

JAN 25 2006

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# A BILL FOR AN ACT

RELATING TO THE LAND USE COMMISSION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that although the  
2 purposes of Hawaii's land use law remain as valid today as they  
3 were at the time of its enactment in 1961, the procedures  
4 through which these purposes must be realized have proven  
5 inadequate and unworkable. Under existing procedures the land  
6 use commission has become redundant and overly restrictive, an  
7 impediment to rational land use planning and reasonable land use  
8 decision-making.

9           The land use commission should be reconstituted as a  
10 reviewing body for the purpose of monitoring, approving, and  
11 reporting on land use district boundary decision-making by the  
12 counties, within the constitutional framework of state  
13 stewardship over important agricultural and natural resource  
14 areas. Mindful of the need for property rights to be determined  
15 in quasi-judicial contested case proceedings, the legislature  
16 mandates that the counties make impartial land use district  
17 boundary amendment decisions based on proven facts and  
18 established policies. The membership of the land use commission



1 should be enlarged and ex officio members representing state  
2 agencies, the counties, and business, agricultural, and  
3 environmental interests should be designated.

4 The purpose of this Act is to set forth reforms intended to  
5 ensure the effective implementation of statewide land use policy  
6 by the counties with minimal oversight by the land use  
7 commission.

8 SECTION 2. Section 46-4, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§46-4 County zoning.** (a) This section and any  
11 ordinance, rule, or regulation adopted in accordance with this  
12 section shall apply to lands not contained within the forest  
13 reserve boundaries as established on January 31, 1957, or as  
14 subsequently amended.

15 (b) Zoning in all counties shall be accomplished within  
16 the framework of a long-range, comprehensive general plan  
17 prepared or being prepared to guide the overall future  
18 development of the county. Zoning shall be one of the tools  
19 available to the county to put the general plan into effect in  
20 an orderly manner. Zoning in the counties of Hawaii, Maui, and  
21 Kauai means the establishment of districts of such number,  
22 shape, and area, and the adoption of regulations for each



1 district to carry out the purposes of this section. In  
2 establishing or regulating the districts, full consideration  
3 shall be given to all available data as to soil classification  
4 and physical use capabilities of the land to allow and encourage  
5 the most beneficial use of the land consonant with good zoning  
6 practices. The zoning power granted herein shall be exercised  
7 by ordinance which may relate to:

- 8 (1) The areas within which agriculture, forestry,  
9 industry, trade, and business may be conducted;
- 10 (2) The areas in which residential uses may be regulated  
11 or prohibited;
- 12 (3) The areas bordering natural watercourses, channels,  
13 and streams, in which trades or industries, filling or  
14 dumping, erection of structures, and the location of  
15 buildings may be prohibited or restricted;
- 16 (4) The areas in which particular uses may be subjected to  
17 special restrictions;
- 18 (5) The location of buildings and structures designed for  
19 specific uses and designation of uses for which  
20 buildings and structures may not be used or altered;
- 21 (6) The location, height, bulk, number of stories, and  
22 size of buildings and other structures;



- 1 (7) The location of roads, schools, and recreation areas;
- 2 (8) Building setback lines and future street lines;
- 3 (9) The density and distribution of population;
- 4 (10) The percentage of a lot that may be occupied, size of
- 5 yards, courts, and other open spaces;
- 6 (11) Minimum and maximum lot sizes; and
- 7 (12) Other regulations the boards or city council find
- 8 necessary and proper to permit and encourage the
- 9 orderly development of land resources within their
- 10 jurisdictions.

11 (c) The council of any county shall prescribe rules,  
12 regulations, and administrative procedures and provide personnel  
13 it finds necessary to enforce this section and any ordinance  
14 enacted in accordance with this section. The ordinances may be  
15 enforced by appropriate fines and penalties, civil or criminal,  
16 or by court order at the suit of the county or the owner or  
17 owners of real estate directly affected by the ordinances.

18 (d) Any civil fine or penalty provided by ordinance under  
19 this section may be imposed by the district court, or by the  
20 zoning agency after an opportunity for a hearing pursuant to  
21 chapter 91. The proceeding shall not be a prerequisite for any  
22 injunctive relief ordered by the circuit court.



1       (e) Nothing in this section shall invalidate any zoning  
2 ordinance or regulation adopted by any county or other agency of  
3 government pursuant to the statutes in effect prior to  
4 July 1, 1957.

5       (f) The powers granted herein shall be liberally construed  
6 in favor of the county exercising them, and in such a manner as  
7 to promote the orderly development of each county or city and  
8 county in accordance with a long-range, comprehensive general  
9 plan to insure the greatest benefit for the State as a whole.  
10 This section shall not be construed to limit or repeal any  
11 powers of any county to achieve these ends through zoning and  
12 building regulations, except insofar as forest and water reserve  
13 zones are concerned and as provided in subsections (c) and (d).

14       (g) Neither this section nor any ordinance enacted  
15 pursuant to this section shall prohibit the continued lawful use  
16 of any building or premises for any trade, industrial,  
17 residential, agricultural, or other purpose for which the  
18 building or premises is used at the time this section or the  
19 ordinance takes effect; provided that a zoning ordinance may  
20 provide for elimination of nonconforming uses as the uses are  
21 discontinued, or for the amortization or phasing out of  
22 nonconforming uses or signs over a reasonable period of time in



1 including mentally ill, elder, disabled, developmentally  
2 disabled, or totally disabled persons, who are not related to  
3 the home operator or facility staff; provided that those group  
4 living facilities meet all applicable county requirements not  
5 inconsistent with the intent of this subsection and including  
6 building height, setback, maximum lot coverage, parking, and  
7 floor area requirements.

8 ~~(e)~~ (k) No permit shall be issued by a county agency for  
9 the operation of a halfway house, a clean and sober home, or a  
10 drug rehabilitation home unless a public informational meeting  
11 is first held in the affected community. The State shall  
12 provide notification and access to relevant information, as  
13 required, under chapter 846E.

14 (l) A clean and sober home shall be considered a  
15 residential use of property and shall be a permitted or  
16 conditional use in residentially designated zones, including but  
17 not limited to zones for single-family dwellings.

18 ~~(f)~~ (m) For purposes of this section:

19 "Appropriate county land use decision-making authority"  
20 means a zoning agency or other entity established under this  
21 section and authorized to conduct contested case proceedings  
22 pursuant to chapter 205.



1 "Clean and sober home" means a house that is operated  
2 pursuant to a program designed to provide a stable environment  
3 of clean and sober living conditions to sustain recovery and  
4 that is shared by unrelated adult persons who:

- 5 (1) Are recovering from substance abuse;
- 6 (2) Share household expenses; and
- 7 (3) Do not require twenty-four-hour supervision,  
8 rehabilitation, or therapeutic services or care in the  
9 home or on the premises. The home shall meet all  
10 applicable laws, codes, and rules of the counties and  
11 State.

