

EXECUTIVE CHAMBERS

HONOLULU

June 20, 2003

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 285

Honorable Members
Twenty-Second Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 285, entitled "A Bill for an Act Relating to Administrative Procedure."

The purpose of this bill is to require that administrative rules conform to enabling statutes, to provide for the automatic repeal of administrative rules when the enabling statute or ordinance is repealed, and to require the Small Business Regulatory Review Board to include in its report to the Legislature recommendations as to whether a rule is an appropriate function of state government and whether its goal can be implemented as cost-effectively by the private sector as by state government.

This bill is objectionable because it is unnecessary to accomplish its goals, and it could result in confusion and wasteful litigation over the legal status of certain rules.

Although under current law, administrative rules could theoretically remain "on the books" indefinitely after repeal of the underlying statute, such rules would cease to be enforceable upon such repeal, without some other statutory authority. Our administration will periodically review existing rules to determine if they continue to serve a valid purpose, and section 91-3(f), Hawaii Revised Statutes, already provides a relatively simple process for the repeal of rules that are null and void or unnecessary, while ensuring that the public is notified and that any interested person may petition the agency seeking to repeal rules.

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The automatic repeal of rules as mandated by this bill may or may not result in the repeal of rules that were implemented under, or relate to, more than one statute. This uncertainty would invite litigation.

Other provisions of this bill, such as the requirement to conform to federal mandates, already are part of existing policy.

The requirement that the Small Business Regulatory Review Board review rules and recommend whether the private sector can more cost-effectively provide the same goal can also be implemented through an administrative directive.

For the foregoing reasons, I am returning House Bill No. 285 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 285, entitled "A Bill for an Act Relating to Administrative Procedure," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 285 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 285 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 20th day
of June, 2003.



LINDA LINGLE
Governor of Hawaii