HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

H.B. NO. 2892

A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

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

SECTION 1. The legislature finds that recent court decisions have expanded the application of environmental assessments beyond legislative intent. The courts have found, among other things, that any use of state or county lands or funds requires an environmental assessment to make a determination of whether an environmental impact statement is required. The courts have stated that an agency making a determination must consider every phase and every expected consequence of the proposed action, requiring the agency to consider primary and secondary impacts of a project on the environment if any of the project abuts a public roadway. This means that any action involving the use of a right of way involving a state or county road triggers an environmental impact assessment and possibly an environmental impact statement.

Rights of way are necessary in the installment of easements, drainage, waterlines, and access improvements, which

commonly are tangential to an existing state or county road. Consideration of the cumulative impacts from a small portion of a project, such as a minor utility easement that abuts a state or county roadway, means that the entire project needs an environmental assessment. The legislature finds that this interpretation was never its intention in the enactment of the law on environmental impact statements.

The purpose of this Act is to clarify that environmental assessments do not apply to state or county lands that include the use of existing streets, roads, highways, or trails or bikeways for limited purposes.

SECTION 2. Chapter 343, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§343- Environmental assessment not required; when.** For purposes of section 343-5(a), an environmental assessment shall not be required for an action that proposes the use of state or county lands or the use of state or county funds, if the use of the state or county land or the expenditure of state or county funds is limited to an existing public street, road, or highway, as defined in section 291-1, for an easement, drainage, waterlines, access improvements, utility right of way, or the

like. This section shall not be interpreted as exempting the entirety of a development project from this chapter."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

JAN 22 2008

H.B. NO. 2892

Report Title:
Environmental Impact Statements

Description:
Exempts lands from environmental impact statement law, state or county lands for specified uses of existing public street, road, highway, trail, or bikeways.