12 "Developmentally disabled person" means a person suffering  
13 from developmental disabilities as defined under section 333F-1.

14 "Disabled person" means a person with a disability as  
15 defined under section 515-2.

16 "Drug rehabilitation home" means:

- 17 (1) A residential treatment facility that provides a  
18 therapeutic residential program for care, diagnosis,  
19 treatment, or rehabilitation for socially or  
20 emotionally distressed persons, mentally ill persons,  
21 persons suffering from substance abuse, and  
22 developmentally disabled persons; or





1 (2) A supervised living arrangement that provides mental  
2 health services, substance abuse services, or  
3 supportive services for individuals or families who do  
4 not need the structure of a special treatment facility  
5 and are transitioning to independent living;  
6 provided that drug rehabilitation homes shall not include  
7 halfway houses or clean and sober homes.

8 "Elder" means an elder as defined under section 201G-1.

9 "Halfway house" [~~is defined as~~] means a group living  
10 facility for people who:

11 (1) Have been released or are under supervised release  
12 from a correctional facility;

13 (2) Have been released from a mental health treatment  
14 facility; or

15 (3) Are receiving substance abuse or sex offender  
16 treatment; and

17 are housed to participate in programs that help them readjust to  
18 living in the community.

19 "Intermediate care facility/mental retardation-community"  
20 [~~is defined as~~] means an identifiable unit providing residence  
21 and care for eight or fewer mentally retarded individuals. Its  
22 primary purpose is the provision of health, social, and



1 rehabilitation services to the mentally retarded through an  
2 individually designed active treatment program for each  
3 resident. No person who is predominantly confined to bed shall  
4 be admitted as a resident of such a facility.

5 "Mental health treatment facility" means a psychiatric  
6 facility or special treatment facility as defined under section  
7 334-1.

8 "Mentally ill person" means a mentally ill person as  
9 defined under section 334-1.

10 "Totally disabled person" means a "person totally disabled"  
11 as defined under section 235-1.

12 "Treatment program" means a "substance abuse program" or  
13 "treatment program", as those terms are defined under section  
14 353G-2."

15 SECTION 3. Section 46-15.7, Hawaii Revised Statutes, is  
16 amended to read:

17 "[~~§~~46-15.7] **Concurrent processing.** When amendments to  
18 a county community or development plan, a county zoning map, or  
19 any combination of the two, are necessary to permit the  
20 development of a housing project, requests for amendments to  
21 these plans and zoning maps shall be allowed, if accepted for  
22 processing by the county, to be processed concurrently at the

1 request of the applicant. In addition, [~~upon the request of the~~  
 2 ~~applicant,~~] these plan and zoning map amendment requests [may]  
 3 shall be processed concurrently with any request to the [~~state~~  
 4 ~~land use commission]~~ appropriate county land use decision-making  
 5 authority for the redesignation of lands which would permit the  
 6 development of the housing project.

7 For the purposes of this section:

8 "County community or development plan" means a relatively  
 9 detailed plan for an area or region within a county to implement  
 10 the objectives and policies of a county general plan.

11 "Housing project" means a plan, design, or undertaking for  
 12 the development of single- or multi-family housing, including  
 13 any affordable housing component which may be required by the  
 14 county council. A housing project may also include ancillary  
 15 uses such as commercial and industrial uses which are an  
 16 integral part of the development."

17 SECTION 4. Section 92-6, Hawaii Revised Statutes, is  
 18 amended to read:

19 "**§92-6 Judicial branch, quasi-judicial boards and**  
 20 **investigatory functions; applicability.** [~~(a)~~] This part shall  
 21 not apply:

22 (1) To the judicial branch.

1           (2) To adjudicatory functions exercised by a board and  
2           governed by sections 91-8 and 91-9, or authorized by  
3           other sections of the Hawaii Revised Statutes. In the  
4           application of this subsection, boards exercising  
5           adjudicatory functions include, but are not limited  
6           to, the following:

7           (A) Hawaii labor relations board, chapters 89 and  
8           377;

9           (B) Labor and industrial relations appeals board,  
10          chapter 371;

11          (C) Hawaii paroling authority, chapter 353;

12          (D) Civil service commission, chapter 26;

13          (E) Board of trustees, employees' retirement system  
14          of the State of Hawaii, chapter 88;

15          (F) Crime victim compensation commission, chapter  
16          351; and

17          (G) State ethics commission, chapter 84.

18          ~~[(b) Notwithstanding provisions in this section to the~~  
19          ~~contrary, this part shall apply to require open deliberation of~~  
20          ~~the adjudicatory functions of the land use commission.]"~~

21          SECTION 5. Section 196D-10, Hawaii Revised Statutes, is  
22          amended by amending subsection (a) to read:

1           "(a) Those functions identified in paragraphs (1) and (2)  
2 insofar as they relate to the permit application, review,  
3 processing, issuance, and monitoring of laws, and rules and to  
4 the enforcement of terms, conditions, and stipulations of  
5 permits and other authorizations issued by agencies with respect  
6 to the development, construction, installation, operation,  
7 maintenance, repair, and replacement of the project, or any  
8 portion or portions thereof, are transferred to the department.  
9 With respect to each of the statutory authorities cited in  
10 paragraphs (1) and (2), the transferred functions include all  
11 enforcement functions of the agencies or their officials under  
12 the statute cited as may be related to the enforcement of the  
13 terms, conditions, and stipulations of permits, including but  
14 not limited to the specific sections of the statute cited.  
15 "Enforcement", for purposes of this transfer of functions,  
16 includes monitoring and any other compliance or oversight  
17 activities reasonably related to the enforcement process. These  
18 transferred functions include:

- 19           (1) Such functions of the [~~land use commission~~  
20           appropriate county land use decision-making authority  
21           related to: district boundary amendments as set forth



1 in [~~section 205-3.1~~] section 205-4 et seq.; and  
2 changes in zoning as set forth in section 205-5; and  
3 (2) The permit approval and enforcement functions of the  
4 director of transportation or other appropriate  
5 official or entity in the department of transportation  
6 related to permits or approvals issued for the use of  
7 or commercial activities in or affecting the ocean  
8 waters and shores of the State under chapter 266."

