HR 109 HD 1
RELATING TO A STATE
ENVIRONMENTAL PROTECTION AGENCY OR DEPARTMENT

Statement for
Senate Committee on
Economic Development
Public Hearing - 18 April 1984

By
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HR 109 HD 1 would request the Legislative Reference Bureau (LRB) to conduct a study relating to the establishment of a state environmental protection agency or department. This statement on the resolution does not reflect an institutional position of the University of Hawaii.

The resolution presents a number of compelling reasons for the undertaking of the study requested, calling attention to the increased risks associated with the discharge to the environment of hazardous substances, the need for coordination of concerns with environmental quality problems, the need to provide information on these problems to the public, and the establishment of agencies or departments of the sort proposed in several states. It might also have called attention to the establishment of the federal Environmental Protection Agency (EPA).

Responsibilities for environmental management now rest with several state departments, particularly the Department of Health (DOH), which has the principal responsibility for regulation of waste disposals to the environment and to which the Office of Environmental Quality Control (OEQC) has been assigned for administrative purposes, and the Department of Land and Natural Resources (DLNR), which has the principal responsibility for managing such natural resources as water, forests, game animals, fisheries, and endangered species. Environmental impacts result from activities conducted by or subject to the regulation of the departments such as those of Agriculture, Transportation and Planning and Economic Development; and many of the planning activities of the latter department related to environmental management or activities that will affect environmental quality or natural resources. The resolution does not seem intended to relate particularly to natural hazards, but these hazards, for whose management the Department of Defense has particular responsibilities are inherently environmental. As recognized in the resolution several units of the University conduct research relating to environmental quality. (For some reason the Environmental Center is not explicitly recognized among these units.)
That there is a need for coordination of the environmental responsibilities now so widely dispersed should be obvious. The perception of the need with respect to the state as a whole was what led to the establishment of OEQC in 1977; and the perception of the need with respect to the University was what led at the same time to the establishment of the Environmental Center. The continuing need was at least in part the rationale behind the 1977 recommendation, referred to in the resolution, that the present Department of Land and Natural Resources evolve into a Department of Environmental Affairs and Natural Resources.

There is, indeed, in our opinion no question that not only coordination of environmental matters is needed but that better coordination is needed than is now provided. The environmental problems associated with the use of pesticides that have arisen in the past year seem amply to illustrate this need. However well these problems may now be being dealt with on an ad hoc basis, it seems quite probable that further problems will arise that the ad hoc arrangements are designed neither to foresee nor to cope with.

It is, however, our opinion that the placement of all environmental responsibilities in a single agency or even department is impractical. For example, transfer to DLNR what are now DOH environmental responsibilities would result in an undesirable separation of what are referred to as environmental health concerns from the other health concerns of the latter department. In the reverse direction, transfer to DOH of any of the natural resource responsibilities now held by DLNR would result in an undesirable division of authority with respect to natural resources, including land.

The need, as we see it then, is for better coordination among functions that must to a large measure be dispersed among various agencies and departments rather than for their centralization.

Because it is improvement in coordination that is needed, one of the questions that the LRB would have to address in responding to the resolution would be why the coordination intended to be provided by the OEQC has been insufficient. Some answers to the question are, we think, obvious. In performing any intended function, the performance of any agency is limited to what it is empowered to do under its charter and, further, to what it has the staff capabilities and support to perform. It was because interdepartmental coordination that was needed that the OEQC was placed initially in the Office of the Governor. We are afraid that the fears of many that the effectiveness of OEQC interdepartmental coordination would be reduced by its transfer out of the Governor's Office have been realized; and it seems to us that the OEQC staff, never quite sufficient in light of its appropriate coordinating role (although it included some competent individuals), has been considerably reduced in the last few years. The history of the federal EPA indicates that even if an agency is given considerably coordinating power under its legislature charter, its effectiveness may be subverted by high administrative policy. Under the legislative charter of the OEQC (HRS Chapter 341), extensive coordinating powers were not provided directly to the Office directly but were to be given to the Office at the discretion of the Governor.

We conclude that it will be very appropriate for the LRB to investigate by what means the coordination of environmental matters may best be achieved in the state government, including the means of strengthening the authority of the OEQC.
SCR 135
RELATING TO A STATE
ENVIRONMENTAL PROTECTION AGENCY OR DEPARTMENT

Statement for
House Committee on
Energy, Ecology, and Environmental Protection
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The attached statement on HR 109 HD 1 is also applicable to SCR 135.

Attachment