SB 1112

RELATING TO LAND USE CONTROLS

Statement for
Senate Committee on Inter-Governmental Relations
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by
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SB 1112 proposes certain amendments to State laws pertaining to requests for changes in zoning building permits, amendments to land use district boundaries, and environmental impact statements. This statement on the bill is being submitted for review to the legislative subcommittee of the Environmental Center of the University of Hawaii. It does not represent an institutional position of the University.

The Environmental Center's concern with the environmental implications of the amendments proposed in SB 1112 lie in their environmental implications. Our comments may, however, have pertinence to other aspects as well.

The objective of SB 1112 is clearly to reduce the costs of projects that result from undue delays in the approval processes that are required by law. This objective is clearly meritorious.

The intent of the approval processes and the nature of the delays involved in them should, however, be considered in determining what delays are involved in them, and how to minimize these delays. As SB 1112 points out, it is not the intent of these processes "to make otherwise sound and lawful projects unfeasible through excessive time delays." It is the intent to make seriously unsound and, hence, unlawful projects unfeasible. There is no way, of course, of discriminating between projects that should be allowed and those that should not, except through the screening involved in the approval processes. If it is assumed that public officials engaged in the screening are not malingering, our concern may be focused on where the costs of the delays are borne.
At present, the costs of the delays in the approval processes are borne primarily by the proposers of projects needing approval. SB 1112 would attempt to solve the problem of delays simply by setting limitations to the periods of several approval processes and prescribing that approvals sought would be granted automatically if not denied or granted before these periods ended. The effect of the proposed arbitrary time limits would be to shift the costs to the public. In theory, the increase in public costs could be in the form of the expansions in agency staffs necessary for speedier processing of the requests for approval and making the necessary analyses. This would surely to some extent be inefficient, and in any case no additional appropriations would be provided by the bill to provide for expansions. The actual cost increases would, therefore, be in the form of the environmental, social, and economic detriments that would result from allowing (because the time limits expire) some of the actions which the approval processes are intended to disallow.

We must point out that there is another way of reducing the costs, and that is to achieve a better meshing of the numerous approval processes that are required by law. The Environmental Center has been engaged in promoting better meshing. In its review of the implication of the Shoreline Protection Act (SR:0009, 13 September 1975), for example, the Center proposed means by which required Shoreline Management permits could be closely meshed with other approval processes. The Coastal Zone Management Program, and the Federal Executive Board are engaged in similar efforts.

The attempts involve:

i) identification of ways in which the approval processes may be more clearly meshed without violating present legal requirements; and

ii) identification of changes in the legal requirements that would allow even closer meshing while still providing the checks that led to their adoption. These attempts deserve encouragement.

We should point out that the amendment of the State Environmental Impact Statement law that is proposed in Section 4 of SB 1112 would affect only state and county projects, because only the EIS's in these projects need to be accepted by the Governor or the Mayor. In the case of private projects, a more stringent time limit than that proposed in the bill is already provided in present law.