9 SECTION 6. Section 201G-118, Hawaii Revised Statutes, is  
10 amended to read:

11 **"§201G-118 Housing development; exemption from statutes,**  
12 **ordinances, charter provisions, rules.** (a) The administration  
13 may develop, on behalf of the State or with an eligible  
14 developer, or may assist under a government assistance program  
15 in the development of, housing projects which shall be exempt  
16 from all statutes, ordinances, charter provisions, and rules of  
17 any governmental agency relating to planning, zoning,  
18 construction standards for subdivisions, development and  
19 improvement of land, and the construction of units thereon;  
20 provided that:

21 (1) The project primarily or exclusively includes housing  
22 units affordable to households with incomes at or

1 below one hundred forty per cent of the median family  
2 income;

3 (2) The administration finds the project is consistent  
4 with the purpose and intent of this chapter, and meets  
5 minimum requirements of health and safety;

6 (3) The development of the proposed project does not  
7 contravene any safety standards, tariffs, or rates and  
8 fees approved by the public utilities commission for  
9 public utilities or the various boards of water supply  
10 authorized under chapter 54;

11 (4) The legislative body of the county in which the  
12 project is to be situated shall have approved the  
13 project.

14 (A) The legislative body shall approve or disapprove  
15 the project by resolution within forty-five days  
16 after the administration has submitted the  
17 preliminary plans and specifications for the  
18 project to the legislative body. If on the  
19 forty-sixth day a project is not disapproved, it  
20 shall be deemed approved by the legislative body;

21 (B) No action shall be prosecuted or maintained  
22 against any county, its officials, or employees

1           on account of actions taken by them in reviewing,  
2           approving, or disapproving the plans and  
3           specifications; and  
4           (C) The final plans and specifications for the  
5           project shall be deemed approved by the  
6           legislative body if the final plans and  
7           specifications do not substantially deviate from  
8           the preliminary plans and specifications. The  
9           final plans and specifications for the project  
10          shall constitute the zoning, building,  
11          construction, and subdivision standards for that  
12          project. For purposes of sections 501-85 and  
13          502-17, the executive director of the  
14          administration, or the responsible county  
15          official may certify maps and plans of lands  
16          connected with the project as having complied  
17          with applicable laws and ordinances relating to  
18          consolidation and subdivision of lands, and the  
19          maps and plans shall be accepted for registration  
20          or recordation by the land court and registrar;  
21          and



1           (5) The [~~land use commission~~] appropriate county land use  
2           decision-making authority shall approve or disapprove  
3           a boundary change within forty-five days after the  
4           administration has submitted a petition to the  
5           [~~commission~~] authority as provided in section 205-4.  
6           If on the forty-sixth day the petition is not  
7           disapproved, it shall be deemed approved by the  
8           [~~commission.~~] authority.

9           (b) For the purposes of this section, "government  
10          assistance program" means a housing program qualified by the  
11          administration and administered or operated by the  
12          administration or the United States or any of their political  
13          subdivisions, agencies, or instrumentalities, corporate or  
14          otherwise."

15          SECTION 7. Section 205-1, Hawaii Revised Statutes, is  
16          amended to read as follows:

17          "**§205-1 Establishment of the commission.** (a) There shall  
18          be a state land use commission, hereinafter called the  
19          commission. The commission shall consist of [~~nine~~] fifteen  
20          members who [~~shall hold no other public office and~~] shall be  
21          appointed in the manner and serve for the term set forth in  
22          section 26-34. [~~One member shall be appointed from each of the~~

1 ~~counties and the remainder shall be appointed at large.]~~ Two  
2 members shall be appointed representing the office of the  
3 governor, and one member shall be appointed representing the  
4 mayor of each of the counties, and each of the following: the  
5 Sierra Club Hawaii Chapter, the Outdoor Circle, the Chamber of  
6 Commerce of Hawaii, the Building Industry Association of Hawaii,  
7 the Hawaii Developers Council, and the Hawaii Farm Bureau  
8 Federation. The director of business, economic development, and  
9 tourism, the chairperson of the board of land and natural  
10 resources, and the chair of the board of trustees of the office  
11 of Hawaiian affairs, or their designated representatives, shall  
12 serve in their ex officio capacities. The commission shall  
13 elect its chairperson from one of its members. The members  
14 shall receive no compensation for their services on the  
15 commission, but shall be reimbursed for actual expenses incurred  
16 in the performance of their duties. [~~Six~~] Ten affirmative votes  
17 shall be necessary for any [~~boundary amendment~~] action of the  
18 commission related to land use district boundaries.

19 (b) The commission shall be a part of the department of  
20 business, economic development, and tourism for administration  
21 purposes, as provided for in section 26-35.

1        (c) The commission may engage employees necessary to  
2 perform its duties, including administrative personnel and an  
3 executive officer. The executive officer shall be appointed by  
4 the commission and the executive officer's position shall be  
5 exempt from civil service. Departments of the state government  
6 shall make available to the commission such data, facilities,  
7 and personnel as are necessary for it to perform its duties.  
8 The commission may receive and utilize gifts and any funds from  
9 the federal or other governmental agencies. It shall adopt  
10 rules guiding its conduct, maintain a record of its activities  
11 and accomplishments, and make recommendations to the governor  
12 and to the legislature through the governor."

13        SECTION 8. Section 205-2, Hawaii Revised Statutes, is  
14 amended as follows:

15        1. By amending subsection (a) to read:

16        "(a) There shall be four major land use districts in which  
17 all lands in the State shall be placed: urban, rural,  
18 agricultural, and conservation. The [~~land use commission~~]  
19 appropriate county land use decision-making authority shall  
20 group contiguous land areas suitable for inclusion in one of  
21 these four major districts. The [~~commission~~] appropriate county



1 land use decision-making authority shall set standards for  
2 determining the boundaries of each district, provided that:

3 (1) In the establishment of boundaries of urban districts  
4 those lands that are now in urban use and a sufficient  
5 reserve area for foreseeable urban growth shall be  
6 included;

7 (2) In the establishment of boundaries for rural  
8 districts, areas of land composed primarily of small  
9 farms mixed with very low density residential lots,  
10 which may be shown by a minimum density of not more  
11 than one house per one-half acre and a minimum lot  
12 size of not less than one-half acre shall be included,  
13 except as herein provided;

14 (3) In the establishment of the boundaries of agricultural  
15 districts the greatest possible protection shall be  
16 given to those lands with a high capacity for  
17 intensive cultivation; and

18 (4) In the establishment of the boundaries of conservation  
19 districts, the "forest and water reserve zones"  
20 provided in Act 234, section 2, Session Laws of Hawaii  
21 1957, are renamed "conservation districts" and,  
22 effective as of July 11, 1961, the boundaries of the



1 forest and water reserve zones theretofore established  
2 pursuant to Act 234, section 2, Session Laws of Hawaii  
3 1957, shall constitute the boundaries of the  
4 conservation districts; provided that thereafter the  
5 power to determine the boundaries of the conservation  
6 districts shall be in the [~~commission~~] appropriate  
7 county land use decision-making authority.

8 In establishing the boundaries of the districts in each county,  
9 the [~~commission~~] appropriate county land use decision-making  
10 authority shall give consideration to the master plan or general  
11 plan of the county."

