
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 by adding a new section to be appropriately designated
3 and to read as follows:

4 "§343- Exception to applicability of chapter. (a)

5 Notwithstanding any other law to the contrary, the agency may
6 exempt a secondary action that is limited to the installation,
7 improvement, renovation, construction, or development of
8 infrastructure within an existing public right-of-way or
9 highway; provided that the primary action requires a permit or
10 approval that is not subject to discretionary consent.

11 (b) As used in this section:

12 "Discretionary consent" means:

13 (1) The same action as defined in section 343-2; or

14 (2) An approval that is subject to a public hearing from a
15 decision-making authority in an agency.

16 "Infrastructure" includes waterlines and water facilities,
17 wastewater lines and wastewater facilities, gas lines and gas
18 facilities, drainage facilities, electrical, communications,



1 telephone, and cable television utilities, and highway, roadway,
2 and driveway improvements.

3 "Primary action" means any action other than a highway or
4 public right-of-way that is on private property.

5 "Secondary action" refers to an action relating to any
6 infrastructure within a highway or public right-of-way that is
7 ancillary to the primary action."

8 SECTION 2. Section 343-5, Hawaii Revised Statutes, is
9 amended by amending subsections (c) and (d) to read as follows:

10 "(c) Whenever an applicant proposes an action specified by
11 subsection (a) that requires approval of an agency and that is
12 not a specific type of action declared exempt under section 343-
13 6, the agency initially receiving and agreeing to process the
14 request for approval shall require the applicant to prepare an
15 environmental assessment of the proposed action at the earliest
16 practicable time to determine whether an environmental impact
17 statement shall be required; provided that, for an action that
18 proposes the establishment of a renewable energy facility, a
19 draft environmental impact statement shall be prepared at the
20 earliest practicable time. The final approving agency for the
21 request for approval is not required to be the accepting
22 authority.



1 For environmental assessments for which a finding of no
2 significant impact is anticipated:

- 3 (1) A draft environmental assessment shall be made
4 available for public review and comment for a period
5 of thirty days;
- 6 (2) The office shall inform the public of the availability
7 of the draft environmental assessment for public
8 review and comment pursuant to section 343-3; and
- 9 (3) The applicant shall respond in writing to comments
10 received during the review, and the agency shall
11 prepare a final environmental assessment to determine
12 whether an environmental impact statement shall be
13 required. A statement shall be required if the agency
14 finds that the proposed action may have a significant
15 effect on the environment. The agency shall file
16 notice of the agency's determination with the office,
17 which, in turn, shall publish the agency's
18 determination for the public's information pursuant to
19 section 343-3.

20 The draft and final statements, if required, shall be
21 prepared by the applicant, who shall file these statements with
22 the office.



1 The draft statement shall be made available for public
2 review and comment through the office for a period of forty-five
3 days. The office shall inform the public of the availability of
4 the draft statement for public review and comment pursuant to
5 section 343-3.

6 The applicant shall respond in writing to comments received
7 during the review and prepare a final statement. The office,
8 when requested by the applicant or agency, may make a
9 recommendation as to the acceptability of the final statement.

10 The authority to accept a final statement shall rest with
11 the agency initially receiving and agreeing to process the
12 request for approval. The final decision-making body or
13 approving agency for the request for approval is not required to
14 be the accepting authority. The planning department for the
15 county in which the proposed action will occur shall be a
16 permissible accepting authority for the final statement.

17 Acceptance of a required final statement shall be a
18 condition precedent to approval of the request and commencement
19 of the proposed action. Upon acceptance or nonacceptance of the
20 final statement, the agency shall file notice of [~~such~~] the
21 determination with the office. The office, in turn, shall



1 publish the determination of acceptance or nonacceptance of the
2 final statement pursuant to section 343-3.

3 The agency receiving the request, within thirty days of
4 receipt of the final statement, shall notify the applicant and
5 the office of the acceptance or nonacceptance of the final
6 statement. The final statement shall be deemed to be accepted
7 if the agency fails to accept or not accept the final statement
8 within thirty days after receipt of the final statement;
9 provided that the thirty-day period may be extended at the
10 request of the applicant for a period not to exceed fifteen
11 days.

12 In any acceptance or nonacceptance, the agency shall
13 provide the applicant with the specific findings and reasons for
14 its determination. An applicant, within sixty days after
15 nonacceptance of a final statement by an agency, may appeal the
16 nonacceptance to the environmental council, which, within thirty
17 days of receipt of the appeal, shall notify the applicant of the
18 council's determination. In any affirmation or reversal of an
19 appealed nonacceptance, the council shall provide the applicant
20 and agency with specific findings and reasons for its
21 determination. The agency shall abide by the council's
22 decision.



1 (d) Whenever an applicant requests approval for a proposed
2 action and there is a question as to which of two or more state
3 or county agencies with jurisdiction has the responsibility of
4 ~~[preparing the]~~ determining whether an environmental
5 assessment[7] is required, the office, after consultation with
6 and assistance from the affected state or county agencies, shall
7 determine which agency shall ~~[prepare the assessment.]~~ determine
8 whether preparation of an assessment by the applicant is
9 required."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on January 7, 2059;
13 provided that on July 1, 2059, this Act shall be repealed and
14 section 343-5, Hawaii Revised Statutes, shall be reenacted in
15 the form in which it read on January 6, 2059.



Report Title:

Environmental Impact Statements, Exceptions

Description:

Temporarily amends Chapter 343, Hawaii Revised Statutes, to clarify current exemptions for secondary actions limited to development within existing public right-of-ways or highways. Requires that applicants prepare environmental assessments when required. Effective January 7, 2059. Repeal on July 1, 2059. (HB2611 HD2)

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

