



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

March 27, 2012

**S.B. 2873, S.D. 1, H.D. 2
RELATING TO ENVIRONMENTAL IMPACT STATEMENTS**

HOUSE COMMITTEE ON JUDICIARY

The Department of Transportation strongly supports the Administration's Senate Bill 2873 SD 1 HD 2 to permanently amend Chapter 343, Hawaii Revised Statutes, to clarify current exemptions for secondary actions and require that applicants prepare environmental assessments when required.

We have had the exemption for several years now, and it has effectively addressed the problem of secondary action reviews with no discernable negative effect on the public. The intent of this amendment is to make this exemption permanent.

In the past, 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.

We are however, opposed to having the Office of Environmental Quality Control (OEQC) determine when an Environmental Assessment (EA) is required. Our Department is capable of making that determination. OEQC's assistance should be limited to consultation and determining which agency should be determining whether preparation of an environmental assessment by an applicant is required when two or more state or county agencies have jurisdiction.

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We are also opposed to the inclusion of a sunset date. Should the exemption sunset, DOT would need to go back to spending staff and consultant time and money reviewing and processing applications for secondary actions that would have negligible effect on the environment. The range of processing times and costs may be 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 time for this review and processing will delay project completion.

Thank you for the opportunity to provide testimony.



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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

March 27, 2012

TO: HONORABLE REPRESENTATIVES GILBERT KEITH-AGARAN, CHAIR,
KARL RHOADS, VICE CHAIR AND MEMBERS OF THE HOUSE
COMMITTEE ON JUDICIARY

SUBJECT: **SUPPORT OF S.B. 2873, SD1, HD2, RELATING TO ENVIRONMENTAL
IMPACT STATEMENTS.** Permanently amends chapter 343, Hawaii Revised
Statutes, to clarify current exemptions for secondary actions and require that
applicants prepare environmental assessments when required. (SB2873 HD2)

HEARING

DATE: Tuesday, March 27, 2012
TIME: 2:00 p.m.
PLACE: Conference Room 325

Dear Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is celebrating its 80th anniversary this year; GCA remains the largest construction association in the State of Hawaii whose mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest. GCA **supports** S.B. 2873, SD1, HD2, Related to Environmental Impact Statements.

Senate Bill 2873, SD1, HD2 proposes to establish an approval process, which maintains an exemption for secondary actions, including, but not limited to various utility connections, like waterlines, wastewater lines, gas lines, gas facilities, electrical, communications, telephone and cable television utilities.

In 2009, The Department of Transportation, the Office of Environmental Quality Control and other interested stakeholders worked to pass Act 87 (SLH, 2009), which provided an exemption for secondary actions. Since then, Act 87 (2009) has helped relieve agencies from conducting environmental assessments when the agencies have not proposed the action. Act 87 (2009) was adopted to prevent unnecessary delays for secondary actions that would be clearly exempt from environmental assessment requirements, such as an installation of a utility line across a public right-of-way.

The current version of S.B. 2873, SD1, HD2 further extends life of Act 87 (2009) and exempts such secondary action, which will speed up both state and private projects.

Honorable Jerry Chang, Chair
House Committee on Water, Land and Ocean Resources
March 12, 2012
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For these reasons, **GCA supports the S.B. 2873, SD1. HD2 which would make exemptions to abovementioned secondary actions permanent.**

Thank you for the opportunity to provide support on this measure.

Testimony before the House Committee on Judiciary

By Rouen Liu
Engineering Department
Hawaiian Electric Company, Inc.

March 27, 2012

SB 2873 SD1 HD2 Relating to Environmental Impact Statements

Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee:

My name is Rouen Liu and I am testifying on behalf of the Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company.

Position:

We support the intent of SB 2873SD1HD2. However, we have concerns on the language as written in one particular section of the bill and offer comments and an amendment.

Comments:

Current language in the bill requires the applicant to submit documentation from the appropriate agency confirming that no further discretionary approvals are required. In many cases, the applicant is the utility simply providing service as requested by an Owner or Developer of the primary action. Examples of a primary action could be a new residential development or improvements to an existing building.

Therefore, the utility is not the best entity to submit documentation from the appropriate agency as the utility would have minimum details about the primary action of the Owner or Developer. We suggest changing the language on page 1, line 12 to read:

12 ... provided that the applicant *for the primary action* shall submit
13 *documentation from the appropriate agency confirming that no*
14 *further discretionary approvals are required.*

With the suggested change, the Owner or Developer of the primary action would be responsible for submitting documentation confirming that no further discretionary approvals are required. We feel the Owner or Developer of the primary action is in the best position to comply with the requirements of the section since they are the entity that is causing the secondary action to occur.

Thank you for the opportunity to testify on this matter.

BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

Testimony to the House Committee on Judiciary
Tuesday, March 27, 2012
2:00 p.m.
State Capitol - Conference Room 325

RE: SENATE BILL NO. 2873 SD1 HD2 RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

Chair Keith-Agaran, Vice Chair Rhoads, and members of the committee:

I am Gladys Marrone, Director of Government Relations for the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the BIA-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.

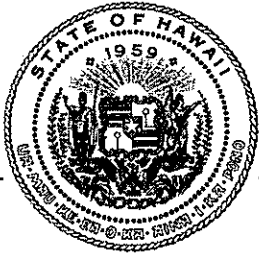
BIA-HAWAII **supports** SB 2873 SD1 HD2, which would permanently amend chapter 343, Hawaii Revised Statutes to clarify current exemptions for secondary actions and require that applicants prepare environmental assessments when required.

This language 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 preparation of an environmental assessment would be required.

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.

For the foregoing reasons, BIA-Hawaii **supports** SB 2873 SD1 HD2.

Thank you for this opportunity to express our views.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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AMENDED TESTIMONY

Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development, and Tourism
before the

HOUSE COMMITTEE ON JUDICIARY

Tuesday, March 27, 2012

2:00 p.m.

State Capitol, Conference Room 325

in consideration of

SB 2873, SD1, HD2

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee.

DBEDT **supports** SB 2873, SD1, HD2 after gaining a clearer understanding of the key issues concerning this measure, mainly to make permanent the exemption under H.R.S. §343 for the described secondary actions.

Thank you for the opportunity to amend our previous position.