12 2. By amending subsection (c) to read:

13 "(c) Rural districts shall include activities or uses as  
14 characterized by low density residential lots of not more than  
15 one dwelling house per one-half acre, except as provided by  
16 county ordinance pursuant to section 46-4(c), in areas where  
17 "city-like" concentration of people, structures, streets, and  
18 urban level of services are absent, and where small farms are  
19 intermixed with low density residential lots except that within  
20 a subdivision, as defined in section 484-1, the [~~commission~~]  
21 appropriate county land use decision-making authority for good  
22 cause may allow one lot of less than one-half acre, but not less

1 than 18,500 square feet, or an equivalent residential density,  
2 within a rural subdivision and permit the construction of one  
3 dwelling on such lot, provided that all other dwellings in the  
4 subdivision shall have a minimum lot size of one-half acre or  
5 21,780 square feet. Such petition for variance may be processed  
6 under the special permit procedure. These districts may include  
7 contiguous areas which are not suited to low density residential  
8 lots or small farms by reason of topography, soils, and other  
9 related characteristics. Rural districts shall also include  
10 golf courses, golf driving ranges, and golf-related facilities."

11 SECTION 9. Section 205-3, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§205-3 Retention of district boundaries.** Land use  
14 district boundaries existing as of [~~June 2, 1975,~~] the effective  
15 date of this Act shall continue in full force and effect subject  
16 to amendment as provided in this chapter or order of a court of  
17 competent jurisdiction based upon any litigation filed prior to  
18 July 1, [~~1975,~~] 2006, or filed within thirty days after service  
19 of a certified copy of any final decision and order made as part  
20 of the [~~commission's 1974 periodic boundary review,~~] next  
21 periodic review of districts by the land use commission,  
22 whichever occurs later."

1 SECTION 10. Section 205-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§205-4 Amendments to district boundaries [~~involving land~~**  
4 **~~areas greater than fifteen acres~~].** (a) Any department or  
5 agency of the State, any department or agency of the county in  
6 which the land is situated, or any person with a property  
7 interest in the land sought to be reclassified, may petition the  
8 [~~land use commission~~] appropriate county land use decision-  
9 making authority for a change in the boundary of a district.

10 This section applies to all petitions for changes in district  
11 boundaries of lands within conservation districts, lands  
12 designated or sought to be designated as important agricultural  
13 lands, and lands [~~greater than fifteen acres~~] in the  
14 agricultural, rural, and urban districts, except as provided in  
15 section 201G-118. The [~~land use commission~~] appropriate county  
16 land use decision-making authority shall adopt rules pursuant to  
17 chapter 91 to implement section 201G-118. The appropriate  
18 county land use decision-making authority shall consolidate  
19 proceedings pursuant to this chapter with county proceedings to  
20 amend the general plan, development or community plan, or zoning  
21 ordinance affecting the land sought to be reclassified. The  
22 authority shall adopt appropriate ordinances and rules to allow

1 the conduct of consolidated proceedings pursuant to this  
2 section.

3 (b) Upon proper filing of a petition pursuant to  
4 subsection (a) the [~~commission shall,~~] appropriate county land  
5 use decision-making authority within not less than sixty and not  
6 more than one hundred and eighty days, shall conduct a hearing  
7 [~~on the appropriate island~~] in accordance with the provisions of  
8 sections 91-9, 91-10, 91-11, 91-12, and 91-13, as applicable.

9 (c) Any other provision of law to the contrary  
10 notwithstanding, notice of the hearing together with a copy of  
11 the petition shall be served on the [~~county planning commission~~  
12 ~~and the county planning department of the county in which the~~  
13 ~~land is located~~] land use commission, the office of planning,  
14 and all persons with a property interest in the land as recorded  
15 in the county's real property tax records. In addition, notice  
16 of the hearing shall be mailed to all persons who have made a  
17 timely written request for advance notice of boundary amendment  
18 proceedings, and public notice shall be given at least once in  
19 the county in which the land sought to be redistricted is  
20 situated as well as once statewide at least thirty days in  
21 advance of the hearing. The notice shall comply with section  
22 91-9, shall indicate the time and place that maps showing the





1 proposed district boundary may be inspected, and further shall  
2 inform all interested persons of their rights under subsection  
3 (e).

4 (d) Any other provisions of law to the contrary  
5 notwithstanding, prior to hearing of a petition the [~~commission~~]  
6 appropriate county land use decision-making authority and its  
7 staff may view and inspect any land which is the subject of the  
8 petition.

9 (e) Any other provisions of law to the contrary  
10 notwithstanding, agencies and persons may intervene in the  
11 proceedings in accordance with this subsection.

12 (1) The petitioner, the office of planning, and the county  
13 planning department shall in every case appear as  
14 parties and make recommendations relative to the  
15 proposed boundary change.

16 (2) All departments and agencies of the State and of the  
17 county in which the land is situated shall be admitted  
18 as parties upon timely application for intervention.

19 (3) All persons who have some property interest in the  
20 land, who lawfully reside on the land, or who  
21 otherwise can demonstrate that they will be so  
22 directly and immediately affected by the proposed



1 change that their interest in the proceeding is  
2 clearly distinguishable from that of the general  
3 public shall be admitted as parties upon timely  
4 application for intervention.

5 (4) All other persons may apply to the commission for  
6 leave to intervene as parties. Leave to intervene  
7 shall be freely granted, provided that the  
8 [~~commission~~] appropriate county land use  
9 decision-making authority or its hearing officer if  
10 one is appointed may deny an application to intervene  
11 when in the [~~commission's~~] authority's or hearing  
12 officer's sound discretion it appears that: (A) the  
13 position of the applicant for intervention concerning  
14 the proposed change is substantially the same as the  
15 position of a party already admitted to the  
16 proceeding; and (B) the admission of additional  
17 parties will render the proceedings inefficient and  
18 unmanageable. A person whose application to intervene  
19 is denied may appeal such denial to the circuit court  
20 pursuant to section 91-14.

21 (5) The [~~commission~~] appropriate county land use  
22 decision-making authority shall pursuant to chapter 91



1           adopt rules governing the intervention of agencies and  
2           persons under this subsection. Such rules shall  
3           without limitation establish: (A) the information to  
4           be set forth in any application for intervention; (B)  
5           time limits within which such applications shall be  
6           filed; and (C) reasonable filing fees to accompany  
7           such applications.

8           (f) Together with other witnesses that the [~~commission~~]  
9           appropriate county land use decision-making authority may desire  
10          to hear at the hearing, it shall allow a representative of a  
11          citizen or a community group to testify who indicates a desire  
12          to express the view of such citizen or community group  
13          concerning the proposed boundary change.

