



STATE ENVIRONMENTAL COUNCIL

DEPARTMENT OF HEALTH, STATE OF HAWAII
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State of Hawai'i Environmental Council
Tuesday, January 9, 2018, 1:00 – 3:30 PM
Leiopapa A Kamehameha Bldg.
Room 204, 235 S. Beretania St, Honolulu, Hawaii 96813

1. Call to order, roll call and quorum, introductions
2. Review and approval of prior meeting minutes
 - a. Meeting held on November 7, 2017
 - b. Meeting held on December 5, 2017
3. Environmental Council Reorganization
 - a. Nominations and vote for Vice-Chair
 - b. Committee assignments
4. OEQC Director's Report
5. Approval of Draft 2017 Annual Report
 - a. Timeline for 2017 Annual Report
 - b. Additional strategies, format, methods of outreach, and budget for the Annual Report
6. Legislative priorities for 2018
 - a. Bills that carry over from the 2017 legislative session (see Exhibit 1)
 - b. Bills that are introduced in the 2018 legislative session
7. Procedures for Legislative Committee activities
 - a. Tracking bills and resolutions
 - b. Submitting testimony
8. Review and discussion of proposed revisions to Hawaii Administrative Rules, Chapter 11-200, Environmental Impact Statement Rules
 - a. Discussion to be based on working draft Version 0.3 (a copy of Version 0.3 and comments received are available at <http://health.hawaii.gov/oeqc/rules-update/>). (Comment period ends January 12, 2018.)
 - b. Discussion of timeline and approach for voting on draft Version 0.4
9. Adjournment

Note: Public comments will be accepted on each agenda item prior to voting or completion of the agenda item.

Note: The Council may go into an executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a), Hawaii Revised Statutes ("HRS"), without noticing the executive session on the agenda where the executive session was not anticipated in advance. The executive session may only be held, however, upon an affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. The reason for holding the executive session shall be publicly announced and the vote of each member on the question of holding a meeting closed to the public shall be recorded and entered into the minutes of the meeting. HRS Sections 92-4, 92-5(a) and 92-7(a).

Hawaii Environmental Council - Legislative Committee
Pending Legislation for Environmental Council Consideration

