

JAN 23 2015

---

---

# A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

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

1           SECTION 1.   Section 343-2, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4           "Lead agency" means any department, office, board, or  
5 commission of the state or county government which is part of  
6 the executive branch of that government that initially receives  
7 and agrees to process a request for approval and has the  
8 authority to accept a final statement pursuant to section 343-  
9 5(e)."

10          SECTION 2.   Section 343-5, Hawaii Revised Statutes, is  
11 amended by amending subsection (e) to read as follows:

12          "(e) Whenever an applicant proposes an action specified by  
13 subsection (a) that requires approval of an agency and that is  
14 not a specific type of action declared exempt under section 343-  
15 6, the agency initially receiving and agreeing to process the  
16 request for approval shall require the applicant to prepare an  
17 environmental assessment of the proposed action at the earliest



# S.B. NO. 205

1 practicable time to determine whether an environmental impact  
2 statement shall be required; provided that if the agency  
3 determines, through its judgment and experience, that an  
4 environmental impact statement is likely to be required, the  
5 agency may authorize the applicant to choose not to prepare an  
6 environmental assessment and instead prepare an environmental  
7 impact statement that begins with the preparation of an  
8 environmental impact statement preparation notice as provided by  
9 rules. For an action that proposes the establishment of a  
10 renewable energy facility, a draft environmental impact  
11 statement shall be prepared at the earliest practicable time.  
12 The final approving agency for the request for approval is not  
13 required to be the accepting authority.

14 For environmental assessments for which a finding of no  
15 significant impact is anticipated:

- 16 (1) A draft environmental assessment shall be made  
17 available for public review and comment for a period  
18 of thirty days;
- 19 (2) The office shall inform the public of the availability  
20 of the draft environmental assessment for public  
21 review and comment pursuant to section 343-3; and



1           (3) The applicant shall respond in writing to comments  
2           received during the review and the applicant shall  
3           prepare a final environmental assessment to determine  
4           whether an environmental impact statement shall be  
5           required. A statement shall be required if the agency  
6           finds that the proposed action may have a significant  
7           effect on the environment. The agency shall file  
8           notice of the agency's determination with the office,  
9           which, in turn, shall publish the agency's  
10          determination for the public's information pursuant to  
11          section 343-3.

12          The draft and final statements, if required, shall be  
13          prepared by the applicant, who shall file these statements with  
14          the office.

15          The draft statement shall be made available for public  
16          review and comment through the office for a period of forty-five  
17          days. The office shall inform the public of the availability of  
18          the draft statement for public review and comment pursuant to  
19          section 343-3.

20          The applicant shall respond in writing to comments received  
21          during the review and prepare a final statement. The office,



**S.B. NO. 205**

1 when requested by the applicant or agency, may make a  
2 recommendation as to the acceptability of the final statement.

3 The authority to accept a final statement shall rest with  
4 the lead agency [~~initially receiving and agreeing to process the~~  
5 ~~request for approval~~]. [~~The final decision-making body or~~  
6 ~~approving agency for the request for approval is not required to~~  
7 ~~be the accepting authority.~~] The planning department for the  
8 county in which the proposed action will occur shall be a  
9 permissible accepting authority for the final statement.

10 Acceptance of a required final statement by the lead agency  
11 shall be a condition precedent to approval of the request and  
12 commencement of the proposed action. No other agency shall  
13 approve any action until the lead agency has accepted a final  
14 statement. Upon acceptance or nonacceptance of the final  
15 statement, the lead agency shall file notice of the  
16 determination with the office. The office, in turn, shall  
17 publish the determination of acceptance or nonacceptance of the  
18 final statement pursuant to section 343-3.

19 The lead agency receiving the request, within thirty days  
20 of receipt of the final statement, shall notify the applicant  
21 and the office of the acceptance or nonacceptance of the final



1 statement. The final statement shall be deemed to be accepted  
2 if the lead agency fails to accept or not accept the final  
3 statement within thirty days after receipt of the final  
4 statement; provided that the thirty-day period may be extended  
5 at the request of the applicant for a period not to exceed  
6 fifteen days.

7 In any acceptance or nonacceptance, the lead agency shall  
8 provide the applicant with the specific findings and reasons for  
9 its determination. An applicant, within sixty days after  
10 nonacceptance of a final statement by [~~an~~] a lead agency, may  
11 appeal the nonacceptance to the environmental council, which,  
12 within thirty days of receipt of the appeal, shall notify the  
13 applicant of the council's determination. In any affirmation or  
14 reversal of an appealed nonacceptance, the council shall provide  
15 the applicant and lead agency with specific findings and reasons  
16 for its determination. The lead agency shall abide by the  
17 council's decision."

18 SECTION 3. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20



# S.B. NO. 205

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

2

INTRODUCED BY:

*Ed Davis*

*Annalye San*  
*Francis J. Juvare*

*Will Lynn*

*↓*

*Paul E. Pde*

*Keneth*



# S.B. NO. 205

**Report Title:**

Environmental Impact Statement; Lead Agency

**Description:**

Establishes the definition of "lead agency" and provides that no other agency shall approve an action until the lead agency has accepted a final environmental impact statement.

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

