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SB 340
RELATING TO ENVIRONMENTAL QUALITY

Statement for
Senate Committee on
Health
Public Hearing - 20 February 1985

By
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SB 340 proposes to amend Hawaii Revised Statutes Chapter 341 so as to require that the Office of Environmental Quality Control (OEQC) coordinate research on environmental quality by State agencies. This bill appears to be identical to SB 1604-84 on which official University testimony was presented last year to the Senate Committee on Health. A copy of that testimony, which was prepared by the Environmental Center, is attached.

In brief, it is our opinion that, although the intention of the bill is appropriate, coordination by the OEQC of environmental research is limited primarily by its lack of sufficient competent staff and not by the lack of legal authority; the bill would do nothing to strengthen the OEQC staff; and, in detail, some of the OEQC authority and responsibility that would be provided by the bill would be inappropriate.

SB 1604 proposes to amend Hawaii Revised Statutes Chapter 341 so as to require that the Office of Environmental Quality Control (OEQC) coordinate research on environmental quality by state agencies.

The proposed amendment to HRS 341 would expand the powers of OEQC and the Environmental Council to coordinate research and disseminate information. HRS 341 at present provides that:

The OEQC director shall have such powers delegated by the governor as are necessary to coordinate when requested by the governor, to direct all state governmental agencies in matters concerning environmental quality." (HRS 341-4(a))

and that

. . . The Environmental Council shall monitor the progress of state, county, and federal agencies in achieving the State's environmental goals and with the assistance of the director shall make an annual report with recommendations for improvement to the governor, the legislature and the public All state and county agencies shall cooperate with the council and assist in the preparation of such a report by responding to requests for information by the council." (HRS 341-6)

These two present provisions may be construed as allowing the OEQC director or the Environmental Council to meet the responsibilities that would be placed in the OEQC by SB 1604. The bill would, however, mandate that the OEQC perform certain functions that the director may now perform only by delegation by the Governor, and would mandate the cooperation of state agencies with the director in the performance of these functions, whereas the agencies are now required only to respond to inquiries from the Environmental Council.

The functions in question are identified in the title of a proposed new section of HRS as the "collection and coordination of research concerning environmental quality" (p. 1, l. 4). We believe that what is meant is: (a) the collection, compilation and dissemination of the results of environmental-quality research, and (b) the coordination of the research itself, and that there is an important distinction between these two general functions.

It should be a function of the combination of the OEQC, its director, and the Environmental Council either to collect, compile and disseminate the results of environmental-quality research that is pertinent to Hawaii, or to arrange for these functions. There may be reason to mandate the performance of these functions by the OEQC instead of allowing its performance by the director at the option of the Governor. We would not propose that the OEQC should collect and compile the research results in the detail that is specific to the responsibilities of such departments as those of Health and of Land and Natural Resources and that is necessary for the departments to meet their responsibilities. Nevertheless, because there are inescapable overlaps among departmental responsibilities, and the results of research by one department may be pertinent to the responsibilities of another, there is reason for the OEQC to perform an active and important coordinating role with respect to environmental-quality research results.

The OEQC may also play a very useful role in the coordination of the research itself for the purpose identified in the bill: ". . . to avoid duplication of efforts" (p. 1, ls. 13-14).

The bill would not explicitly alter the responsibilities of the University and its Environmental Center. However, the number of research projects underway at the University that might be considered by the OEQC director as "concerning environmental quality" is very large, these projects are managed by a considerable number of research units and departments of the University, and under HRS 341-4, it would probably be left to the Environmental Center to coordinate University responses to requirements for reporting on these research projects for the OEQC. Appropriate though this would be, the Center would be unable to expand its coordinating functions unless it had additional staff and funds to support that staff.

We believe that before passage of SB 1605, the legislature should consider its effects on environmental-quality research at the University and make it possible for the University to comply with whatever reporting of this research and its results would be required, and that the bill be revised: 1) to distinguish between a) the collection, compilation of the results of research, and b) the coordination of the research itself; 2) to limit the responsibilities of the OEQC with respect to these functions as suggested above; and 3) to take into account the following comments on details in the proposed new subsections of HRS 343.

341 ___. (a)(1)

The proposed compilation of "a list of the research conducted or in progress" would soon be worthless unless the list were periodically updated. If such a list is intended for release to the public, some condensation and summary would be useful to avoid a cumbersome list dominated by small projects.

341 ___. (a)(2)

The monitoring of research progress is an important function, possibly falling under the present purview of the Environmental Council, although not explicitly identified among the functions of the Council in HRS 341-6 and not currently actively exercised. (See also comments on (b)).

341 ___. (a)(3)

As noted earlier, the coordination of research would be useful for the purpose indicated. However, the dissemination of the details of research results by the OEQC where such dissemination is carried out by the agencies doing the research would be redundant and unnecessary.

341 ___. (a)(4)

The identification of areas of needed research may also fall within the present purview of the Council, although not explicitly identified in the Council's functions in HRS 341-6, and not currently actively exercised.

341 ___. (b)

It may be appropriate that, as proposed, the OEQC have the final authority to determine what research is pertinent to environmental quality. It would seem inappropriate, however, to allow the OEQC to prescribe times at which progress reports must be submitted on research projects supported by agencies other than the OEQC, particularly projects supported by non-State funds. On such a project, OEQC should accept progress reports on the timetable required by the funding agency, provided that such reports should be submitted not less than once a year and provided that in the case of imminent threat to public health progress reports may be required at any time (see also comments on (c)). It is, of course, appropriate to consider as public information the results of research conducted by state agencies, but this is not necessarily true of all of the information used in the research projects.

341 ___. (c)

Prompt publication of those research results that indicate a certain and imminent threat to public health is essential. There may, however, be circumstances under which the imminence of such a threat is uncertain, and the premature release of information to the public may do more harm than good. Some judgment on the timing of release must be left to the OEQC Director under these circumstances.

341 ___. (d)

The proposed definition of "research concerning environmental quality" is satisfactory except as it including environmental impact statements. Such statements should incorporate the results of research but do not themselves constitute research. They are informational documents that, by the provisions of HRS 343, must be made public.