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# A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

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

1           SECTION 1. Act 50, Session Laws of Hawaii 2000 (Act 50),  
2 amended chapter 343, Hawaii Revised Statutes, to require that  
3 environmental impact statements assess the effects of a proposed  
4 action on cultural practices and amended the definition of  
5 "significant effect" to include adverse effects on cultural  
6 practices of the community and State.

7           Since then, environmental assessments and environmental  
8 impact statements have often included "cultural impact  
9 assessments" as a means of meeting the requirement established  
10 by Act 50. These cultural impact assessments have no existing  
11 statutory definition or regulatory guidance, which has led to  
12 inconsistency and insufficiency in the completion of these  
13 studies.

14           Native Hawaiian culture plays a vital role in preserving  
15 and advancing the quality of life and cultural vitality of  
16 Hawai'i. Additionally, the rights of native Hawaiians are  
17 codified in the Hawai'i State Constitution, as well as other



1 state laws and judicial decisions. The inconsistencies and  
2 insufficiencies of cultural impact assessments have, on a  
3 regular basis, resulted in the loss and destruction of important  
4 cultural resources and infringed upon the lawful exercise of  
5 traditional Hawaiian customs and practices.

6 Accordingly, the purpose of this Act is to define the terms  
7 "cultural assessment" and "cultural impact assessment" to  
8 provide greater clarity for the requirements of environmental  
9 impact statements.

10 SECTION 2. Section 343-2, Hawaii Revised Statutes, is  
11 amended by adding two new definitions to be appropriately  
12 inserted and to read as follows:

13 "Cultural assessment" means a written evaluation conducted  
14 by a qualified ethnographer as defined by the state historic  
15 preservation division to determine whether an action may have a  
16 significant effect on cultural practices, particularly native  
17 Hawaiian traditional and customary practices expressly protected  
18 under article XII, section 7, of the state constitution.

19 "Cultural impact assessment" means an ethnographic study  
20 prepared in accordance with the rules adopted pursuant to this  
21 chapter by a qualified ethnographer as defined by the state



1 historic preservation division, which shall disclose any  
2 cultural effects of a proposed action, including the cultural  
3 practices of the community and State, proposed measures to  
4 minimize adverse effects, and alternatives to the action and its  
5 cultural effects."

6 SECTION 3. Section 343-5, Hawaii Revised Statutes, is  
7 amended by amending subsection (c) to read as follows:

8 "(c) For environmental assessments for which a finding of  
9 no significant impact is anticipated:

10 (1) A draft environmental assessment, including a cultural  
11 assessment, shall be made available for public review  
12 and comment for a period of thirty days;

13 (2) The office shall inform the public of the availability  
14 of the draft environmental assessment and cultural  
15 assessment for public review and comment pursuant to  
16 section 343-3;

17 (3) The agency shall respond in writing to comments  
18 received during the review and prepare a final  
19 environmental assessment to determine whether an  
20 environmental impact statement shall be required;



- 1 (4) A statement and cultural impact assessment shall be  
2 required if the agency finds that the proposed action  
3 may have a significant effect on the environment; and  
4 (5) The agency shall file notice of the determination with  
5 the office. When a conflict of interest may exist  
6 because the proposing agency and the agency making the  
7 determination are the same, the office may review the  
8 agency's determination, consult the agency, and advise  
9 the agency of potential conflicts, to comply with this  
10 section. The office shall publish the final  
11 determination for the public's information pursuant to  
12 section 343-3.

13 The draft and final statements, if required, shall be  
14 prepared by the agency and submitted to the office. The draft  
15 statement shall be made available for public review and comment  
16 through the office for a period of forty-five days. The office  
17 shall inform the public of the availability of the draft  
18 statement for public review and comment pursuant to  
19 section 343-3. The agency shall respond in writing to comments  
20 received during the review and prepare a final statement.



1           The office, when requested by the agency, may make a  
2 recommendation as to the acceptability of the final statement."

3           SECTION 4.   New statutory material is underscored.

4           SECTION 5.   This Act shall take effect on July 1, 2050.



**Report Title:**

Environmental Impact Statements; Cultural Assessments; Cultural Impact Assessments

**Description:**

Defines "cultural assessment" and "cultural impact assessment". Requires cultural assessments to be available for public review and comment in connection with draft environmental assessments. Requires a cultural impact assessment if an agency determines a proposed action may have a significant effect on the environment. Takes effect 7/1/2050. (SD1)

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

