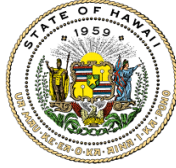


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GLENN TEVES
MARJORIE ZIEGLER
JESSICA WOOLEY, OEQC DIRECTOR

ENVIRONMENTAL COUNCIL LEGISLATIVE COMMITTEE MEETING MINUTES

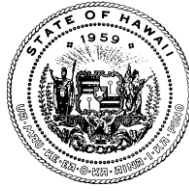
December 4, 2014, Thursday
1:00 PM – 3:00 PM

235 SOUTH BERETANIA STREET, SUITE 702
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1. Call to Order at 1:05 pm
2. Introductions Ted Bohlen, Koa Kaulukukui, Scott Glenn, Mark Ambler, Liam Declive Lowe, Meg Delise, Genevieve Hilliard, Dan Purcell, Inga Gibson, Joseph Shacat, Jessica Wooley, Gary Gill.
3. Approval of Minutes. The Chair clarified that minutes should be posted on the website within 30 days of the meeting. Minutes for the previous meeting are not available yet but will be shortly. We have learned that meeting minutes need not be approved, prior to posting. However, the desired protocol is to set them up to be approved prior to posting. The Deputy Attorney General clarified that minutes need not be verbatim, they can be brief but must include basic information such as votes.

Scott Glenn requested Office of Environmental Quality Control (OEQC) post minutes for the Environmental Council (EC) and EC subcommittees. Chair Wooley said yes, that is the intent of OEQC, and we will do all that we can, subject to staff limitations.

4. Chair's Report: Now is the time for us, the legislative committee to decide if we want to support bill concepts. In the future, we can also develop our list of bills we support as the legislature gets started and during session. Chair Wooley suggested we organized proposals into different lists, i.e., List 1. Priority bills we are committed to working on and pushing forward now; List 2. Good bills we like but we don't have time or resources to work on, and we will consider supporting formally or working on in the future should resources become available; List 3. Working Group bills, would be bills that we see are good in theory but need work before we can support them, so we will support task forces and working groups, potentially in the form of resolutions at the legislature (it was noted that there have been 3 working groups already on HRS 341 and 343 issues); List 4. Bills to Table for now, as in we cannot decide what to do but we can discuss again in the future; and potential List 5. Bad bills – we can decide if we want to get involved at some future time to be involved in commenting on bills we think would be bad for the state.



5. Priorities for Upcoming Legislative Session

- a. Genevieve Hilliard presented to the group the HRS Chapter 341 bill, which is based on recommendations from working groups, audits, legislation, and staff from the last 5 years. Discussion centered on the filing fee bill's new language with money going to the general fund, because the legislature has not supported and is unlikely to support any special funds as far as we can tell. While it will not help our funding challenges directly, the fee bill can help us justify funds we need to operate. In addition, the bill simply supports the concept that users pay for the system rather than the taxpayer. As it is, users of the environmental review system get the government services for free, at taxpayer expense. A special fund would be helpful for us but has failed in the past and given the politics will likely not be possible any time soon.
- b. Genevieve Hilliard presented to the group the HRS Chapter 343 bill. Statewide sustainability efforts can be aligned with our office with this bill. Currently there is an exempt position in Department of Land and Natural Resources (DLNR) that provides this type of focus but it may be temporary. There is a lot of overlap and some confusion because our priorities and mandates are similar. For example, the General Progress Indicator the EC has developed and published in its annual report the last three years is very similar to what the Green Growth Initiative and Aloha + Challenge efforts aim to do.

The Deputy Attorney General raised questions and discussion ensued about whether it is wise at all to introduce any bill relating to HRS Ch. 341 or Ch. 343 because of the antagonistic attitude of previous legislatures and the potential effort to remove EC or OEQC authority and concerns about whether we have time or the ability to agree to anything before session begins. Despite concerns, the discussion about bills continued and it was decided that maybe nothing will happen, and the Environmental Council will do nothing, or maybe a little bit could be accomplished and prioritized. The committee decided to do as much as possible and have the full EC decide at the next meeting.

Proposal to attach the EC to OEQC. Change in duties would be to have OEQC promulgate rules with the EC approval rather than the EC promulgating the rules given they do not have the ability or resources to move forward under the current government structure and limited resources.

There was also discussion about moving the significance criteria into the statute and how to clarify issues such as climate change, and primary and secondary impacts. One debate was whether environmental effects should include all effects, not just adverse effects, for the significance criteria issue. It was agreed they should.

- c. Genevieve Hilliard provided a summary of other HRS 341 options: Proposal for Council membership to go down from 15 to 9, or including one from each county, or including one member from the House Speaker and one from the Senate President. Also language was added to have OEQC do budgeting for the EC officially because currently, there is no formal authorization for OEQC to fund the EC, but we do because otherwise, the budgeting decisions are haphazard and subject to multiple challenges or the whim of the OEQC director. Could be



like Hawaii Tourism Authority, which has its own board attached to it – and which is attached to Department of Business Economic Development and Tourism (DBEDT).

