

---

---

# A BILL FOR AN ACT

RELATING TO THE ENVIRONMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that state commercial  
2 harbor improvements should comply with the environmental review  
3 process. The legislature also finds that there is no specific  
4 provision under current law for an environmental assessment or  
5 an environmental impact statement for harbor improvements.

6           The legislature further finds that harbor improvements  
7 necessarily involve shipping activities and that new maritime  
8 shipping activities could have serious effects on vehicular  
9 traffic, transport of non-native species between islands,  
10 introduction of invasive plant and animal species, collision  
11 with whales, and increased warehousing at the harbors, among  
12 other issues, all of which have economic or environmental  
13 consequences that come within the scope of issues to be reviewed  
14 under the environmental impact statement law.

15           The purpose of this Act is to:



- 1           (1) Add construction of infrastructure improvements to  
2           harbor facilities to the triggers for an environmental  
3           assessment;
- 4           (2) Add to the definition of "environmental impact  
5           statements" traffic congestion effects as a factor to  
6           consider in a proposed action;
- 7           (3) Require the preparation of an environmental impact  
8           statement for the Hawaii superferry;
- 9           (4) Require that the department of transportation cease  
10          further construction of improvements at Kahului harbor  
11          and that the Hawaii superferry refrain from commencing  
12          operations, until a final environmental impact  
13          statement is accepted; and
- 14          (5) Make an appropriation to the department of  
15          transportation to prepare an environmental impact  
16          statement.

17          SECTION 2. Section 343-2, Hawaii Revised Statutes, is  
18          amended by amending the definition of "environmental impact  
19          statement" or "statement" to read as follows:

20          "Environmental impact statement" or "statement" means an  
21          informational document prepared in compliance with the rules  
22          adopted under section 343-6 and ~~[which]~~ that discloses the



1 environmental effects of a proposed action, effects of a  
2 proposed action on the economic welfare, social welfare, and  
3 cultural practices of the community and State, effects of the  
4 economic activities arising out of the proposed action, effects  
5 on traffic congestion and infrastructure in the surrounding  
6 areas, measures proposed to minimize adverse effects, and  
7 alternatives to the action and their environmental effects.

8       The initial statement filed for public review shall be  
9 referred to as the draft statement and shall be distinguished  
10 from the final statement which is the document that has  
11 incorporated the public's comments and the responses to those  
12 comments. The final statement is the document that shall be  
13 evaluated for acceptability by the respective accepting  
14 authority."

15       SECTION 3. Section 343-5, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17       "(a) Except as otherwise provided, an environmental  
18 assessment shall be required for actions that:

19       (1) Propose the use of state or county lands or the use of  
20       state or county funds, other than funds to be used for  
21       feasibility or planning studies for possible future  
22       programs or projects that the agency has not approved,



1           adopted, or funded, or funds to be used for the  
2           acquisition of unimproved real property; provided that  
3           the agency shall consider environmental factors and  
4           available alternatives in its feasibility or planning  
5           studies; provided further that an environmental  
6           assessment for proposed uses under section 205-2(d)(9)  
7           or 205-4.5(a)(12) shall only be required pursuant to  
8           section 205-5(b);

9           (2) Propose any use within any land classified as a  
10           conservation district by the state land use commission  
11           under chapter 205;

12           (3) Propose any use within a shoreline area as defined in  
13           section 205A-41;

14           (4) Propose any use within any historic site as designated  
15           in the National Register or Hawaii Register, as  
16           provided for in the Historic Preservation Act of 1966,  
17           Public Law 89-665, or chapter 6E;

18           (5) Propose any use within the Waikiki area of Oahu, the  
19           boundaries of which are delineated in the land use  
20           ordinance as amended, establishing the "Waikiki  
21           Special District";



