



# University of Hawaii at Manoa

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SB 144  
RELATING TO A DEPARTMENT OF ENVIRONMENTAL PROTECTION

Statement for  
Senate Committee on  
Agriculture and Environment  
Public Hearing - February 7, 1989

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SB 144 would create a Department of Environmental Protection (DEP) and transfer selected functions from the existing Departments of Agriculture, Health and the Office of Environmental Quality Control to the new Department of Environmental Protection.

Our statement on this bill does not represent an institutional position of the University of Hawaii.

Each year the state confronts conflicts between the need for environmental protection and the realities of economic development. Each year economic developments are championed that have cumulative, significant, and long range impacts to the State's environmental quality. Each year, statutory language is proposed which attempts to achieve the purposes of the State's environmental policy as set forth in HRS 344. The introduction of SB 144 reflects such an attempt.

We note that SB 144 closely resembles previous legislative proposals, including SB 260 and HB 45 introduced by the 1987 legislature and HB 2287 HD1 (1986), and it also reflects the intent of HCR 117 (1985). Because the substantive content of SB 144 so closely resembles the earlier bills, and because much of the rationale set forth in our earlier comments remains largely applicable, we have attached copies of our previous statements for your consideration.

In 1984, the legislature requested the Legislative Reference Bureau (LRB) to consider the feasibility of establishing a state environmental protection agency. The LRB subsequently submitted an excellent report entitled, "The Feasibility of Environmental Reorganization for Hawaii" which concluded that inadequacies in dealing with environmental problems were not primarily caused by an inappropriate formal organizational structure. Instead, they arose from inadequacies in coordination, insufficient funding of the agencies which should cope with the problems, and lack of commitment to the recognition of the need for successful resolution of environmental problems.

In our previous statements on related proposals, we have discussed at length the advantages and disadvantages of creating a centralized environmental agency. We have also examined alternative strategies to enhance environmental management. It is apparent that present mechanisms to address Hawaii's environmental problems have not produced significant changes in the underlying causes of the State's environmental management inadequacies. While reorganization will not resolve the present shortcomings entirely, we perceive that it may be an appropriate first step. A dedicated, functional environmental agency would assure that environmental concerns are not subsidiary to the primary mission of a parent agency in which the environmental managers are housed.

The magnitude and significance of the direct responsibilities for Public Health held by the Department of Health are such that environmental planning, regulation, and enforcement needs are frequently relegated to a lower priority unless an imminent human health risk is apparent. Hence, the formation of a separate department of environmental protection may serve to:

1. Centralize responsibility for environmental protection both from a statutory-managerial as well as public perception level;
2. Provide a statutory base to which subsequent environmental planning, regulatory and enforcement statutes can be added; and
3. Reduce the scope of the responsibilities of the DOH to a more focused and efficient management level.

If a Department of Environmental Protection is formed, we urge that statutory language be inserted to require that other offices and departments, such as the Office of State Planning, Departments of Agriculture, Land and Natural Resources, and Health, coordinate their planning and regulatory responsibilities with the DEP. Furthermore, we suggest that consideration be given to establishing a specific coordination procedure for conflict resolution and consensus building between departments, particularly at the planning stage. Such a procedure would enhance the development of environmentally responsible plans; decrease costs associated with conflicting management strategies and the

clean-up of environmental "mistakes"; and decrease the frequency of subsequent judicial proceedings related to environmental protection.

SB 144 clearly is not a panacea for all of our environmental management problems. Three additional substantive conditions must be met if the reorganization is to be effective:

1. statutory provisions for enforcement of environmental regulations are significantly strengthened;
2. strong leadership is provided to implement enforcement; and,
3. the Governor's full commitment to the preservation and enhancement of environmental quality is assured.

Intrinsic conflicts between economic and environmental agendas will not be resolved easily. Environmental forces operate at a timescale which differs from that which governs economic and political actions. Conventional, expedient "quick fixes" no longer will stem the rising level of environmental concerns, both globally and locally. Future problems, compounding those which we presently face, may require a more focused and dedicated approach than what present exists.