Primary Responsibility of the Annual Report would be for OEQC. The EC would do broader state policy issues every year. Bill language adds to significance criteria language and rulemaking responsibility, introducing record of decision language similar to National Environmental Policy Act. We want to add language to provide for an easier NEPA HEPA process, promoting public participation and electronic distribution, also potential change of 9 triggers to be similar to federal law. There was discussion about the definition for cumulative effects, ministerial effects, programmatic documents, and tiering.

Chair Wooley suggested we move to the Sustainability Report agenda item. Scott Glenn requested the group not go to Liam's report until we are completely finished with the 341 and 343 discussions. Chair Wooley agreed to that request subject to a change in the agenda to allow for public testimony before decision making by the committee on the HRS 341 and 343 issues (5.f.).

This would be the time for us to also add any other bills for the EC to consider supporting. Before moving to final action on the HRS 341 and 343, the Chair suggested we allow for public testimony (skipping to 5.e, public testimony, which we will repeat after discussion of the 5 d Sustainability Package issues).

5.e. Public Testimony on 5 a-c.

Public Testimony: Inga Gibson, requesting support for us to add bills to our list of bills that we support. (1) Ivory sales prohibition. Last year, a bill almost passed but the hope is a new version will pass this year re: state Ivory sales prohibition without appropriate documentation. Hawaii is the state with the 3rd highest sales in the nation. Division of Conservation and Resource Enforcement (DOCARE) supports the bill and the US Fish & Wildlife (F&W) is asking for assistance from states because they can only enforce limited cases. Elephants continue to be poached as a result of state loopholes. In-state sales are not regulated by the federal government. A stronger bill was already passed in New York and New Jersey. Extinction of elephants is predicted during our lifetime. We are an Asian Pacific hub and known for ivory trafficking, but the Feds cannot do the in-state enforcement, so we need state enforcement authority. These activities also help fund terrorist organizations. (2) Phasing out the use of lead ammunition. In 1996 F&W prohibited lead ammunition for certain hunting. Lead ammunition is still being used and sold in Hawaii despite its known toxicity to children and animals, and has many soil and water impacts. Long ago states began to ban the use of lead ammo. (3) Give DOCARE the authority to become a member (like 46 other states) of the Interstate Wildlife Violator Compact so they know violations by other people in other states. (4) Bill to prohibit the take or landing of sharks within state waters (within the 3 mile zone). (5) With CCH support, a bill to curtail or prohibit the collection of aquarium fish. Almost all of these fish are exported out of state, about 40% of them die before they are actually delivered (5% lost in the 8 steps of the supply chain, and then 10-15% loss at retail level). We are the largest exporter in the nation. When these fish are removed, often they have a negative impact on the ecosystem itself.

Dan Purcell, testified about his concern about government when just a few people have power. Concerned about Board of Land and Natural Resources, and each member is appointed by



governor, and there are many conflicts, and there is no oversight group on the environment. The Commission on Water Resource Management is limited in terms of what they can do. There needs to be continuity with boards. The California Coastal Commission, in contrast, deals with complex issues throughout the state and they have 2 appointments from the governor, some members appointed by counties, and some by the state legislative leaders. They have a nice mix, are very accountable, and their roles are valued and important. So it is important to continue to work to pass bills even if they failed in the past. He would also like to see more women in office and appointed to leadership positions. He would be disappointed if this group did not move forward at least with some of these bill proposals.

5.f. Final Council discussion and decision making on items 5 a-c only.

Discussion on the items listed in the HRS 341 bill, and identifying whether it's 1, 2, 3, or 4 ensued. Members agreed that the fees issue should be approved as an item 1 priority; the sustainability position and change of title of OEQC was also approved as a priority 1 item (consistent with OEQC's original structure) but the exact name itself can be determined in the future; and also attaching the EC to the OEQC and having OEQC take primary responsibility to promulgate rules, with the EC having authority to approve, should be a priority 1 item. Discussion then moved to proposed changes to HRS 343, including climate change and language about significance criteria that is currently in rules. Members expressed concern about taking on too much and having questions opened up that could be detrimental, yet there was a common desire to improve the statute and better address the immediate climate change issues. Members agreed to put the items on this bill draft to a #3 issue at this time.

Scott Glenn moved to request the EC adopt and endorse the following items 1-3 on Genevieve's summary:

LC - 1

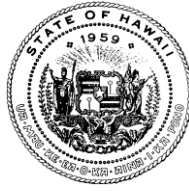
To provide OEQC and the Environmental Council (EC) with more staff and resources, a filing fee for HRS Chapter 343 environmental review documents submitted to OEQC for publication shall be established. The fees will support the office in their on-going efforts to modernize technology and hire more staff to fulfill the statutory obligations mandated under HRS Chapter 341 and HRS Chapter 343.

