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HB 2293

RELATING TO THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL

Statement to
House Committee on Ecology and Environmental Protection
Public Hearing 13 February 1978

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HB 2293 proposes amendment of HRS Chapter 343 to limit the role of the Office of Environmental Quality Control (OEQC). This statement on the bill does not represent an institutional position of the University.

HB 2293 has been introduced in short form. Its first section consists of a statement of findings and purpose. The second simply indicates that HRS Chapter 343 is to be amended to conform to the purpose. Ordinarily, the Environmental Center does not review short-form bills, but a possible misconception arising from the phrasing of the statement of findings may influence the future of the bill and the form of the amendments to be provided by it if it is expanded.

According to HRS Chapter 341, the functions and responsibilities of the OEQC and its director are:

- i) to implement the purpose of Chapter 341, which is to stimulate and maintain the optimal quality of the environment of the State (341-3(a));
- ii) to serve the governor in an advisory capacity on all matters relating to environmental quality (341-3(a));
- iii) to coordinate state agencies on matters concerning environmental quality (341-4(a));
- iv) when requested by the governor, to direct state agencies in matters concerning environmental quality (341-1(a)).

It is only the narrower of these functions, the second and fourth, that are recognized in the findings in HB 2293. The fourth is even narrower than the wording suggests because the governor's authority to delegate powers to OEQC to direct state agencies, even in environmental matters, is limited. The major importance attaches to the broader functions.

The findings of Chapter 341 are:

- i) that the quality of the environment is as important to the welfare of the people of Hawaii as is the economy of the State;
- ii) that the determination of an optimum balance between economic development and environmental quality deserves the most thoughtful consideration;
- iii) that the maintenance of optimum environmental quality deserves the most intensive care.

The optimum environmental quality is clearly that quality associated with the optimum balance identified in the findings. Unless the Legislature no longer considers these findings valid, there must clearly be some means to maintain this optimum environmental quality. The OEQC's most general responsibility is to see that the optimum is determined and maintained. Since the functions of most state agencies significantly involve the environment, their coordination in environmental matters is clearly essential. Inter-agency coordination is the principal means by which OEQC may meet this responsibility.

The responsibilities of a coordinating agency must be inherently overlap somewhat those of agencies to be coordinated. If the coordination is needed, even a certain amount of conflict is unavoidable. HB 2293 proposes that the Legislature find that the role of the OEQC "must be carefully circumscribed to avoid conflict and overlap with departmental responsibilities." If total avoidance and overlap is to be avoided, the OEQC might as well be abolished, and the Environmental Quality Control Act relegated to the status of one of our nice sounding but meaningless policy statements.

What is probably intended in the bill is not total avoidance of conflict and overlap with departmental responsibilities, but reductions in conflict and overlap in some particulars and, since it is not HRS Chapter 341 but HRS Chapter 343 that is proposed to be amended, the particulars presumably relate to OEQC's role in the State Environmental Impact Statement (EIS) system that was established under the latter chapter.

Chapter 343 is, however, completely silent as to OEQC's role in the EIS system. Under the Governor's Executive Order that established an earlier State EIS system, affecting only State agency actions, OEQC had certain defined responsibilities. These are now limited to those delegated in accordance with HRS Chapter 341 and further limitation would appear to require amendment of Chapter 341 instead of or in addition to Chapter 343.

As we have pointed out in a just completed report on the EIS system (Env. Ctr. report SR:0019), the OEQC could usefully play a more active role in the environmental assessments by State agencies and in the preparation of State-agency EIS's, providing assistance from its own staff and arranging for improved inter-agency coordination. It is, therefore, our opinion that, so far as state-agency actions are concerned, the EIS system would be both more effective and cheaper if OEQC's role were expanded rather than reduced.