STAND. COM. REP. NO. 1699 -08

Honolulu, Hawaii

, 2008

RE: S

S.B. No. 2808

S.D. 2 H.D. 1

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Fourth State Legislature Regular Session of 2008 State of Hawaii

Sir:

Your Committees on Energy & Environmental Protection and Judiciary, to which was referred S.B. No. 2808, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS,"

beg leave to report as follows:

The purpose of this measure is to clarify proposed actions that will be exempt from the preparation of an environmental assessment.

Specifically, this measure exempts the following proposed actions from the preparation of an environmental assessment:

- (1) Certain projects that involve the use of state or county lands or the expenditure of state or county funds if such use or expenditure is limited to an existing public street, road, or highway for an easement, drainage, waterlines, access improvements, utility right of way, or the like; and
- (2) Certain projects that involve a modification or disposal of highway access rights or use, occupancy, or work within a public highway right-of-way to serve private development outside the highway right-of-way.

Upon further consideration, your Committee proposed an H.D.1 that would replace this measure's contents with amendments to clarify the role of the Office of Environmental Quality Control to determine which agency has the responsibility of preparing an environmental assessment when two or more agencies have jurisdiction over a proposed action. The proposed H.D.1 also would make technical clarifications to the rulemaking powers of the Environmental Council.

Testimony in support of the proposed H.D.1 was submitted by the Department of Transportation, Office of Environmental Quality Control, the Chamber of Commerce of Hawaii, National Association of Industrial and Office Properties, General Contractors Association of Hawaii, Kaiser Permanente, Royal Contracting Co., Ltd., Building Industry Association-Hawaii, Ralph S. Inouye, Co., Ltd., The Gas Company, and one concerned individual. Testimony opposed to the proposed H.D.1 was submitted by the Office of Hawaiian Affairs and the Land Use Research Foundation of Hawaii. Comments on the proposed H.D.1 were submitted by the University of Hawaii Environmental Center and the Associated Builders and Contractors of Hawaii.

Your Committee finds that, rather than creating additional classifications of exempt actions, a more flexible and prudent approach would be to clarify the Office of Environmental Quality Control's role in determining the lead and accepting agency and to provide more clarity in resolving conflicting interpretations of the statutes and rules that address the exemption process and general chronology of the existing environmental review process. Therefore, these amendments clarify and update the existing law to be internally consistent and procedurally correct. Your Committee believes that this approach will help to resolve unintended conflicts and confusion relating to exemptions for actions that involve state or county rights-of-way and also establishes a clear process for other actions that may not be on a predetermined exemption list authorized by the Council.

Accordingly, your Committee has amended this measure by replacing its contents with amendments that:

(1) Clarify that when two or more state or county agencies have jurisdiction, the Office of Environmental Quality Control shall determine which agency has the responsibility of preparing an environmental assessment after consultation with and assistance from the affected state or county agencies;

SB2808 HD1 HSCR LRB 08-3011-1.doc

- (2) Clarify the rulemaking powers of the Environmental Council; and
- Succinctly state the purpose of the measure.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2808, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2808, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

> Respectfully submitted on behalf of the members of the Committees on Energy & Environmental Protection and Judiciary,

State of Hawaii House of Representatives The Twenty-fourth Legislature

Record of Votes of the Committee on Energy & Environmental Protection

Bill/Resolution No.: Proposition Committee SD 2608 SD2 HOI	Committee Referral:		Date: 4/1/08				
☐ The committee is reconsidering its previous decision on the measure.							
The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) Hold Pass short form bill with HD to recommit for future public hearing (recommit)							
EEP Members	Ayes	Ayes (WR)	Nays	Excused			
1. MORITA, Hermina M. (C)	✓						
	ARIFORNIA SECTION						
2. CARROLL, Mele (VC)		en e		minus et al.			
3. ITO, Ken		Pints					
				100 mg			
4. KARAMATSU, Jon Riki	J						
	1		State Action 1				
5. MAGAOAY, Michael Y.	/			Mark Section 1			
	/		SHEET STREET				
6. SAGUM, Roland D., III	V						
7. SAIKI, Scott K.							
			e e e e e e e e e e e e e e e e e e e				
8. THIELEN, Cynthia	/						

			-				
TOTAL (8)	1						
The recommendation is: Adopted							
Vice Chair's or designee's signature:							
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office							

State of Hawaii House of Representatives The Twenty-fourth Legislature



Record of Votes of the Committee on Judiciary

Bill/Resolution No.:	Committee Referral:		Date:				
SB2808, SD2 (SSCR2866)	EEP/JUD		4/1108				
☐ The committee is reconsidering its previous decision on the measure.							
	unamended (as is) Pas short form bill with HD to recor	s, with amendments	· •	1			
JUD Members	Ayes	Ayes (WR)	Nays	Excused			
1. WATERS, Tommy (C)							
2. OSHIRO, Blake K. (VC)	/						
3. EVANS, Cindy							
4. GREEN, Josh, M.D.	/						
5. ITO, Ken							
6. LUKE, Sylvia				/			
7. McKELVEY, Angus L.K.							
8. MORITA, Hermina M.							
9. SONSON, Alex M.							
10. SOUKI, Joseph M.				~			
11. TSUJI, Clift							
12. YAMANE, Ryan I.							
13. YAMASHITA, Kyle T.							
14. MARUMOTO, Barbara C.							
15. PINE, Kymberly Marcos							
16. THIELEN, Cynthia							
				•			
TOTAL (16)	12			4			
The recommendation is: Add	opted	ed ed					
	referral,committee acronym	did not supp	oort recommendatio	n.			
Vice Chair's or designee's signature:							
Distribution: Original (White) – Con	mmittee Duplicate (Yell	ow) – Chief Clerk's	Office				