A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

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

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

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

Native Hawaiian culture plays a vital role in preserving and advancing the quality of life and cultural vitality of Hawai‘i. Additionally, the rights of native Hawaiians are codified in the Hawai‘i State Constitution, as well as other
state laws and judicial decisions. The inconsistencies and
insufficiencies of cultural impact assessments have, on a
regular basis, resulted in the loss and destruction of important
cultural resources and infringed upon the lawful exercise of
traditional Hawaiian customs and practices.

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

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

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

"Cultural impact assessment" means an ethnographic study
prepared in accordance with the rules adopted pursuant to this
chapter by a qualified ethnographer as defined by the state
historic preservation division, which shall disclose any
cultural effects of a proposed action, including the cultural
practices of the community and State, proposed measures to
minimize adverse effects, and alternatives to the action and its
cultural effects."

SECTION 3. Section 343-5, Hawaii Revised Statutes, is
amended by amending subsection (c) to read as follows:
"(c) For environmental assessments for which a finding of
no significant impact is anticipated:

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

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

(3) The agency shall respond in writing to comments
received during the review and prepare a final
environmental assessment to determine whether an
environmental impact statement shall be required;
(4) A statement and cultural impact assessment shall be required if the agency finds that the proposed action may have a significant effect on the environment; and

(5) The agency shall file notice of the determination with the office. When a conflict of interest may exist because the proposing agency and the agency making the determination are the same, the office may review the agency's determination, consult the agency, and advise the agency of potential conflicts, to comply with this section. The office shall publish the final determination for the public's information pursuant to section 343-3.

The draft and final statements, if required, shall be prepared by the agency and submitted to the office. The draft statement shall be made available for public review and comment through the office for a period of forty-five days. The office shall inform the public of the availability of the draft statement for public review and comment pursuant to section 343-3. The agency shall respond in writing to comments received during the review and prepare a final statement.
The office, when requested by the agency, may make a recommendation as to the acceptability of the final statement.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY:  

[Signatures]
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.

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