



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

March 12, 2012

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

**HOUSE COMMITTEE ON TRANSPORTATION**

The Department of Transportation strongly supports the Administration's Senate Bill 2873 SD 1 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.

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.





# NAIOP

COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION  
HAWAII CHAPTER

March 10, 2012

The Hon. Joseph M. Souki, Chair, and  
Members of the House Committee on  
Transportation  
State Capitol, Room 309  
Honolulu, Hawaii 96813

Re: Testimony in Support of Senate Bill No. 2873, SD1, Relating to Environmental  
Impact Statements

Dear Chair Souki and Members of the Committee:

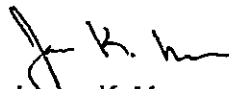
I am submitting this testimony on behalf of NAIOP Hawaii. We are the Hawaii chapter of NAIOP, the Commercial Real Estate Development Association, which is the leading national organization for developers, owners and related professionals in office, industrial and mixed-use real estate. The local chapter comprises property owners, managers, developers, financial institutions and real estate related professionals who are involved in the areas of commercial and industrial real estate in the State of Hawaii.

We support this bill. Before Act 87 of the 2009 Session Laws was passed, a number of projects could not move forward because they were required to do an environmental assessment / environmental impact statement before they could get approval to install or connect utilities, because the utility connections were within a public road or right-of-way and several Hawaii Supreme Court cases had concluded that would trigger Chapter 343. Act 87 sought to address that problem but was a temporary measure. We believe there should be a permanent blanket exemption of such minor actions as connecting utilities, because they do not have an effect on the environment, and agencies should not have to waste time or resources going through an individual exemption analysis on these situations.

This is one of several similar bills that are currently going through the Legislature. We understand that a couple (HB 2611, HD1 and SB 2281, SD 1), were previously amended from their original form to actually exacerbate the problems which the original bills were intended to address. We would be opposed to amending SB 2873 in such a manner, and would support passage in either its present form or original form.

Thank you for the opportunity to testify on this measure.

Very truly yours,



James K. Mee  
Chair, Legislative Affairs Committee

March 9, 2012

The Honorable Representative Joe Souki, Chair:  
Senate Committee on Transportation  
Hawai'i State Capitol  
Honolulu, HI 96813

RE: Testimony opposing SB2873 SD1 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.

SB 2873 SD1 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



UNIVERSITY  
of HAWAII  
MĀNOA

March 11, 2012

RL: 2294

SB 2873 SD1  
RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

Senate Committee on Transportation  
Public Hearing – Monday, March 12, 2012  
9:00 a.m., State Capitol, Conference Room 309

By  
David Penn, Environmental Center  
**COMMENTS ONLY**

Dear Chair Souki, Vice Chair Ichiyama, and committee members,

The Environmental Center agrees that it would be useful to reduce application processing times, project delays, and costs associated with proposed secondary actions affecting state highways and other public rights-of-way. However, we suggest that it may be more appropriate and transparent for the Department of Transportation (DOT) to address this issue through the existing exemption process provided under Hawaii Revised Statutes (HRS) Chapter 343, rather than by promoting a blanket legislative exemption for a potentially broad range of future actions and their unforeseen consequences.

The statutory role of the Environmental Council is to help agencies like DOT to clarify and institutionalize exemptions from certain requirements of Hawaii's environmental review process. DOT already has a comprehensive exemptions list, approved by the Environmental Council, of actions that are likely to have “minimal or no significant effects on the environment.” HRS § 343-6(a)(2). It seems contrary to the purpose of Chapter 343, HRS—and to historic DOT administrative practice—to exempt an action without first determining that the action would have minimal or no significant environmental impacts.

SB2873 proposes that a secondary action “shall” be exempt from the environmental review process under chapter 343, HRS, “provided that the applicant shall submit documentation from the appropriate agency confirming that no further discretionary approvals are required.” This language does not appear to support the purpose and intent of Chapter 343, HRS, because it substitutes the mere lack of a requirement for discretionary approval for the proper consideration of action-specific environmental impacts.

However, if the legislature decides to move forward with this measure, we suggest amending it to include a provision for public disclosure of the proposed secondary action and its “documentation from the appropriate agency confirming that no further discretionary approvals are required.” Also, please note that the Environmental Center supports the housekeeping language proposed for Chapter 343-5(c) and 343-5(d).

RL: 2294

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Thank you for considering our testimony on this proposed legislation. Please note that our testimony is advisory only and should not be construed to represent an official institutional position of the University of Hawaii.