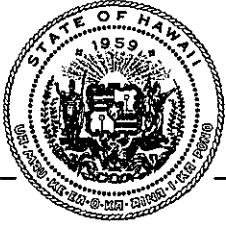


SB483

Requires state agencies to comply with county rules to grant or deny permit applications for development-related permits within a specified time as contained in county rule.



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

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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT
OPERATIONS, AND HOUSING
AND
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS**
Monday, February 4, 2013
2:45 PM
State Capitol, Conference Room 016

in consideration of
SB 483
RELATING TO ADMINISTRATIVE PROCEDURES.

Chairs Dela Cruz and Espero, Vice Chairs Slom and Baker, and Members of the Senate Committees on Economic Development, Government Operations, and Housing and Public Safety, Intergovernmental and Military Affairs.

Senate Bill 483, Relating to Administrative Procedures, requires counties to specify a maximum time period to grant or deny a development-related permit, license, or approval, and require all agencies, including state agencies, to comply with the maximum time period.

The Office of Planning (OP) administers Hawaii Revised Statutes (HRS) Chapter 205A, Hawaii's Coastal Zone Management (CZM) law, which implements the CZM Act passed by the U.S. Congress in 1972. The special management area (SMA) permitting system is part of the federal and state approved Hawaii CZM Program. The planning department of the various

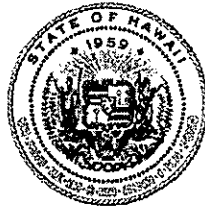
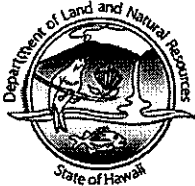
counties is charged with assessing SMA permit applications. Final decision-making is vested in county planning commissions, or the county council.

OP offers **comments** on SB 483 as follows:

1. The county SMA rules and regulations have established timelines for assessing, conducting public hearings, and granting or denying the SMA permit applications. The timelines for SMA permitting may be significantly different from other county permits, licenses, or approvals. It would not be feasible to require other county agencies to comply with the maximum time period established by one agency to grant or deny required permits, licenses, or approvals.
2. A county agency can establish a maximum time period to grant or deny a permit application. However, the maximum time period adopted by one county agency may be inappropriate for state agencies to grant or deny development-related permits. Requirements from state agencies to grant or deny a development-related permit, license, or approval could be significantly different from county permitting.

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

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the Senate Committees on
ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING
and
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

Monday, February 04, 2013
2:45 PM
State Capitol, Conference Room 016

In consideration of
SENATE BILL 483
RELATING TO ADMINISTRATIVE PROCEDURE

Senate Bill 483 proposes to amend Hawaii Revised Statutes ("HRS") Section 91-13.5 to add a new section (2) that would require all agencies, including state agencies, to comply with the maximum time period established by county rules for the granting or denial of business or development-related permits. While the Department of Land and Natural Resources (Department) recognizes the importance of timely action on permit applications, the Department has concerns regarding the time limit for permit applications imposed on the Department's Commission on Water Resource Management (Commission) and **opposes** this measure for the following reasons.

First, all permits issued by the Commission are subject to a 30-day review by the Department's State Historic Preservation Division (SHPD). This mandatory review should be taken into account in the permit processing time period.

Second, well construction and pump installation permits issued by the Commission are required by statute to be sent to the Department of Health (DOH) for review for compliance with their rules and standards concerning, among other things, the appropriateness of the location of the well. DOH reviews normally take between 30 and 60 days. The administrative rules specify a ninety-day deadline for approving or disapproving the permit application. This time period is reasonable given the requirement for SHPD and DOH review.

Third, in reviewing stream diversion works permit applications, the Commission is required by rule to cooperate with persons having direct interest in the stream diversion works and be guided by the following general considerations:

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

- (1) The quantity and quality of the stream water or the stream ecology shall not be adversely affected.
- (2) Where instream flow standards or interim instream flow standards have been established pursuant to chapter 13-169, no permit should be granted for any diversion works which diminishes the quantity or quality of stream water below the minimum established to support identified instream uses, as expressed in the standards.
- (3) The proposed diversion works shall not interfere substantially and materially with existing instream or noninstream uses or with diversion works previously permitted.

The rules provide for a ninety-day deadline for approval or disapproval. This time period is reasonable given the requirement for SHPD review and staff analysis of the consistency of the application with the considerations for approving a permit set forth in the administrative rules.

Fourth, in reviewing stream channel alteration permit applications, the Commission is required by rule to cooperate with persons having direct interest in the stream channel alteration and be guided by the following general considerations:

- (1) Channel alterations that would adversely affect the quantity and quality of the stream water or the stream ecology should be minimized or not be allowed.
- (2) Where instream flow standards or interim instream flow standards have been established pursuant to subchapters 3 and 4, no permit shall be granted for any channel alteration which diminishes the quantity or quality of stream water below the minimum established to support identified instream uses, as expressed in the standards.
- (3) The proposed channel alteration should not interfere substantially and materially with existing instream or non-instream uses or with channel alterations previously permitted.

The rules provide for a ninety-day deadline for approval or disapproval. This time period is reasonable given the requirement for SHPD review and staff analysis of the consistency of the application with the considerations for approving a permit set forth in the administrative rules.

In summary, while the Commission is cognizant of the need for timely action on permit applications, the ninety-day deadlines specified in the administrative rules for the above Commission permits appears reasonable and not unduly burdensome to ensure protection and appropriate management of the water resources public trust.

State deadlines are separate and independent of county considerations and should not be subject to county deadlines.

Thank you for the opportunity to testify on this measure.