Version Three : Last Updated 4/10/2017

Bill Number	Companion	Measure Title	Description	Rationale	Legislative Committee Position	Environmental Council Position	RESULTS
On the table							
SB 760	HB 624 HB 1047 HB625	RELATING TO TELECOMMUNICATIONS	Codifies exemptions to permitting requirements established by Act 151, Session Laws of Hawaii 2011, within the Hawaii Revised Statutes and expands those exemptions to include broadband over wireless or mobile platforms, including small wireless facilities. Establishes a definition of wireless communications antennas that include small wireless facilities. Repeals those sections of Act 151, Session Laws of Hawaii 2011, which have		Deferred (SB760) "Deleted" (HB624) Deferred (HB 1047) Deferred (HB625) 4/4 WAM PASSED WAM 4/7	SG in discussion	Deferred by Conference Committee
SB 1016/ SD1		RELATING TO TRANSPORTATION	Temporarily exempts the Department of Transportation and its contractors from certain state requirements for certain bridge rehabilitation projects by extending the end date to June 30, 2022. Effective 6/29/17. (SD1)		Passed WAM (SB1016) Passed FIN (SB1016/SD1)	SG in discussion	Sent to Governor (SB1016/SD1/HD1/CD1)
SB 1088	HB 795	RELATING TO CARBON FORESTRY CERTIFICATION.	Appropriates funds for certification of a reforestation carbon project at Haleakala, Maui, operated by DLNR, under an established forest carbon standard certification system. Requires DLNR to submit an annual report on the project certification to the governor and legislature.	Funds DLNR forest carbon project on Maui	Passed FIN 3/3; referred to House WTL, WAM on 3/9	SUPPORT. Mary/Onaona to testify in person	Died
HR 131		RELATING TO OEQC AND CLIMATE CHANGE	Urging the OEQC, in cooperation with the Department of the Attorney General and the Legislative Reference Bureau, to prepare environmental and legal opinions of future state regulations and legislation that might be deemed necessary to combat climate change and prevent the regression of environmental protection		Passed EEP; referred to FIN on 3/29		Died
SB776/ SB879	HB1013/ HB1339	RELATING TO INVASIVE SPECIES PROGRAM ADMINISTRATION.	Restructures the Hawaii invasive species council as the Hawaii invasive species authority, administratively attached to the department of agriculture, to coordinate implementation of the Hawaii interagency biosecurity plan and to improve coordination of the State's invasive species prevention, early detection, rapid response, control, enforcement, and outreach programs. Appropriates funds to implement the authority and relevant interagency invasive species projects.	Establishes Hawaii Invasive Species Authority	Passed WAM (SB776) Passed FIN (SB776 SD2 HD1) Note: Gov's bill DISAGREEMENT	SUPPORT	Died in Conference
SB559		RELATING TO CLIMATE CHANGE	Enacts relevant provisions of the Paris Agreement as Hawaii state law. Makes an appropriation.	Enacts relevant provisions of Paris Agreement as Hawaii state law	Senator Kalani English Passed FIN 3/31	SUPPORT; recommend role for OEQC	Sent to Governor (SB559/SD1/HD2/CD1)
HB1570		RELATING TO THE ENVIRONMENT	Requires lessors of rental motor vehicles to include an option for the lessee in the motor vehicle rental agreement to contribute a sum to DLNR for the preservation and protection of the environment, commencing on January 1, 2020. (HB1570 HD1)	Rental vehicle contract option to contribute to DLNR	Passed FIN Rep Chris Lee Referred to TRE/CPH/AEN	SUPPORT Note: 3 referrals in Crossover	Died
HB1247/ HB1472	SB1239	RELATING TO RAPID OHIA DEATH	Appropriates funds for research on prevention and mitigation of Rapid Ohia Death. (HB1247 HD1)	Funding for ROD research	Referred to FIN (HB1247) Passed WAM (SB1239)	SUPPORT	Died
SB 192	HB 100	RELATING TO THE STATE BUDGET	"Appropriates funds for the operating and capital improvement budget of the Executive Branch for fiscal years 2017-2018 and 2018-2019."	EC Budget	Reported from WAM 4/4	SG talked to Rep Luke re replacing budget increase from Gov	Sent to Governor (HB100/HD1/SD1/CD1)
HCR120/ HD1		OFFICE OF ENVIRONMENTAL QUALITY CONTROL	Requesting the OEQC apply consistent standards to all applicants and agencies, follow statutory intent of the legislature, update legislators on guidance documents and interpretations and support the EC's efforts to update Hawaii Administrative Rules Chapter 11-200.	OEQC and EC	"Re-referred to AGR, EEP"	NEW TO OUR LIST	Died
NOTE: EC discussed a letter of general support for DLNR, to be addressed to legislative leadership. We may wish to discuss this at the upcoming LC meeting.							EC passed motion to send to leadership

Hawaii Environmental Council - Legislative Committee
Pending Legislation for Environmental Council Consideration

