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# A BILL FOR AN ACT

RELATING TO NOTICE TO THE PUBLIC IN THE ENVIRONMENTAL REVIEW  
PROCESS.

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

1           SECTION 1. The legislature finds that public review and  
2 participation are a key and indispensable part of achieving the  
3 goal of Hawaii's environmental review law, which is to ensure  
4 that environmental concerns are identified and accorded  
5 appropriate consideration in government actions and  
6 decisionmaking. Given the limited resources and institutional  
7 knowledge of government agencies and decisionmakers, public  
8 review and input can provide critical information on the full  
9 range and extent of potential environmental impacts and help to  
10 ensure that decisions are fully transparent and informed.  
11 Public input at an early stage may also serve to minimize any  
12 unnecessary adverse impacts of planned actions, thus avoiding  
13 waste, conflict, and the degradation of the State's natural and  
14 cultural sites and resources.

15           However, while the environmental review process outlined in  
16 chapter 343, Hawaii Revised Statutes, clearly contemplates



1 public review and input, current statutory notice requirements  
2 do not ensure that the full benefits of public participation are  
3 realized. For example, members of the public may not be  
4 provided with review or input opportunities prior to the  
5 drafting of an environmental assessment or environmental impact  
6 statement preparation notice, when proposed actions may already  
7 be well-developed, and when substantial adjustments to  
8 environmental review and other planning documents may be  
9 difficult and costly to make. In addition, notice requirements  
10 do not necessarily inform or target members of the local  
11 community surrounding a proposed action site, although those  
12 community members may be particularly knowledgeable about, and  
13 disproportionately impacted by, the wide range of potential  
14 environmental impacts of the proposed project. Unfortunately,  
15 the lack of more meaningful notice mechanisms may have resulted  
16 in past failures to adequately consider the full range and  
17 extent of the environmental impacts of particular actions, and  
18 may have led to project delays as well as distrust by the  
19 public.

20 The purpose of this Act is to establish a pilot program to  
21 require the office of Hawaiian affairs to ensure that a notice



1 of preparation is posted in a conspicuous place and manner at  
 2 any particular site or sites that may be directly impacted by an  
 3 action, at an early planning stage prior to the drafting of an  
 4 environmental assessment or impact statement preparation notice,  
 5 for projects commenced by itself or in partnership with another  
 6 agency of the State or any of its counties.

7 SECTION 2. (a) There is established the notice of  
 8 preparation pilot program to be placed with the office of  
 9 Hawaiian affairs for administrative purposes. Under the pilot  
 10 program, the office of Hawaiian affairs shall post a notice of  
 11 preparation, in a conspicuous place and manner clearly visible  
 12 to the public, at any particular site or sites that will be  
 13 directly impacted by an action:

14 (1) Being proposed by the office of Hawaiian affairs, by  
 15 itself or in partnership with another agency of the  
 16 State or any of its counties; and

17 (2) Requiring an environmental assessment pursuant to  
 18 section 343-5(a), Hawaii Revised Statutes, other than  
 19 feasibility or planning studies for possible future  
 20 programs or projects that the agency has not approved,  
 21 adopted, or funded, or other than the use of state or



1 county funds for the acquisition of unimproved real  
 2 property that is not a specific type of action  
 3 declared exempt under section 343-6, Hawaii Revised  
 4 Statutes.

5 The notice of preparation required for actions pursuant to this  
 6 subsection shall be in addition to all of the requirements of  
 7 chapter 343, Hawaii Revised Statutes.

8 (b) The office of Hawaiian affairs shall:

9 (1) Post the notice of preparation at the earliest  
 10 practicable time prior to the preparation of an  
 11 environmental assessment or environmental impact  
 12 statement notice for the action; and

13 (2) Include information about:

14 (A) The proposed action;

15 (B) The preparation of the proposed environmental  
 16 assessment or environmental impact statement; and

17 (C) How members of the public may provide comments  
 18 relating to the proposed action.

19 (c) A copy of the notice or notices and information  
 20 regarding the location or locations of the notice or notices  
 21 shall be filed with the office of environmental quality control.



1 (d) No earlier than thirty days after the posting of any  
2 notice of preparation, the office of Hawaiian affairs shall  
3 prepare an environmental assessment for the action at the  
4 earliest practicable time to determine whether an environmental  
5 impact statement shall be required; provided that if the office  
6 of Hawaiian affairs determines, through its judgment and  
7 experience, that an environmental impact statement is likely to  
8 be required, the office of Hawaiian affairs may choose not to  
9 prepare an environmental assessment and instead shall prepare an  
10 environmental impact statement that begins with the preparation  
11 of an environmental impact statement preparation notice as  
12 provided by rules adopted in accordance with chapter 91, Hawaii  
13 Revised Statutes.

14 (e) As used in this section:

15 "Notice of preparation" means a notice posted at the  
16 location of a site-specific proposed action by the initiating  
17 agency or applicant, informing members of the public of the  
18 proposed action.

19 "Pilot program" means the notice of preparation pilot  
20 program established by this section.



1           SECTION 3. No later than twenty days prior to the  
2 convening of the regular session of 2020, the office of Hawaiian  
3 affairs shall submit to the legislature a report of its findings  
4 and recommendations, including any proposed legislation,  
5 regarding the pilot program established in section 2 of this  
6 Act.

7           SECTION 4. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

10          SECTION 5. This Act shall take effect on July 1, 2019.



**Report Title:**

OHA Package; Environmental Review; Notice to Public; Posting;  
Pilot Program

**Description:**

Establishes a notice of preparation pilot program requiring the Office of Hawaiian Affairs to ensure that notice is posted at any site impacted by an action taken by it alone or in partnership with another state or county agency, prior to the drafting of an environmental assessment or environmental impact statement preparation notice. (HB1657 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

