

JAN 17 2014

A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In 2009, the legislature adopted senate
2 concurrent resolution no. 132, S.D. 1, which established the
3 construction industry task force (task force) to determine the
4 economic value of the construction industry in Hawaii. As
5 directed in the concurrent resolution, the task force was
6 charged with developing a series of recommendations to stimulate
7 the construction industry and create new jobs in the local
8 construction industry. Unfortunately, to date, many of the task
9 force's recommendations have yet to be enacted by the
10 legislature. The intent of this Act is to enact and implement
11 one of the recommendations of the task force in an effort to
12 support the local construction industry.

13 The legislature finds that it is necessary to provide the
14 airports and highways divisions of the department of
15 transportation with the same type of county exemptions from
16 shoreline management area permits that is provided to the
17 department of transportation harbors division. This exemption
18 is necessary to facilitate the airports and highways divisions'



1 progress in areas that are crucial to a projects' footprint and
2 to containing construction costs.

3 The purpose of this Act is to extend to the airports and
4 highways division of the department of transportation the same
5 exemptions from county special management area permit
6 requirements that are provided to the harbors division.

7 SECTION 2. Section 205A-22, Hawaii Revised Statutes, is
8 amended by amending the definition of "development" to read as
9 follows:

10 "Development" means any of the uses, activities, or
11 operations on land or in or under water within a special
12 management area that are included below:

- 13 (1) Placement or erection of any solid material or any
14 gaseous, liquid, solid, or thermal waste;
- 15 (2) Grading, removing, dredging, mining, or extraction of
16 any materials;
- 17 (3) Change in the density or intensity of use of land,
18 including but not limited to the division or
19 subdivision of land;
- 20 (4) Change in the intensity of use of water, ecology
21 related thereto, or of access thereto; and



1 (5) Construction, reconstruction, demolition, or
2 alteration of the size of any structure.

3 "Development" does not include the following:

4 (1) Construction or reconstruction of a single-family
5 residence that is less than seven thousand five
6 hundred square feet of floor area and is not part of a
7 larger development;

8 (2) Repair or maintenance of roads and highways within
9 existing rights-of-way;

10 (3) Routine maintenance dredging of existing streams,
11 channels, and drainage ways;

12 (4) Repair and maintenance of underground utility lines,
13 including but not limited to water, sewer, power, and
14 telephone and minor appurtenant structures such as pad
15 mounted transformers and sewer pump stations;

16 (5) Zoning variances, except for height, density, parking,
17 and shoreline setback;

18 (6) Repair, maintenance, or interior alterations to
19 existing structures;

20 (7) Demolition or removal of structures, except those
21 structures located on any historic site as designated
22 in national or state registers;



- 1 (8) Use of any land for the purpose of cultivating,
2 planting, growing, and harvesting plants, crops,
3 trees, and other agricultural, horticultural, or
4 forestry products or animal husbandry, or aquaculture
5 or mariculture of plants or animals, or other
6 agricultural purposes;
- 7 (9) Transfer of title to land;
- 8 (10) Creation or termination of easements, covenants, or
9 other rights in structures or land;
- 10 (11) Final subdivision approval; provided that in counties
11 that may automatically approve tentative subdivision
12 applications as a ministerial act within a fixed time
13 of the submission of a preliminary plat map, unless
14 the director takes specific action, a special
15 management area use permit if required, shall be
16 processed concurrently with an application for
17 tentative subdivision approval or after tentative
18 subdivision approval and before final subdivision
19 approval;
- 20 (12) Subdivision of land into lots greater than twenty
21 acres in size;



- 1 (13) Subdivision of a parcel of land into four or fewer
2 parcels when no associated construction activities are
3 proposed; provided that any land that is so subdivided
4 shall not thereafter qualify for this exception with
5 respect to any subsequent subdivision of any of the
6 resulting parcels;
- 7 (14) Installation of underground utility lines and
8 appurtenant aboveground fixtures less than four feet
9 in height along existing corridors;
- 10 (15) Structural and nonstructural improvements to existing
11 single-family residences, where otherwise permissible;
- 12 (16) Nonstructural improvements to existing commercial
13 structures; [~~and~~]
- 14 (17) Construction, installation, maintenance, repair, and
15 replacement of civil defense warning or signal devices
16 and sirens;
- 17 (18) Planning, design, and construction of structures and
18 improvements to land to be used for airport purposes,
19 authorized by the department of transportation
20 pursuant to section 261-4; and
- 21 (19) Planning, design, and construction of all structures
22 and improvements to land to be used for state or



1 county highway purposes, authorized by the department
2 of transportation pursuant to section 264-7;
3 provided that whenever the authority finds that any excluded
4 use, activity, or operation may have a cumulative impact, or a
5 significant environmental or ecological effect on a special
6 management area, that use, activity, or operation shall be
7 defined as "development" for the purpose of this part."

8 SECTION 3. Section 261-4, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 "(c) Structures and improvements. [~~All~~] Notwithstanding
11 any law or provision to the contrary, structures and
12 improvements to land, to be used for airport purposes[~~, may be~~];

13 (1) May be planned, designed, and constructed by the
14 department[~~-~~] without the approval of county agencies;

15 (2) Shall be exempt from county permitting requirements;

16 and

17 (3) Shall be exempt from special management area
18 permitting requirements under chapter 205A."

19 SECTION 4. Section 264-7, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§264-7 Permits, fees, etc.** (a) Any person or government
22 agency desiring the permit required by section 264-6 shall apply



1 for a permit on a form prescribed by the director of
2 transportation. Any permit issued shall be conditioned upon the
3 adherence of the applicant to the requirements of sections 264-8
4 and 264-9; provided that on awarding any contract for the
5 construction, reconstruction, maintenance or repair of any state
6 highway or federal-aid highway project, the director of
7 transportation or the director's authorized representative shall
8 ascertain whether the work to be done by the terms of that
9 contract will require the contractor, the contractor's
10 employees, or the contractor's agents to engage in any of the
11 activities enumerated in section 264-6(1) and (2) and, if one or
12 more such activities is likely to be required, shall issue the
13 permit required by section 264-6, waiving the fee requirements
14 imposed by subsection (b) of this section.

15 (b) The director, subject to chapter 91, shall establish a
16 fee schedule for the issuance of the permit. The fee schedule
17 established shall be calculated to provide revenues sufficient
18 to defray any expenses the department of transportation may
19 incur in connection with the permit under sections 264-6 to 264-
20 12. An applicant for a permit shall pay the applicable fee,
21 provided that the director may waive the fee payable when the
22 director determines that the work to be done will either improve



1 the highway or otherwise be of benefit to the State; and
2 provided further that no fee shall be required where the only
3 work to be done is the setting of poles and guys to carry
4 overhead wires.

5 (c) Notwithstanding any law or provision to the contrary,
6 all structures and improvements to land to be used for state or
7 county highway purposes:

8 (1) May be planned, designed, and constructed by the
9 appropriate state or county department without the
10 approval of county agencies;

11 (2) Shall be exempt from any county permitting
12 requirements; and

13 (3) Shall be exempt from special management area
14 permitting requirements under chapter 205A."

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: *Paul M. Hill*. *BR*



S.B. NO. 2339

Report Title:

Construction Industry Task Force; Special Management Area
Permits; Airports; Highways; Exemptions

Description:

Exempts improvements to land to be used for airport purposes, authorized by the department of transportation, and for state and county highways, authorized by the appropriate state or county agency, from county approval and permitting requirements and from the definition of "development" for special management area permitting purposes.

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