Version Three : Last Updated 4/10/2017

Bill Number	Companion	Measure Title	Description	Rationale	Legislative Committee Position	Environmental Council Position	RESULTS
Deferred, Did Not Cross, Dead							
SB 570		RELATING TO ENVIRONMENTAL IMPACT STATEMENTS	Requires an environmental assessment for any proposed use or development of property greater than one hundred acres in size. Requires the EA to include the results of a minimum five-day search for endangered or threatened species.	New "trigger" for EA	Deferred DNC	Take no position: DNC (did not crossover)	
SB 577	HB 928	RELATING TO AFFORDABLE HOUSING	Exempts the development of affordable housing projects developed in the urban core by the Hawaii housing finance and development corporation from environmental assessment and environmental impact statement requirements	Exemption from EA and EIS	Deferred (SB 577) DNC EEP/WAL (HB 928)	Monitor : DNC	
SB 578		RELATING TO HOUSING	Authorizes the Hawaii community development authority to prepare a programmatic environmental impact statement for housing development projects on all lands within the Kakaako community development district. Allows the programmatic environmental impact statement, once it is accepted by the office of environmental quality control, to satisfy the environmental assessment and impact statement requirements for any housing development project within the Kakaako community development district.	Eliminates need for EA and EIS if PEIS is prepared.	Deferred DNC	Monitor : DNC	
SB 1232	HB 1411	RELATING TO PUBLIC LANDS	Declares the intent of the legislature that a contested case hearing shall not be required for land leases, lease extensions, consents to subleases, or any other dispositions of public land.	Eliminates contested case hearings for some land issues	Deferred (SB 1232) "Deleted" (HB1411) DNC	DNC	
HB 1453		RELATING TO PROTECTION OF NATURAL RESOURCES.	Imposes a \$20 per guest tax on users of transient accommodations for the purposes of funding conservation efforts.		Deferred	DNC	
SB703		RELATING TO VISITOR IMPACTS	Allows use of the special land and development fund for the management, maintenance, and development of state parks, beaches, and other natural resources. Allocates two per cent of the transient accommodations tax to the special land and development fund category for the management, maintenance, and development of trails and trail access, state parks, beaches, and other natural resources. (SD1)	Allocates 2% of TAT to DLNR SLDF	Referred to WAM DNC (DID NOT CROSS)	DNC	
SB1300		RELATING TO CONSERVATION	Increases the amount of transient accommodations tax revenue allocated to the special land and development fund.	Increases DLNR share of TAT	DNC	DNC	
HB1004		RELATING TO RAPID OHIA DEATH	Appropriates moneys for implementation of the Rapid Ohia Death Strategic Response Plan. (HB1004 HD1)	Money for Rapid Ohia Death (ROD) research	Referred to FIN DNC		
HB69		RELATING TO TAXATION	Amends the distribution of conveyance tax revenues to better fund programs for environmental protection and affordable housing.	All conveyance tax revenues go to Legacy Land (17%) and Rental Housing Revolving Fund (83%)	Deferred DNC	DNC	
HB221		RELATING TO DISPOSITION OF TAX REVENUES.	Amends the list of non-general funds that receive distributions from the conveyance tax by: (1) increasing the maximum dollar amount of the distribution to the land conservation fund; and (2) restoring and setting a maximum dollar amount for the distribution to the natural area reserve fund.	Conveyance tax cap increase for Legacy Land and restore Natural Area Reserve Fund	Deferred DNC	DNC	

**Hawaii Environmental Council
EIS Rules Update Process
Status Update – January 9, 2018**

Overview

The Environmental Council is nearing the end of the first major stage of the rulemaking process to revise Hawaii Administrative Rules (HAR) Chapter 11-200, the Environmental Impact Statement (EIS) Rules. This process began in earnest in July 2017. Since July, the Council has released three separate drafts of the proposed EIS Rules. A fourth draft, version 0.4 (v0.4), is scheduled for release on January 31, 2018. The Council anticipates that decision making regarding v0.4 of the draft EIS Rules will occur at a meeting scheduled for February 20, 2018. If approved, v0.4 of the draft EIS Rules, as amended, would be requested to go to formal public hearings, likely to be scheduled in April of 2018.

A copy of the previous drafts, along with comments received on each draft, can be downloaded from the EIS Rules Update website at <http://health.hawaii.gov/oeqc/rules-update/>. Interested parties can also sign up for email updates on the rule revision process by registering on the EIS Rules Update website.

Public Comments

The Environmental Council has been actively soliciting public comments throughout the rulemaking process. The public comment period for v0.3 of the draft EIS Rules has been extended to January 12, 2018 (since its initial release on October 29, 2017). Comments received by January 12, 2018 will be considered and incorporated into v0.4 of the draft EIS Rules, as appropriate. Comments submitted after January 12, 2018 may not be considered during the drafting of v0.4 of the draft EIS Rules. However, comments that are submitted between January 13 and February 19, 2018 will be distributed to members of the Environmental Council for their consideration.