14          (g) Within a period of not more than three hundred  
15          sixty-five days after the proper filing of a petition, unless  
16          otherwise ordered by a court, or unless a time extension, which  
17          shall not exceed ninety days, is established by a two-thirds  
18          vote of the members of the [~~commission~~] appropriate county land  
19          use decision-making authority, the authority, by filing findings  
20          of fact and conclusions of law, shall act to approve the  
21          petition, deny the petition, or to modify the petition by  
22          imposing conditions necessary to uphold the intent and spirit of

1 this chapter or the policies and criteria established pursuant  
2 to section 205-17 or to assure substantial compliance with  
3 representations made by the petitioner in seeking a boundary  
4 change. The [~~commission~~] authority may provide by condition  
5 that absent substantial commencement of use of the land in  
6 accordance with such representations, the [~~commission~~] authority  
7 shall issue and serve upon the party bound by the condition an  
8 order to show cause why the property should not revert to its  
9 former land use classification or be changed to a more  
10 appropriate classification. Such conditions, if any, shall run  
11 with the land and be recorded in the bureau of conveyances.

12 (h) No amendment of a land use district boundary shall be  
13 approved unless the [~~commission~~] appropriate county land use  
14 decision-making authority finds upon the clear preponderance of  
15 the evidence that the proposed boundary is reasonable, not  
16 violative of section 205-2 and part III of this chapter, and  
17 consistent with the policies and criteria established pursuant  
18 to sections 205-16 and 205-17. [~~Six affirmative votes of the~~  
19 ~~commission~~] A two-thirds affirmative vote of all members to whom  
20 the authority is entitled shall be necessary for any boundary  
21 amendment under this section.

1        (i) Boundary amendments of agricultural or conservation  
2 land use districts shall be subject to review by the land use  
3 commission. The commission may impose additional conditions or  
4 restrictions as may be necessary or appropriate during its  
5 review, but only for the purposes of subsection (g).

6        (j) A copy of a decision under subsection (i) together  
7 with the complete record of the proceeding before the  
8 appropriate county land use decision-making authority shall be  
9 transmitted to the land use commission within sixty days after  
10 the decision is rendered. Within forty-five days after receipt  
11 of the complete record from the appropriate county land use  
12 decision-making authority, the commission shall act to approve,  
13 approve with modification, or disapprove the decision.

14        [~~(i)~~] (k) Parties to proceedings to amend land use  
15 district boundaries may obtain judicial review [thereof] of  
16 final action in the manner set forth in section 91-14, provided  
17 that the court may also reverse or modify a finding of the  
18 [~~commission~~] appropriate county land use decision-making  
19 authority if such finding appears to be contrary to the clear  
20 preponderance of the evidence.

21        [~~(j)~~] (l) At the hearing[~~r~~] before the appropriate county  
22 land use decision-making authority, all parties may enter into

1 appropriate stipulations as to findings of fact, conclusions of  
2 law, and conditions of reclassification concerning the proposed  
3 boundary change. The [~~commission~~] authority may but shall not  
4 be required to approve such stipulations based on the evidence  
5 adduced."

6 SECTION 11. Section 205-4.1, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§205-4.1 Fees.** The [~~commission~~] appropriate county land  
9 use decision-making authority may establish reasonable fees for  
10 the filing of boundary amendment petitions and petitions for  
11 intervention to cover the cost of processing thereof and for the  
12 reproduction of maps and documents. The [~~commission~~]  
13 appropriate county land use decision-making authority also may  
14 assess a reasonable fee or require reimbursements to be made for  
15 court reporter expenses, the inexcusable absence of a party from  
16 a boundary amendment proceeding, and any other reimbursements  
17 for hearing expenses as determined by the [~~commission~~]  
18 authority. Any fees collected shall be deposited to the credit  
19 of the [~~general fund~~] county treasury."

20 SECTION 12. Section 205-5, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:

1           "(b) Within agricultural districts, uses compatible [~~to~~]  
2 with the activities described in section 205-2 as determined by  
3 the [~~commission~~] appropriate county land use decision-making  
4 authority shall be permitted; provided that accessory  
5 agricultural uses and services described in sections 205-2 and  
6 205-4.5 may be further defined by each county by zoning  
7 ordinance. Other uses may be allowed by special permits issued  
8 pursuant to this chapter. The minimum lot size in agricultural  
9 districts shall be determined by each county by zoning  
10 ordinance, subdivision ordinance, or other lawful means;  
11 provided that the minimum lot size for any agricultural use  
12 shall not be less than one acre, except as provided herein. If  
13 the county finds that unreasonable economic hardship to the  
14 owner or lessee of land cannot otherwise be prevented or where  
15 land utilization is improved, the county may allow lot sizes of  
16 less than the minimum lot size as specified by law for lots  
17 created by a consolidation of existing lots within an  
18 agricultural district and the resubdivision thereof; provided  
19 that the consolidation and resubdivision do not result in an  
20 increase in the number of lots over the number existing prior to  
21 consolidation; and provided further that in no event shall a  
22 lot, which is equal to or exceeds the minimum lot size of one



1 acre be less than that minimum after the consolidation and  
2 resubdivision action. The county may also allow lot sizes of  
3 less than the minimum lot size as specified by law for lots  
4 created or used for public, private, and quasi-public utility  
5 purposes, and for lots resulting from the subdivision of  
6 abandoned roadways and railroad easements."

7 SECTION 13. Section 205-5.1, Hawaii Revised Statutes, is  
8 amended by amending subsections (b) and (c) to read as follows:

9 "(b) The board of land and natural resources shall have  
10 the responsibility for designating areas as geothermal resource  
11 subzones as provided under section 205-5.2; except that the  
12 total area within an agricultural district which is the subject  
13 of a geothermal mining lease approved by the board of land and  
14 natural resources, any part or all of which area is the subject  
15 of a special use permit issued by the county for geothermal  
16 development activities, on or before May 25, 1984, is designated  
17 as a geothermal resource subzone for the duration of the lease.  
18 The designation of geothermal resource subzones shall be  
19 governed exclusively by this section and section 205-5.2, except  
20 as provided therein. The board shall adopt, amend, or repeal  
21 rules related to its authority to designate and regulate the use





1 of geothermal resource subzones in the manner provided under  
2 chapter 91.

3       The authority of the board to designate geothermal resource  
4 subzones shall be an exception to those provisions of this  
5 chapter and of section 46-4 authorizing the [~~land use~~  
6 ~~commission~~] appropriate county land use decision-making  
7 authority and the counties to establish and modify land use  
8 districts and to regulate uses therein. The provisions of this  
9 section shall not abrogate nor supersede the provisions of  
10 chapters 182, 183, and 183C.