- 1           (6) Propose any amendments to existing county general  
2           plans where the amendment would result in designations  
3           other than agriculture, conservation, or preservation,  
4           except actions proposing any new county general plan  
5           or amendments to any existing county general plan  
6           initiated by a county;
- 7           (7) Propose any reclassification of any land classified as  
8           a conservation district by the state land use  
9           commission under chapter 205;
- 10          (8) Propose the construction of new or the expansion or  
11          modification of existing helicopter facilities within  
12          the State, that by way of their activities, may  
13          affect:
  - 14           (A) Any land classified as a conservation district by  
15           the state land use commission under chapter 205;
  - 16           (B) A shoreline area as defined in section 205A-41;  
17           or
  - 18           (C) Any historic site as designated in the National  
19           Register or Hawaii Register, as provided for in  
20           the Historic Preservation Act of 1966, Public Law  
21           89-665, or chapter 6E; or until the statewide  
22           historic places inventory is completed, any



1 historic site that is found by a field  
 2 reconnaissance of the area affected by the  
 3 helicopter facility and is under consideration  
 4 for placement on the National Register or the  
 5 Hawaii Register of Historic Places; [and]

6 (9) Propose any:

7 (A) Wastewater treatment unit, except an individual  
 8 wastewater system or a wastewater treatment unit  
 9 serving fewer than fifty single-family dwellings  
 10 or the equivalent;

11 (B) Waste-to-energy facility;

12 (C) Landfill;

13 (D) Oil refinery; or

14 (E) Power-generating facility[-]; and

15 (10) Propose any new or additional use of state commercial  
 16 harbor facilities requiring construction or addition  
 17 of improvements where the expenditure of public moneys  
 18 on the construction or addition is not less than  
 19 \$2,000,000; provided that the environmental assessment  
 20 shall include the environmental effects from any  
 21 additional vessels using the facilities within a  
 22 twenty-four month period following completion of



1           construction; provided further that this paragraph  
2           shall not apply to repairs for damage caused by a  
3           natural disaster."

4           SECTION 4. Notwithstanding the requirement of a prior  
5 environmental assessment under section 343-5, Hawaii Revised  
6 Statutes, an environmental impact statement, including but not  
7 limited to the effects on traffic in the surrounding streets to  
8 Kahului harbor, shall be prepared by the department of  
9 transportation for the Hawaii superferry in compliance with  
10 chapter 343, Hawaii Revised Statutes, without regard to the:

- 11           (1) The date of commencement of construction of  
12           improvements by the department of transportation;
- 13           (2) The date or amount of expenditure of public moneys for  
14           the capital improvement project; and
- 15           (3) The date of implementation of the proposed action by  
16           Hawaii superferry, notwithstanding any law to the  
17           contrary requiring the completion of a final statement  
18           as a condition precedent to the implementation of the  
19           proposed action as provided under section 343-5(b),  
20           Hawaii Revised Statutes.

21           SECTION 5. Until a final environmental impact statement is  
22 prepared pursuant to section 4 of this Act, and is accepted by



1 the governor or the governor's authorized representative  
2 pursuant to section 343-5(b)(2), Hawaii Revised Statutes:

3 (1) The department of transportation shall cease further  
4 construction of improvements at Kahului harbor; and

5 (2) Hawaii superferry shall not commence operations.

6 SECTION 6. There is appropriated out of the harbor special  
7 fund, created under section 266-19, Hawaii Revised Statutes, the  
8 sum of \$ , or so much thereof as may be necessary for  
9 fiscal year 2007-2008, to prepare an environmental impact  
10 statement pursuant to section 4 of this Act.

11 The sum appropriated shall be expended by the department of  
12 transportation for the purposes of this Act.

13 SECTION 7. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 8. This Act shall take effect upon its approval;  
16 provided that section 6 shall take effect on July 1, 2007.

17

INTRODUCED BY:

*Ku Lta*  
*Maui Stee*  
*Mele Carroll*  
*Pono Chung*  
*Tony Webb*



*Beck*

**Report Title:**

Environmental Impact Statements

**Description:**

Requires an environmental assessment for harbor improvements using public moneys; clarifies that traffic congestion is to be considered in an environmental impact statement process; requires the preparation of an environmental impact statement for the Hawaii superferry project; requires work to cease on Hawaii superferry until an environmental impact statement is accepted; makes appropriation to department of transportation to prepare an environmental impact statement.

