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SB 1759 RELATING TO COASTAL ZONE MANAGEMENT

Statement for
Senate Committee on
Planning and Environment
Public Hearing - March 2, 1987

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SB 1759 would amend the Coastal Zone Management statute, HRS Chapter 205A to redefine, limit, shorten, and supercede appeal procedures in a contested case as defined in Chapter 91. The statement on this bill does not represent an institutional position of the University of Hawaii.

The proposed amendments to HRS 205A would require that appeals of a decision or order by the authority (County Planning Commission or County Council as defined in HRS 205A-22), in a contested case under Chapter 91, would bypass any lower court hearings and go directly to the supreme court within 30 days after the decision or order of the authority. The rationale for singling out actions under HRS 205A for special treatment by the courts, to the extent of excluding lower court hearings and requiring the supreme court to give appeals brought pursuant to this section "priority over all other civil cases" is unclear. The bill would provide special interest legislation for which justification is not apparent.

Paragraph (c) page 2 would be the "exclusive judicial remedy from a decision or order of the authority in a contested case as defined in chapter 91" thereby superceding all present statutory provisions for appeal as defined in chapter 91. Again the rationale for supercedence of Chapter 91 appeal procedures is unclear.

Our concern with the proposed legislation focuses on its potential application to appeals of a decision with respect to the preparation, lack of preparation, acceptance or lack of acceptance of an Environmental Impact Statement for projects that will take place within the shoreline management area. Would this amendment apply to appeal procedures in these cases thus also superceding established appeal and judicial procedures under HRS 343?