



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

IN REPLY REFER TO:

April 1, 2011

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 723, S.D. 1, H.D. 1

COMMITTEE ON FINANCE

TITLE: RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

DESCRIPTION: Extends the sunset date for EIS exceptions for secondary actions from July 1, 2011, to July 1, 2015. Act 87 exempts from the purview of Chapter 343, HRS, the environmental review law, primary actions that require a ministerial permit, that involve secondary actions relating to infrastructure development within public right-of-ways that have no significant effect on the environment.

POSITION: The Department of Transportation (DOT) supports this bill.

Chapter 343, Hawaii Revised Statutes, requires that before the DOT approves an applicant's request to construct utility, drainage, driveway, or roadway improvements within the state highway right-of-way (ROW), the DOT first needs to determine whether an environmental assessment (EA) is required. Pursuant to recent court rulings, to determine whether an EA is required for an applicant action, the DOT must consider secondary environmental impacts. To comply with Chapter 343, when an applicant requests DOT approval to construct infrastructure within the highway ROW to serve proposed development of private property, the DOT needs to consider environmental impacts from proposed development of private property.

The DOT does not have jurisdiction to regulate private property. Requiring the DOT to evaluate environmental impacts from development of private property has caused delay and financial hardship for applicants without public benefit. The DOT does not have information or expertise to assess the secondary impacts to the environment arising from the multitude of private actions which require "use" of the State highway ROW. The DOT has sought assistance and recommendations from the Office of Environmental Quality Control (OEQC) regarding environmental compliance. This has significantly increased the time required for DOT to review and process applications affecting the highway ROW.

We support the extension of the sunset date from July 1, 2011 to July 1, 2015.