

Legislative Update of Hawaii Environmental Policy Act-Related Bills

By Scott Glenn

This Legislative session saw more than 20 bills relating to environmental impact assessment. Many of these bills were companion bills, meaning that largely similar language was introduced to both the House and the Senate, in hopes that one of them would make it through. These bills grouped into four main themes: governance, exemptions/triggers, supplemental impact assessment, and cultural impact assessment, along with other miscellaneous tweaks. Anyone familiar with environmental review in Hawaii recognizes that these are perennial issues in need of resolution.

Three bills are particularly noteworthy: HB 424, HB 1342, and SB 699. Only two of these bills are becoming law. HB 424 extends Act 87, the ministerial connection for the use of state or county lands, to 2013 and requires the OEQC to prepare a report on the effectiveness of Act 87. The Governor has signed it already and enacted it as Act 45.

HB 1342 exempts certain telecommunication infrastructure from state and county permits, including 343. It reported from conference committee, passed the Senate and House, and was transmitted to the Governor. The Governor has until July 15 to veto it, sign it into law, or allow it to become law without signature. Given strong agency support for this bill, the Governor is unlikely to veto it. SB 699, establishing OEQC filing fees, made it to conference committee but never reported out. The measure would authorize the OEQC to collect fees into a special fund for the purpose of improving the effectiveness of the OEQC and overall Chapter 343 process. The measure includes a fee schedule and a fee waiver condition for applicants able to demonstrate the cost of the action or applicant annual revenue does not exceed an undecided amount.

Because this year is the first year of a two-year legislative cycle, bills that made it to conference committee will resume at conference committee next year, though when in the schedule they might be addressed is unknown. Similarly, many bills that stalled at a particular committee may resume at that committee next year. This is the case for bills proposing:

- OHA train Environmental Council members,
- OHA approve cultural impact assessments,
- The reorganization of the OEQC and Environmental Council,

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- Affordable housing exemptions, and
- Revisions to or elimination of supplemental impact assessments.

Finally, with the start of a new year, new bills will also be introduced. These will likely range from tweaks to wholesale revision of Chapter 343.