LC - 2

As the intent of the Environmental Quality Act aligns with the Aloha+ Challenge statewide sustainability targets, it is recommended to place a Sustainability Coordinator (or a similar position) in OEQC. This will strengthen the role of OEQC, coordinate the State's set goals for sustainability and strengthen the implementing force behind the Aloha+ Challenge. The Office's name will be changed to the Office of Environmental Quality and Sustainability (OEQS).

LC - 3

Adjust the authority and administrative placement of OEQC by providing that the Director is responsible for budgeting and hiring staff in a manner that ensures adequate funding and staff support for OEQC and the EC to carry out their duties. In alignment with this, move the EC to be administratively attached to OEQC.



OEQC is to adopt rules, with the approval of the EC, to implement Chapters 341 and 343, effectively shifting the primary rulemaking responsibility from the EC to OEQC but continuing the EC's policymaking oversight and involvement in the rules process.

Motion was seconded by Koa. Dan Purcell interrupted to state he did not have a copy of the summary. Discussion about the motion continued.

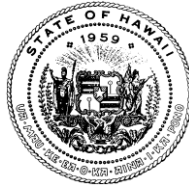
Scott Glenn suggested more public testimony should be provided, and a point of order to clarify that public testimony before a vote should be allowed. Some debate ensued, Chair Wooley stated that we just took public testimony on this issue, and clarified that there will be a second opportunity for the public to testify on the Item 5 issues after the presentation on the 5d issues and before the Council takes final action on that item. The Deputy Attorney General clarified his opinion that the public should be able to testify on the discussion that happened in the last few minutes.

Additional Public Testimony: Dan Purcell was given the opportunity to testify on the issues discussed between now and the last opportunity for public testimony. Dan testified that the public can comment on every item on the agenda, and said that there should be better understanding of the Sunshine Law.

A vote was taken on Scott Glenn's motion to move items LC-1, LC-2 and LC-3 to the EC, there were 5 ayes and one absent member.

Further decision making on items 5a-c were tabled for now, to be on List 4 items, in the interest of time.

- d. Sustainability Package changes and proposals. Presentation was given by Liam DeClive Lowe. The concept of the package is based on the EC Strategic Planning Session, and used the Aloha + Challenge to promote good policy. First are the general policy issues, and there are also specific bills. The 5 policy issues include the following: endangered and invasive species, freshwater management, energy, local food production, and promoting a department of sustainability. There is a working list of specific bills included at the end of the report – primarily based on bills from the last session that almost became law and have been improved – that can be considered by the EC for approval. Meg DeLisle discussed the importance of bills such as the ivory bill, where Hawaii can have an impact on a species that may go extinct in our lifetime. We should at least be having these discussions now given the current events.
- e. Public testimony: Public comment, (5.e on the 5d item in particular). Dan Purcell stated his opinion that he can talk about whatever item he wants to talk about. He found the agenda confusing, complained about the meeting, and had no further comments about the agenda at this time.
- f. Final Council discussion and decision making
Members stated that the ideas are good. There was discussion about how we may find consensus on some of the items, and then we can see if we can also identify specific bills we can agree on, in addition to HRS 341 and 343 bills. Joseph Shacat asked that we not get



caught up in the specific name at this time, that we remove the package of bills, and call this the Sustainability Vision for Hawaii. He moved that we vote to incorporate this revised document into the annual report and forward this to the Environmental Council for final approval, minus the specific list of bills. All members agreed.

Discussion continued about how the specific bills could be included on List 2. Mark Ambler raised issues about bills relating to pesticides from last year. He provided a list of bills and suggested the full EC can consider and vote to support such bills if they are moving forward. In the future, we can add more bills. Shacat stated that he would want to see the specific language of the bills before voting on whether to support the bills. Liam DeClive Lowe said he will forward the specific language for the bills he has to the EC so each member can review and decide whether we want to endorse the measures to be on our List 2 bill list. The Deputy Attorney General suggested that at the next meeting, council members can vote.

Koa Kaulukukui, commented on endangered and invasive species issues and suggested we think more on how to put the ivory bill and opihi bill into the package in a way that is more consistent with the description of the EC priorities, and maybe we remove that focus until it's more clear. The ivory bill is more about an international issue, and she would like to see more on what we can do here for endangered species in Hawaii.

6. Budget Update. The chair stated we are asking for more money so the EC can get its work done.
7. New Business – the EC has a lot on our plate.
8. Next Meeting – we can decide after the full EC meeting on December 12th, the focus would be to add bills to our List 2 list. We can try for the 14th and see if that will work via a doodle poll.
9. Public Comment – Dan Purcell testified that he felt it was unfortunate there were distractions during the meeting. He was troubled by the last meeting, and the fact that the minutes need to be published within 30 days, as he stated before. Dan emphasized the importance of the Sunshine Law and public participation.
The chair stated that she appreciated everyone's patience and time, and looks forward to the next meeting.
10. Adjournment