SB 215 proposes two substantive amendments to HRS 195D-5. The first would require the Department of Land and Natural Resources (DINR) to identify ecosystems of endangered species that may require special management considerations and to adopt guidelines for their protection. The information so gathered is to be transmitted to all state and county agencies. The second would prohibit any state or county agency to issue a permit, license, fund or carry out projects that will alter significantly any ecosystem identified in the first amended paragraph. Variances from this prohibition could be obtained if the department determines that the agency's proposed action does not pose a significant risk to the endangered or threatened species.

We concur with the need for greater protection of endangered species and their associated ecosystems, however, we are concerned with the amendment proposed on line 8, page 1. The existing language of HRS 195D-5(a) directs the DINR "to conduct research on indigenous aquatic life, wildlife, and land plants, and on endangered species and their associated ecosystems"...and that they "shall utilize the land acquisition and other authority vested in the department to carry out programs for the conservation, management, and protection of such species and their associated ecosystems. With the proposed deletion of the word [such] in line 8 and replacement with endangered, the land acquisition and authority to carry out programs for conservation, management, and protection would then be limited to only endangered species.
species and their ecosystems. We suggest that the proposed amendments on line 8 be deleted and that the existing language be kept.

The amendment proposed in lines 9-14 should strengthen the departments mandate toward protection of endangered species and their ecosystems. However, the identification of ecosystems of endangered species and the transmittal of that information to state and county agencies may take some time since it is unlikely that much of the required information is presently available.

Furthermore, the definition of "ecosystem" is not well defined and may lead to confusion with regard to identifying precise boundaries for permit actions specified under paragraph (c). We suggest that the term "ecosystem" on page 1, lines 10 and 13 and page 2, line 12, be replaced by the term "critical habitat."

No deadlines are set for complying with the statute, and in fact it is not reasonable to set rigid dates for the identification of these ecosystems that may be so difficult to define. However, some indication that time is of the essence in carrying out this section should be included in the statute. Otherwise, the amendments may have little or no effect on the protection of endangered species and their habitats and in fact may reduce the existing protection offered to indigenous species.

The intent of the amendment proposed on page 2, paragraph (c) is excellent. However, the effectiveness of this provision hinges entirely on the identification of the ecosystems as provided for in subsection (a). Hence if no urgency or time frame is established to implement section (a) the paragraph (c) amendment will be moot.