



University of Hawai'i at Mānoa

Environmental Center

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HCR 39 HD1
REQUESTING THE OFFICE OF STATE PLANNING,
IN COOPERATION WITH THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL,
TO ADOPT PROCEDURES AND RECOMMEND LEGISLATION THAT WOULD REDUCE
THE AMOUNT OF TIME NEEDED TO FUND AND PREPARE
AN ENVIRONMENTAL IMPACT STATEMENT

Senate Committee on Planning, Land and Water Use Management
Senate Committee on Ecology and Environmental Protection

Joint Public Hearing - April 21, 1995
1:00 P.M., Room 407 SOT

by

John T. Harrison, Environmental Center

HCR 39 HD1 seeks implementation of procedures to limit the time for funding and preparing an Environmental Impact Statement (EIS) to under one year.

Our statement on this measure reflects the opinions of the Environmental Center and not necessarily those of the University of Hawaii.

Apart from the explicit presumptive error in process contained in the third "whereas" clause of this resolution, we find the underlying assumptions of the measure clouded by misperceptions, unsupported by facts, and blatantly biased in favor of economic interests. If legislative policy is frustrated by the established environmental review process as this resolution asserts, then a contradiction exists within legislative policy goals, since the establishment of the environmental review process itself constituted implementation of legislative policy.

The EIS process itself is explicitly delimited with regard to time constraints as established in Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules. These time constraints have been the subject of intense scrutiny for the purpose of ensuring appropriate public review as required by legislative intent, and we suggest that they cannot be further foreshortened without compromising that legislative intent. That leaves two remaining possible areas of potential legislative or procedural modifications: the funding process and the actual EIS preparation process.

With regard to private applicants, procurement and allocation of funds for EIS preparation are not appropriately subjects of government intervention, hence private funding

processes are none of our business. As for agency actions, the procurement process long has been the subject of debate and controversy, and it seems naive to assume that the plodding torpor of bureaucracy will be miraculously invigorated in the interests of environmental protection. Consequently, the inevitably favored target of reforms adopted pursuant to this resolution will be the EIS preparation process itself.

It is difficult for us to conceptualize generic simplifications in either preparation process or content which will have anything other than a chilling effect on the quality of the finished product. Furthermore, the advancement of our knowledge and experience over the history of the EIS system's life has underscored the inherent complexity of natural and social systems. In view of the extraordinary sensitivity of the Hawaiian environment, the absolute limits imposed by our island boundaries, and the utter dependence of our economy on the beauty and healthfulness of the environment, the willingness of the legislature to compromise the quality of information upon which crucial choices for our future are based is disturbing.

In summary, the issues raised by this resolution are not new. The ethical premise which those who favor this position espouse was most succinctly framed by the English economist Jeremy Bentham in the late eighteenth century and is referred to as Utilitarianism. Basically, the Utilitarian ethic promotes that action which offers the greatest benefit to the greatest number of people. Efficiency and public utility are given priority under this philosophy. However, as a principle of public policy, Utilitarianism is fatally flawed in that those who reap the benefits of a given private or public action frequently are not the same people who bear the costs of the action.

There is a fairness issue here. In the arena of environmental decisionmaking, the costs of our decisions most directly will be borne by people who have no input to the process, our children, and our children's children. Construction of public schools is held hostage, not to the environmental review process, but to the same bureaucratic constraints that apply to every government action. Rather than apply overrides to environmental protections which benefit our children, it seems more appropriate to put our efforts into getting the environmental review process underway with minimum delays.