencies already have the authority to quickly exempt any
12 project or action that is expected to have no or negligible environmental impacts. While most
13 minor driveway ingress and egress type highway improvements fall into this category, there is a
14 point somewhere however depending on the size, scope, location and possibly other factors –

1 where an exemption is not appropriate and a proper environmental review is needed. For this
2 reason, the OEQC in general opposes all “one size fits all” exemptions and believes that each
3 project/action must be evaluated on the potential impacts and not exempted because it meets a
4 certain legal definition and therefore is exempt regardless of what those impacts might be. It is
5 the OEQC’s clear belief that this provision exempting actions based on the inter-relationships
6 between primary actions, secondary actions, ministerial permits and discretionary permits is not
7 necessary and in fact because of the convoluted nature of its language is actually problematic.

8 However, if the legislature deems that they would like to continue supporting this
9 approach we offer the following suggestions for amendments:

- 10 a) On page one line 11 amend to read “highway, agency may exempt that secondary
11 action from this chapter” and delete existing language that states “that secondary
12 action shall be exempt from this chapter”

13 The reason for this amendment is to make it clear this is not a one size fits all rubber
14 stamp exemption and the agency must first at least look at the proposed action and make a
15 conscious decision to exempt.

- 16 b) On page one line 12: Suggest deleting “provided that the applicant shall submit
17 documentation from the appropriate agency confirming that no further
18 discretionary approvals are required.” and replacing with language that states
19 “provided that the secondary actions environmental impacts are not significant”.

20 This provision will ensure that larger highway projects that may in fact have significant
21 environmental impacts are properly evaluated and not simply automatically exempted without
22 regards to their size, scope, location etc.



**Testimony to the House Committee on Transportation
Wednesday, February 1, 2012
9:00 a.m.
State Capitol - Conference Room 309**

**RE: HOUSE BILL NO. 2611 RELATING TO ENVIRONMENTAL IMPACT
STATEMENTS**

Chair Souki, Vice Chair Ichiyama, and members of the committee:

The Chamber supports H.B. No. 2611 which proposes to permanently amend chapter 343, Hawaii Revised Statutes to clarify current exemptions for secondary actions and require that applicants prepare environmental assessments when required.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The legislation is needed because of the recent court decisions where any action that involved the use of a state or county road right of way was a "trigger" for the EA/EIS. Because an access improvement, easement, drainage, waterline, etc., is now viewed as a use of state or county lands when it touches (over, under, across) a state or county road right of way, the entire project is then required to prepare and environmental assessment for the entire project.

Requiring the preparation of a 343 HRS document for projects with insignificant environmental impacts makes a mockery of the EA/EIS process. If the legislative intent was that an EA/EIS would be required any time the project touches a public road, then the law should be changed to require an EA/EIS for all projects because all projects, at some point, connect to a public road.

The Chamber strongly supports H.B. No. 2611 which effectively excludes the installation and development of infrastructure and utilities within an existing public right-of-way or highway as the use of state or county lands for purposes of requiring an environmental assessment.

Thank you for this opportunity to express our views.

BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

February 1, 2012

Representative Joseph Souki, Chair
COMMITTEE ON TRANSPORTATION
State Capitol, Room 309
415 South King Street
Honolulu, Hawaii 96813

Dear Chair Souki:

Subject: House Bill No. 2611 Relating to Environmental Impact Statements

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII strongly supports H.B. No. 2611 which proposes to permanently amend chapter 343, Hawaii Revised Statutes to clarify current exemptions for secondary actions and require that applicants prepare environmental assessments when required.

The legislation is needed because of the recent court decisions where any action that involved the use of a state or county road right of way was a "trigger" for the EA/EIS. Because an access improvement, easement, drainage, waterline, etc., is now viewed as a use of state or county lands when it touches (over, under, across) a state or county road right of way, the entire project is then required to prepare and environmental assessment for the entire project.

Requiring the preparation of a 343 HRS document for projects with insignificant environmental impacts makes a mockery of the EA/EIS process. If the legislative intent was that an EA/EIS would be required any time the project touches a public road, then the law should be changed to require an EA/EIS for all projects because all projects, at some point, connect to a public road.

The BIA strongly supports H.B. No. 2611 which effectively excludes the installation and development of infrastructure and utilities within an existing public right-of-way or highway as the use of state or county lands for purposes of requiring an environmental assessment.

Thank you for this opportunity to express our views.

February 1, 2012

The Honorable Representative Joseph Souki
House Committee on Transportation
Hawai'i State Capitol
Honolulu, HI 96813

RE: Testimony opposing HB2611 relating to Environmental Impact Statements

Chair Souki and Committee members:

The Outdoor Circle (TOC) opposes this legislation.

We believe that Chapter 343 currently provides the mechanisms for exempting minor actions. Existing law already gives agencies the authority to quickly exempt any project or action that is expected to have no or negligible environmental impacts. However, sometimes these projects aren't as innocuous as they appear and they cannot qualify for an exemption under Ch. 343. That's the beauty of the law. It has flexibility.

HB2611 throws a one-size-fits-all blanket over all minor projects. This type of policy making removes the safety net now provided in Ch. 343 that snares those few projects that will end up creating more impacts than originally met the eye.

Please hold this legislation.

Respectfully,

Bob Loy
Director of Environmental Programs

ichiyama1 - Curi

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2012 10:32 AM
To: TRNtestimony
Cc: beverlyzigmond@juno.com
Subject: Testimony for HB2611 on 2/1/2012 9:00:00 AM

Testimony for TRN 2/1/2012 9:00:00 AM HB2611

Conference room: 309
Testifier position: Oppose
Testifier will be present: No
Submitted by: beverly zigmond
Organization:
E-mail: beverlyzigmond@juno.com
Submitted on: 1/30/2012

Comments:

This proposed bill really scares me. Chapter 343 was put in place because 'humanity's environment is critical to humanity's well being, that humanity's activities have broad and profound effects upon the interrelations of all components of the environment...' (from chapter 343).

There is already a process in place for exemptions, when they are needed. Exemptions should not be applied capriciously. This bill sounds like the governor trying to pull another superferry.