

# A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

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

1           SECTION 1. Chapter 343, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§343- Exception to applicability of chapter. (a)  
4 Notwithstanding any other law to the contrary, if at the time an  
5 application for a secondary action is submitted, a [any] primary  
6 action that requires a permit or approval [that] is not subject  
7 to a discretionary consent, and that [involves a] secondary  
8 action [that] is ancillary and limited to the installation,  
9 improvement, renovation, construction, or development of  
10 infrastructure within an existing public right-of-way or  
11 highway, that secondary action shall be exempt from this  
12 chapter[.]; provided that the applicant shall submit  
13 documentation from the appropriate agency confirming that no  
14 further discretionary approvals are required.

15           (b) As used in this section:

16           "Discretionary consent" means:

17           (1) An action as defined in section 343-2; or

1           (2) An approval from a decision-making authority in an  
2                   agency, which approval is subject to a public hearing.

3           "Infrastructure" includes waterlines and water facilities,  
4 wastewater lines and wastewater facilities, gas lines and gas  
5 facilities, drainage facilities, electrical, communications,  
6 telephone, and cable television utilities, and highway, roadway,  
7 and driveway improvements.

8           "Primary action" refers to any action outside of the  
9 highway or public right-of-way that is on private property.

10          "Secondary action" refers to any infrastructure within the  
11 highway or public right-of-way."

12          This Act shall take effect on July 1, 2009[, and shall be  
13 repealed on July 1, 2013].

14          SECTION 2. Chapter 343-5(c), Hawaii Revised Statutes, is  
15 amended to read as follows:

16          "(c) Whenever an applicant proposes an action specified by  
17 subsection (a) that requires approval of an agency and that is  
18 not a specific type of action declared exempt under section 343-  
19 6, the agency initially receiving and agreeing to process the  
20 request for approval shall require the applicant to prepare an  
21 environmental assessment of the proposed action at the earliest  
22 practicable time to determine whether an environmental impact

1 statement shall be required; provided that, for an action that  
2 proposes the establishment of a renewable energy facility, a  
3 draft environmental impact statement shall be prepared at the  
4 earliest practicable time. The final approving agency for the  
5 request for approval is not required to be the accepting  
6 authority."

7 SECTION 3. Chapter 343-5(d), Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "(d) Whenever an applicant requests approval for a  
10 proposed action and there is a question as to which of two or  
11 more state or county agencies with jurisdiction has the  
12 responsibility of determining whether an [preparing]  
13 environmental assessment is required, the office, after  
14 consultation with and assistance from the affected state or  
15 county agencies, shall determine which agency shall [prepare the  
16 assessment] determine whether the preparation of the assessment  
17 by the applicant is required."

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H.B. NO. 2611

1 SECTION 4. Statutory material to be repealed is bracketed  
2 and new statutory material is underscored.

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INTRODUCED BY:                     Coburn K. May                    

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BY REQUEST

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JAN 23 2012

H.B. NO. 2611

**Report Title:**

Environmental Impact Statements, Exceptions

**Description:**

Permanently amend chapter 343, Hawaii Revised Statutes to clarify current exemptions for secondary actions and require that applicants prepare environmental assessments when required.

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

HB2611

JUSTIFICATION SHEET

DEPARTMENT: Department of Transportation

TITLE: A BILL FOR AN ACT RELATING TO ENVIRONMENT  
IMPACT STATEMENTS.

PURPOSE: Permanently amend chapter 343, Hawaii  
Revised Statutes to current exemptions for  
secondary actions and require that  
applicants prepare environmental assessments  
when required.

MEANS: Add a new section to chapter 343, Hawaii  
Revised Statutes.

JUSTIFICATION: The Department of Transportation and the  
Office of Environmental Quality Control have  
been inundated with a large number of minor  
work project reviews that greatly increase  
the processing time for applications  
affecting rights-of-way. Amending this  
chapter will prevent unnecessary delays for  
actions that would be clearly exempt from  
environmental assessment requirements.

Impact on the public: NONE.

Impact on the department and other agencies:  
The inclusion of the language will save the  
departments of transportation and health  
unnecessary work effort and man hours on the  
processing of minor work project reviews.

GENERAL FUNDS: NONE.

OTHER FUNDS: NONE.

PPBS PROGRAM  
DESIGNATION:

OTHER AFFECTED  
AGENCIES: Department of Health, Office of  
Environmental and Quality Control

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EFFECTIVE DATE: July 1, 2012.