



# University of Hawaii at Manoa

**Environmental Center**  
Crawford 317 • 2550 Campus Road  
Honolulu, Hawaii 96822  
Telephone (808) 948-7361

Office of the Director

RL:0450A

## SB 2167-82, SD 1 RELATING TO THE ENVIRONMENT

Statement for  
House Committee on  
Energy, Ecology, and Environmental Protection  
Public Hearing - 26 March 1982

By  
Doak C. Cox, Environmental Center

SB 2167, SD 1 would make significant changes in functions of the Environmental Quality Commission, the Office of Environmental Quality Commission, the Office of Environmental Quality Control, and the Environmental Council. The composition and functions of these bodies and changes earlier suggested were reviewed last fall by the University of Hawaii Environmental Center in RG:0046, copies of which have been provided to your committee. This statement on the changes proposed in the current draft of this bill has been submitted for review to the Legislative Subcommittee of the Environmental Center. However, it does not reflect an institutional position of the University.

The provisions proposed in SB 2167, SD 1 are best reviewed as they pertain to:

1. Abolition of the Environmental Quality Commission and transfer of its responsibility for administration of the State Environmental Impact Statement (EIS) system;
2. Placement of the EIS-system administrative authority in the Office of Environmental Quality Control;
3. Changes in the structure and functions of the Environmental Council; and
4. Strengthening the OEQC.

### Abolition of EQC and transfer of EIS system authority

When the State EIS system was established, and the responsibility for administering the system, including the authority to promulgate pertinent rules and regulations, was placed in the Environmental Quality Commission, especially created for this purpose although the Office of Environmental Quality Control (OEQC) and the Environmental Council (advising the OEQC) already existed. The existence of the three bodies with similar names has created a good deal of confusion that will be reduced by the abolition of the Commission. Its responsibilities can be transferred to one or a combination of the other two bodies without weakening the EIS system.

### Placement of EIS-system administrative authority

Under SB 2167 the EIS-system administrative authority would be transferred to the Office of Environmental Quality Control. The rationale for this placement expressed in Stg. Comm. Rpt. 97-82 of the Senate Committee on Ecology, Environment, and Recreation is that: "the increased complexities of environmental issues . . . now require the full time attention of a public agency with expertise in environmental protection and ecology." It is true that the operation of the EIS system requires full-time attention; that there are many institutional aspects of environmental issues that are subject to expert opinion; and that the OEQC is better constituted than the Commission to provide the EIS system with both full time attention and scientific and technical expertise. There are, however, policy aspects involved in the promulgation and amendment of the rules and regulations under which the system operates and in appeals that may now be addressed to the Commission. Subjective judgements rather than objective expertise are involved in making the policy decisions.

In the OEQC, policy decisions will undoubtedly be made by its Director. Noting that the Environmental Council is, like the Commission, composed of private persons with a variety of environmental interests, we suggest that at least some of the policy-determining authority might advantageously be placed in the Environmental Council rather than in the OEQC and its Director. We note that in HB 3026, HD 1, the power to hear appeals, for example, would be transferred from the Commission to the Council rather than to the OEQC.

### Changes in Council structure and policies

At present, the OEQC Director is the chairman and one of the 15 members of the Environmental Council. Under SB 2167, SD 1 the Director would remain an ex officio member of the Council, but would not be counted as one of the 15 voting members, and the Council would elect its own chairman. The proposed change will decrease the likelihood that the Council address only those issues that the Director wants it to address and that the Council will be unduly influenced by the Director's opinions. However, the bill would not amend a present provision that the Council meet at the call of the Director. Although the Council should meet when the Director considers he needs its advice, the Chairman of the Council should surely be empowered to call its meetings.

SB 2167 would delete from the present functions of the Council its service "as a liaison between the Director and the general public by soliciting information . . . (etc.) concerning ecology and environmental quality through public hearing . . . (etc.). Public liaison has been one of the most important functions of the Council, one in whose exercise it has held effective both public informational meetings and public hearing. It would be unfortunate if explicit recognition of this function of the Council were deleted or if the ability of the Council to hold public meetings and hearings were impaired.

SB 2167 would also delete from the functions of the Council those of monitoring progress in, and preparing an annual report on, environmental management. The responsibility for performing those functions might well be transferred to the OEQC which has, in actual practice, performed them. However, in simply deleting the functions from the responsibilities of the Council, the bill would essentially terminate the preparation of the annual reports.

### Strengthening the OEQC

Placed originally in the Office of the Governor, the OEQC was transferred two years ago to this Department of Health for administrative purposes. In the Department, the OEQC has languished. It no longer has an independent Director, and its staff has

been depleted. Other bills introduced in this session call for complete integration of the OEQC with the Department of Health although the OEQC could not effectively provide the interdepartmental coordination in environmental matters that it was intended to provide if it were an agency subject to departmental policy.

Although in SB 2167, SD 1 the OEQC would remain in the Department of Health, its placement there would continue to be for administrative purposes alone, and the bill retains the responsibility of the OEQC to advise the Governor on environmental matters, and provides that the Governor shall set the salary of the Director subject to legislative appropriations. These are minimal provisions necessary to the retention of the independence of the OEQC and its ability to perform the functions for which it was originally responsible and those for which it would become responsible under other provisions of the bill. We note that in HB 3026, HD 1, the OEQC would be transferred, with advantage, to the Department of Budget and Finance.