Public comments regarding the draft EIS Rules may be submitted via the CiviComment website at <https://oeqc.civiccomment.org/version-03-har-11-200a>, or via email to oeqchawaii@doh.hawaii.gov.

EIS Rules Package

Version 0.4 of the draft EIS Rules will include four distinct documents. Decision making at the February 20, 2018 meeting of the Environmental Council will consider all four documents as a package.

1. An official clean copy of v0.4 of the draft EIS Rules (note, since HAR Chapter 11-200 will be completely reorganized and restated into HAR Chapter 11-200.1, the official copy of v0.4 will not contain any Ramseyer markups).
2. A detailed staff report that explains the rationale for the proposed changes to the EIS Rules.
3. An unofficial copy of v0.4 of the draft EIS Rules that highlights the changes between the existing EIS Rules and the draft EIS Rules.
4. A draft of the notice to be published for the public hearings.

Schedule

A schedule of major events is provided below, and can also be found at the EIS Rules Update website. Updates to the schedule will be posted on the website, and also distributed to the email list.

January 9, 2018	Environmental Council meeting. Agenda to include additional discussion of v0.3 of the draft EIS Rules.
January 12, 2018	Deadline to submit comments on v0.3 of the draft EIS Rules for consideration and incorporation into v0.4 of the draft EIS Rules.
January 31, 2018	Anticipated release date for v0.4 of the draft EIS Rules, including the entire EIS Rules package.
February 6, 2018	Environmental Council meeting. Agenda to include presentation and discussion of v0.4 of the draft EIS Rules.
February 19, 2018	Deadline to submit comments regarding the draft EIS Rules for consideration by the Environmental Council.
February 20, 2018	Environmental Council meeting. Agenda to include decision making regarding approval of version 0.4 of the draft EIS Rules (as amended) for public hearings.

Proposed Decision Making Process

The February 20, 2018 meeting of the Environmental Council will start with discussion of v0.4 of the draft EIS Rules package, followed by an up-or-down vote to send the package out for public comment. If the vote does not pass by a majority of the Council, the floor will be open for amendments.

Council members who wish to propose amendments are expected to come to the meeting with prepared written amendments to the draft EIS Rules *and* suggested changes to the accompanying rationale document.

In order to determine the order in which amendments will be considered, each Council member will be given three minutes to present his/her proposed amendments, with no discussion or questions (additional time may be granted depending on schedule constraints). After all proposed amendments have been presented, Council members will decide the order in which the proposed amendments will be considered through a simple vote. The amendment with the most votes will be considered first.

The Council will then discuss and vote on v0.4 as amended with the first-considered amendment. If v0.4 as amended with the first-considered amendment does not pass, then the first amendment will be removed, and the second amendment will be considered in a similar fashion. All amendments will be considered individually until a majority of the Council votes yes to send v0.4 as amended out for public comment.

If the Council does not pass v0.4 after all the amendments have been considered individually, then the Chair will ask for a motion to consider a suggested combination of two or more amendments to v0.4. When a motion is made and seconded, then the Council will vote on v0.4 as amended with that combination of amendments. If v0.4 as amended by the first suggested combination of amendments does not pass, the Chair will request a motion to consider a second suggested combination of two or more amendments to v0.4, and the Council will vote on v0.4 as amended with that combination of amendments. This process will continue, as the schedule allows, until a majority of the Council approves v0.4 as amended of the draft EIS Rules to be sent for public comment.

If the Council does not approve any v0.4 rules package as amended, or the schedule prohibits all amendments from being considered before the Council reaches a decision on a satisfactory combination of amendments that it would approve by a majority, then the Council will decide whether to request a draft v0.5 be produced, or to continue considering combinations of amendments at its next scheduled Council meeting.