11       (c) The use of an area for geothermal development  
12 activities within a geothermal resource subzone shall be  
13 governed by the board within the conservation district and,  
14 except as herein provided, by state and county statutes,  
15 ordinances, and rules not inconsistent herewith within  
16 agricultural, rural, and urban districts, except that no [~~land~~  
17 ~~use commission~~] appropriate county land use decision-making  
18 authority approval or special use permit procedures under  
19 section 205-6 shall be required for the use of such subzones.  
20 In the absence of provisions in the county general plan and  
21 zoning ordinances specifically relating to the use and location  
22 of geothermal development activities in an agricultural, rural,

1 or urban district, the appropriate county authority may issue a  
2 geothermal resource permit to allow geothermal development  
3 activities. "Appropriate county authority" means the county  
4 planning commission unless some other agency or body is  
5 designated by ordinance of the county council. Such uses as are  
6 permitted by county general plan and zoning ordinances, by the  
7 appropriate county authority, shall be deemed to be reasonable  
8 and to promote the effectiveness and objectives of this chapter.  
9 Chapters 177, 178, 182, 183, 183C, 205A, 226, 342, and 343 shall  
10 apply as appropriate. If provisions in the county general plan  
11 and zoning ordinances specifically relate to the use and  
12 location of geothermal development activities in an  
13 agricultural, rural, or urban district, the provisions shall  
14 require the appropriate county authority to conduct a public  
15 hearing on any application for a geothermal resource permit to  
16 determine whether the use is in conformity with the criteria  
17 specified in subsection (e) for granting geothermal resource  
18 permits; provided that within the urban, rural, and agricultural  
19 land use districts, direct use applications of geothermal  
20 resources are permitted without any application for a geothermal  
21 resource permit both within and outside of areas designated as  
22 geothermal resource subzones pursuant to section 205-5.2 if such



1 direct use applications are in conformance with all other  
2 applicable state and county land use regulations and are in  
3 conformance with this chapter."

4 SECTION 14. Section 205-6, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§205-6 Special permit.** (a) Subject to this section, the  
7 county planning commission may permit certain unusual and  
8 reasonable uses within agricultural and rural districts other  
9 than those for which the district is classified. Any person who  
10 desires to use the person's land within an agricultural or rural  
11 district other than for an agricultural or rural use, as the  
12 case may be, may petition the planning commission of the county  
13 within which the person's land is located for permission to use  
14 the person's land in the manner desired. Each county may  
15 establish the appropriate fee for processing the special permit  
16 petition. Copies of the special permit petition shall be  
17 forwarded to the [~~land use commission~~7] the office of  
18 planning[7] and the department of agriculture for their review  
19 and comment.

20 (b) The county planning commission, upon consultation with  
21 the central coordinating agency, except in counties where the  
22 planning commission is advisory only, in which case the central

1 coordinating agency, shall establish by rule or regulation, the  
2 time within which the hearing and action on petition for special  
3 permit shall occur. The county planning commission shall notify  
4 ~~[the land use commission and such]~~ persons and agencies that may  
5 have an interest in the subject matter of the time and place of  
6 the hearing.

7 (c) The county planning commission ~~[may]~~, under such  
8 protective restrictions as may be deemed necessary, may permit  
9 the desired use, but only when the use would promote the  
10 effectiveness and objectives of this chapter; provided that a  
11 use proposed for designated important agricultural lands shall  
12 not conflict with any part of this chapter. A decision in favor  
13 of the applicant shall require a majority vote of the total  
14 membership of the county planning commission.

15 (d) ~~[Special permits for land the area of which is greater  
16 than fifteen acres or for lands designated as important  
17 agricultural lands shall be subject to approval by the land use  
18 commission. The land use commission may impose additional  
19 restrictions as may be necessary or appropriate in granting the  
20 approval, including the adherence to representations made by the  
21 applicant.]~~

1       ~~(c) A copy of the decision, together with the complete~~  
2 ~~record of the proceeding before the county planning commission~~  
3 ~~on all special permit requests involving a land area greater~~  
4 ~~than fifteen acres or for lands designated as important~~  
5 ~~agricultural lands, shall be transmitted to the land use~~  
6 ~~commission within sixty days after the decision is rendered.~~

7       ~~Within forty-five days after receipt of the complete record~~  
8 ~~from the county planning commission, the land use commission~~  
9 ~~shall act to approve, approve with modification, or deny the~~  
10 ~~petition.] A denial [either] by the county planning commission~~  
11 ~~[or by the land use commission, or a modification by the land~~  
12 ~~use commission, as the case may be,] of the desired use shall be~~  
13 ~~appealable to the circuit court of the circuit in which the land~~  
14 ~~is situated and shall be made pursuant to the Hawaii rules of~~  
15 ~~civil procedure.~~

16       ~~[+f)]~~ (e) Land uses substantially involving or supporting  
17 educational ecotourism, related to the preservation of native  
18 Hawaiian endangered, threatened, proposed, and candidate  
19 species, that are allowed in an approved habitat conservation  
20 plan under section 195D-21 or safe harbor agreement under  
21 section 195D-22, which are not identified as permissible uses  
22 within the agricultural district under sections 205-2 and



1 205-4.5, may be permitted in the agricultural district by  
2 special permit under this section, on lands with soils  
3 classified by the land study bureau's detailed land  
4 classification as overall (master) productivity rating class C,  
5 D, E, or U."

6 SECTION 15. Section 205-7, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§205-7 Adoption, amendment or repeal of rules.** The land  
9 use commission and the appropriate county land use  
10 decision-making authority shall adopt, amend, or repeal rules  
11 relating to matters within its jurisdiction in the manner  
12 prescribed in chapter 91."

13 SECTION 16. Section 205-12, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§205-12 Enforcement.** The appropriate officer or agency  
16 charged with the administration of county zoning laws shall  
17 enforce within each county the use classification districts  
18 adopted by the [~~land use commission~~] appropriate county land use  
19 decision-making authority and the restriction on use and the  
20 condition relating to agricultural districts under section  
21 205-4.5 and shall report to the land use commission all  
22 violations."



1 SECTION 17. Section 205-14, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§205-14 Adjustments of assessing practices.** Upon the  
4 adoption of district boundaries, certified copies of the  
5 classification maps showing the district boundaries shall be  
6 filed with the [~~department of taxation.~~] county department of  
7 finance. Thereafter, the [~~department of taxation shall,~~] county  
8 department of finance when making assessments of property within  
9 a district, shall give consideration to the use or uses that may  
10 be made thereof as well as the uses to which it is then  
11 devoted."

12 SECTION 18. Section 205-16, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§205-16 Compliance with the Hawaii state plan.** No  
15 amendment to any land use district boundary nor any other action  
16 by the [~~land use commission~~] appropriate county land use  
17 decision-making authority shall be adopted unless such amendment  
18 or other action conforms to the Hawaii state plan."

