SB 792 S.D.1
RELATING TO REGULATORY PROCESSES

Senate Committee on Ways and Means

Public Hearing - March 3, 1999
9:30 a.m., Room 211, State Capitol

by John T. Harrison, Environmental Center

SB 792 S.D.1 amends Section 91-13.5, HRS, to specify that automatic permit approval procedures invoked under Act 164 of the 1998 Legislature are not applicable to State and County permits relating to matters of health and safety.

Our statement on this measure does not constitute an institutional position of the University of Hawaii.

The underlying intent of government regulatory oversight is frequently forgotten in the rush to assign blame for economic non-performance. It's worth keeping in mind that regulatory permits are intended to protect public interests and public trust resources, such as shorelines, native forests, open space, coastal water quality, and a wealth of natural capital that is routinely given little or no value in classical economic analyses. Regulatory permits are designed to protect the public welfare, public health and safety. And permits are tools of implementation of thoughtful, farsighted planning to maximize public benefit.

It's also worth noting the full spectrum of obstacles to efficient permit approval:

1. Duplication of regulation.
2. Ambiguity of regulation, both legal and bureaucratic.
3. Excessive government zeal in regulatory control.
4. Bureaucratic inefficiency, or insufficiency, of staff or resources.
5. Applicant non-performance, or improper application.
6. Applicant malfeasance, through provision of inaccurate or misleading information.
7. Applicant metamorphosis, or "midcourse corrections" in design or scope.

Undoubtedly, it is possible to achieve a more efficient system of regulatory approval. However, will it protect natural resources, prevent unsightly sprawl, and serve the public, as well as the private interests.
Defense of the automatic approval measure generally has invoked either dogmatic faith that it is the miracle elixir for an ailing state economy, or a somewhat less optimistic appeal to "give it a chance to work." In rebuttal to the former premise, it's worth noting that the very same vilified system of regulatory permits was in force all the way through the boom economy of the 80s without the apparent stifling effect now attributed to it. As for the latter argument, giving it a chance to work is the same as giving it a chance to fail, and neither business nor the public trust can afford the cost of a failure.