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HB 160 HD 1
RELATING TO ENVIRONMENTAL ASSESSMENT

Statement for
Senate Committee on
Agriculture
Public Hearing - March 30, 1989

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HB 160 HD 1 proposes two amendments to HRS 343. The first would amend HRS 343-2 by adding to the definition of "action" to include those specific agency rules or plans which clearly direct activities with potential environmental impacts. The second amendment proposes to delete the need for environmental assessment under 343-5(a)(3) of proposed uses within the shoreline area as defined in Section 205A-41 and substitute or add, use within the special management area as defined in Section 205A-23.

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

The Environmental Center presented testimony at an earlier hearing on this bill and during the hearing listened to testimony suggesting that "rules" should not be included in the definition of "action". After some discussion, we concured with the suggested amendments and our testimony today reflects this change.

The rationale for the first amendment proposed in HB 160 HD 1 stems from the need for better environmental planning of large scale agency action plans which have long term and far reaching environmental implications. An example of such a plan that has been repeatedly cited in recent months is the Ocean Recreation Management Plan. The proposed amendment would insure that future plans of this nature would be subject to environmental assessment.

We have no intention of promoting the need for assessment of all agency plans as this would be ludicrous. Those plans of a routine and non-environmentally related focus could easily be exempt from assessment under the existing exemption provisions of HRS 343-6(7). However, assessment of those particular plans that will have major environmental implications would surely be an improvement over the present environmental planning process.

We do not believe it necessary to include rulemaking at the present time, although such action is subject to environmental assessment at the federal level in some cases. We also suggest deletion of the phrase "[which clearly direct activities with potential environmental impacts]" on lines 5 and 6 of page 1. This phrase is unnecessary and presents a circular argument because it would require assessment to determine if potential environmental impacts exist.

The amended definition of "Action" would therefore read:

> "Action" means any program or project to be initiated by any agency or applicant <u>and includes proposed agency plans.</u>

The amendment proposed for 343-5(a)(3) that would include the need for assessment of actions within the special management area is particularly appropriate. We should add that this amendment also reflects one of the recommendations provided in the review of HRS 343-5 in response to House Concurrent Resolution 267 of the 1987 State Legislature.

I would like to quote the following from the March 1988 report, to HCR 267, page 11, section 3.

> Existing county statutes for Oahu and Hawaii require an environmental assessment procedure for actions in their respective Special Management Areas. Kauai and Maui also have similar statutes. Much confusion exists among developers, the general public, and even various agencies as a result of the dual state and county system for environmental assessment. In the case of Oahu and Hawaii counties, the environmental assessment and environmental impact statement are prepared in accordance with guidelines set up by the County but with reference to Chapter 343. However, assessment procedures vary and there is a lack of consistency in acceptable content, format, evaluation and assessment decisions between the state and county.

We believe that consolidation of the assessment process under a single statutory framework would greatly simplify and facilitate assessment procedures. Proposers of actions would have a uniform consistent process to work with, both with regard to the preparation of assessments and possible impact statement documents, as well as consistency in the subsequent review and evaluation practices.

Counties would benefit from the broader statewide reviews provided by Chapter 343 and we believe the final documents produced, be they Environmental Assessments or Environmental Impact Statements are likely to be substantively better documents for use by county or state agencies in their decision making rules.

It is important to emphasize that the Environmental Assessment, Environmental Impact Statement system under HRS 343 is an informational gathering system to assure that environmental as well as economic and social concerns are adequately identified so that wise land use and management decisions can be made. It is not a regulatory system and therefore inclusion of the Shoreline Management Area under Chapter 343 would not preclude the counties from any regulatory controls. Nor would it preclude the counties from requiring additional information specific to county needs.

We strongly concur with this amendment to HB 160.