19 SECTION 19. Section 205-17, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 **"§205-17 Land use [~~commission~~] decision-making criteria.**  
22 In its review of any petition for reclassification of district

1 boundaries pursuant to this chapter, the [~~commission~~]  
2 appropriate county land use decision-making authority shall  
3 specifically consider the following:

4 (1) The extent to which the proposed reclassification  
5 conforms to the applicable goals, objectives, and  
6 policies of the Hawaii state plan and relates to the  
7 applicable priority guidelines of the Hawaii state  
8 plan and the adopted functional plans;

9 (2) The extent to which the proposed reclassification  
10 conforms to the applicable district standards;

11 (3) The impact of the proposed reclassification on the  
12 following areas of state concern:

13 (A) Preservation or maintenance of important natural  
14 systems or habitats;

15 (B) Maintenance of valued cultural, historical, or  
16 natural resources;

17 (C) Maintenance of other natural resources relevant  
18 to Hawaii's economy, including agricultural  
19 resources;

20 (D) Commitment of state funds and resources;

21 (E) Provision for employment opportunities and  
22 economic development; and





1 (F) Provision for housing opportunities for all  
 2 income groups, particularly the low,  
 3 low-moderate, and gap groups;

4 (4) The standards and criteria for the reclassification or  
 5 rezoning of important agricultural lands in section  
 6 205-50; and

7 (5) The representations and commitments made by the  
 8 petitioner in securing a boundary change."

9 SECTION 20. Section 205-18, Hawaii Revised Statutes, is  
 10 amended to read as follows:

11 **"§205-18 Periodic review of districts.** (a) The [~~office of~~  
 12 ~~planning~~] land use commission shall undertake a review of the  
 13 classification and districting of all lands in the State, within  
 14 [~~five years from December 31, 1985,~~] one year from December 31,  
 15 2006, and every fifth year thereafter~~[-]~~; provided that the  
 16 commission shall each year review the siting of public  
 17 facilities within the counties. The [~~office,~~] commission, in  
 18 its five-year boundary review, shall focus its efforts on  
 19 reviewing the Hawaii state plan, county general plans, and  
 20 county development and community plans. Upon completion of the  
 21 five-year boundary review, the [~~office~~] commission shall hold a  
 22 public hearing pursuant to section 91-3 within each county and



1 shall submit a report of [~~the~~] its findings and recommendations  
2 to the [~~commission.~~] appropriate county land use decision-making  
3 authority and to the legislature. The [~~office~~] authority may  
4 initiate [~~state~~] land use boundary amendments which it deems  
5 appropriate to conform to these plans and to sections 205-2,  
6 205-16, 205-17, and part III of this chapter. The [~~office~~]  
7 commission may seek assistance of the office of planning and  
8 appropriate state and county agencies and may employ consultants  
9 and undertake studies in making this review.

10 (b) The land use commission shall submit a report to the  
11 legislature on its review of county land use boundary amendment  
12 decisions and its actions pursuant to subsections 205-4(i) and  
13 205-4(j), and its review of the siting of public facilities  
14 within the counties, no later than twenty days prior to the  
15 convening of each regular session."

16 SECTION 21. Section 205-45, Hawaii Revised Statutes, is  
17 amended by amending subsection (d) to read:

18 "(d) Designating important agricultural lands by the  
19 commission shall not be considered as an amendment to district  
20 boundaries under [~~sections 205-3.1 and~~] section 205-4 or become  
21 effective prior to legislative enactment of protection and  
22 incentive measures for important agricultural land and



1 agricultural viability, as provided in section 9 of Act 183,  
2 Session Laws of Hawaii 2005."

3 SECTION 22. Section 205-50, Hawaii Revised Statutes, is  
4 amended to read:

5 "[~~§~~§205-50~~§~~] **Standards and criteria for the**  
6 **reclassification or rezoning of important agricultural lands.**

7 (a) Any land use district boundary amendment or change in  
8 zoning involving important agricultural lands identified  
9 pursuant to this chapter shall be subject to this section.

10 (b) Upon acceptance by the county for processing, any  
11 application for a special permit involving important  
12 agricultural lands shall be referred to the department of  
13 agriculture and the office of planning for review and comment.

14 (c) Any decision by the [~~land use commission or county~~]  
15 appropriate county land use decision-making authority pursuant  
16 to this section shall specifically consider the following  
17 standards and criteria:

18 (1) The relative importance of the land for agriculture  
19 based on the stock of similarly suited lands in the  
20 area and the State as a whole;

21 (2) The [~~proposed district boundary amendment or zone~~  
22 ~~change will not~~] degree of harm to the productivity or



1           viability of existing agricultural activity in the  
2           area, or [~~adversely affect~~] adverse effect on the  
3           viability of other agricultural activities or  
4           operations that share infrastructure, processing,  
5           marketing, or other production-related costs or  
6           facilities with the agricultural activities on the  
7           land in question;

8           (3) The [~~district boundary amendment or zone change will~~  
9           ~~not cause the fragmentation of or~~] degree of intrusion  
10           of nonagricultural uses [~~inte~~] or fragmentation of  
11           largely intact areas of lands identified by the State  
12           as important agricultural lands that create residual  
13           parcels of a size that would preclude viable  
14           agricultural use;

15           (4) The public benefit to be derived from the proposed  
16           action [~~is justified by a~~] in relation to the need for  
17           additional lands for nonagricultural purposes; and

18           (5) The impact [~~of the proposed district boundary~~  
19           ~~amendment or zone change~~] on the necessity and  
20           capacity of state and county agencies to provide and  
21           support additional agricultural infrastructure or  
22           services in the area.



1 (d) Any decision pursuant to this section shall be based  
2 upon a determination that:

3 (1) On balance, the public benefit from the proposed  
4 district boundary amendment or zone change outweighs  
5 the benefits of retaining the land for agricultural  
6 purposes; and

7 (2) The proposed action will have no significant impact  
8 upon the viability of agricultural operations on  
9 adjacent agricultural lands.

10 (e) The standards and criteria of this section shall be in  
11 addition to:

12 (1) The decision-making criteria of section 205-17  
13 governing decisions of the [~~land use commission~~]  
14 appropriate county land use decision-making authority  
15 under this chapter; and

16 (2) The decision-making criteria adopted by each county to  
17 govern decisions of other county decision-making  
18 authorities under this chapter.

19 (f) Any decision of the [~~land use commission and any~~  
20 ~~decision of any county~~] appropriate county land use decision-  
21 making authority on a land use district boundary amendment or  
22 change in zoning involving important agricultural lands shall be

1 approved by the body responsible for the decision by a two-  
2 thirds vote of the membership to which the body is entitled.

3 (g) A farmer or landowner with qualifying lands may also  
4 petition the land use commission to remove the "important  
5 agricultural lands" designation from lands if a sufficient  
6 supply of water is no longer available to allow profitable  
7 farming of the land due to governmental actions, acts of God, or  
8 other causes beyond the farmer's or landowner's reasonable  
9 control."

10 SECTION 23. Section 225M-2, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read:

12 "(b) The office of planning shall gather, analyze, and  
13 provide information to the governor to assist in the overall  
14 analysis and formulation of state policies and strategies to  
15 provide central direction and cohesion in the allocation of  
16 resources and effectuation of state activities and programs, and  
17 effectively address current or emerging issues and  
18 opportunities. More specifically, the office shall engage in  
19 the following activities:

20 (1) State comprehensive planning and program coordination.  
21 Formulating and articulating comprehensive statewide  
22 goals, objectives, policies, and priorities, and





1           (3) Planning coordination and cooperation. Facilitating  
2           coordinated and cooperative planning and policy  
3           development and implementation activities among state  
4           agencies, and between the state, county, and federal  
5           governments, by:

6           (A) Reviewing, assessing, and coordinating, as  
7           necessary, major plans, programs, projects, and  
8           regulatory activities existing or proposed by  
9           state and county agencies; and

10          (B) Formulating mechanisms to simplify, streamline,  
11          or coordinate interagency development and  
12          regulatory processes;

13          (4) Planning information system. Collecting, analyzing,  
14          maintaining, and disseminating data and information to  
15          further effective state planning, policy analysis and  
16          development, and delivery of government services by:

17          (A) Assembling, organizing, evaluating, and  
18          classifying existing data and performing  
19          necessary basic research in order to provide a  
20          common data base for governmental planning;

21          (B) Planning, developing, implementing, and  
22          coordinating a statewide planning and geographic





1 information system. The office shall be the lead  
2 agency responsible for planning and coordinating  
3 the establishment of a multi-agency, statewide  
4 geographic information system and the development  
5 of planning applications including spatial data  
6 analyses to enhance decision making; and

7 (C) Maintaining a centralized depository of state and  
8 national planning references;

9 (5) Land use planning. Developing and presenting the  
10 position of the State in all boundary change petitions  
11 and proceedings before the [~~land use commission,~~  
12 appropriate county land use decision-making authority,  
13 assisting state agencies in the development and  
14 submittal of petitions for land use district boundary  
15 amendments, and assisting the land use commission in  
16 conducting periodic reviews of the classification and  
17 districting of all lands in the State, as specified in  
18 chapter 205;

19 (6) Coastal and ocean policy management. Carrying out the  
20 lead agency responsibilities for the Hawaii coastal  
21 zone management program, as specified in chapter 205A.  
22 Also, developing and maintaining an ocean and coastal



1 (8) Regional, national, and international planning.  
2 Participating in and assuring that state plans,  
3 policies, and objectives are consistent, to the extent  
4 practicable, with regional, national, and  
5 international planning efforts."

6 SECTION 24. Sections 6K-6, 46-15, 171-49.7, 183C-3,  
7 201G-12, 201H-12, 205A-2, 246-10, 279E-1, and 343-5 are amended  
8 by substituting the words "appropriate county land use  
9 decision-making authority" wherever the words "land use  
10 commission" or "state land use commission" appear, as the  
11 context requires.

12 SECTION 25. Section 205-3.1, Hawaii Revised Statutes, is  
13 repealed.

14 ~~["§205-3.1 Amendments to district boundaries. (a)~~  
15 ~~District boundary amendments involving lands in the conservation~~  
16 ~~district, land areas greater than fifteen acres, or lands~~  
17 ~~delineated as important agricultural lands shall be processed by~~  
18 ~~the land use commission pursuant to section 205-4.~~

19 ~~(b) Any department or agency of the State, and department~~  
20 ~~or agency of the county in which the land is situated, or any~~  
21 ~~person with a property interest in the land sought to be~~  
22 ~~reclassified may petition the appropriate county land use~~

1 ~~decision-making authority of the county in which the land is~~  
2 ~~situated for a change in the boundary of a district involving~~  
3 ~~lands less than fifteen acres presently in the rural and urban~~  
4 ~~districts and lands less than fifteen acres in the agricultural~~  
5 ~~district that are not designated as important agricultural~~  
6 ~~lands.~~

7       ~~(c) District boundary amendments involving land areas of~~  
8 ~~fifteen acres or less, except as provided in subsection (b),~~  
9 ~~shall be determined by the appropriate county land use decision-~~  
10 ~~making authority for the district and shall not require~~  
11 ~~consideration by the land use commission pursuant to section~~  
12 ~~205-4; provided that such boundary amendments and approved uses~~  
13 ~~are consistent with this chapter. The appropriate county land~~  
14 ~~use decision-making authority may consolidate proceedings to~~  
15 ~~amend state land use district boundaries pursuant to this~~  
16 ~~subsection, with county proceedings to amend the general plan,~~  
17 ~~development plan, zoning of the affected land, or such other~~  
18 ~~proceedings. Appropriate ordinances and rules to allow~~  
19 ~~consolidation of such proceedings may be developed by the county~~  
20 ~~land use decision-making authority.~~

21       ~~(d) The county land use decision-making authority shall~~  
22 ~~serve a copy of the application for a district boundary~~

1 ~~amendment to the land use commission and the department of~~  
2 ~~business, economic development, and tourism and shall notify the~~  
3 ~~commission and the department of the time and place of the~~  
4 ~~hearing and the proposed amendments scheduled to be heard at the~~  
5 ~~hearing. A change in the state land use district boundaries~~  
6 ~~pursuant to this subsection shall become effective on the day~~  
7 ~~designated by the county land use decision-making authority in~~  
8 ~~its decision. Within sixty days of the effective date of any~~  
9 ~~decision to amend state land use district boundaries by the~~  
10 ~~county land use decision-making authority, the decision and the~~  
11 ~~description and map of the affected property shall be~~  
12 ~~transmitted to the land use commission and the department of~~  
13 ~~business, economic development, and tourism by the county~~  
14 ~~planning director." ]~~

15 SECTION 26. Statutory material to be repealed is  
16 bracketed. New statutory material is underscored.

17 SECTION 27. This Act shall take effect upon its approval;  
18 provided that section 6 shall take effect on July 2, 2006.

19  
INTRODUCED BY: Will Egan

SB2191

**Report Title:**

Land Use Commission; Counties

**Description:**

Grants authority to make land use district boundary amendments to appropriate county land use decision-making authority. Increases membership and designates ex officio members of the land use commission. Provides for review and monitoring of certain county land use decisions by the land use commission. Requires annual report by the land use commission. Makes conforming amendments.

