

STAND. COM. REP. NO. 1714 -08

Honolulu, Hawaii

Ag-04 , 2008

RE: S.B. No. 546
S.D. 2
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture, to which was referred S.B. No. 546, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO LAND USE,"

beg leave to report as follows:

The purpose of this bill is to balance the protection and preservation of agricultural lands with development in appropriate rural areas by, among other things:

- (1) Requiring that lands in the agricultural district be used only for the purposes of agricultural activities, agribusiness, or subsistence farming; and
- (2) Providing that lands in the rural district may be used for low density residential, outdoor recreational, and passive open space uses, and for compact, small mixed-use rural towns and service centers.

The Office of Planning supported the intent of this bill. The City and County of Honolulu Department of Planning and Permitting, a member of the Kauai County Council, Hawaii Association of REALTORS, and a concerned individual opposed this measure. The Board of Agriculture, Hawaii Farm Bureau Federation, and Sierra Club - Hawaii Chapter provided comments.

SB546 HD1 HSCR WLH-AGR HMS 2008-3620



Upon careful consideration, your Committees have amended this bill by replacing its contents with the language of House Bill No. 2807, H.D. 2, which contains language providing two incentives for landowners to designate their land as important agricultural land (IAL).

One incentive is for landowners who are required to provide affordable housing as a condition of development. A landowner who designates all or a portion of their land as IAL may satisfy this affordable housing requirement on qualifying rural district lands, rather than in the urban district as typically required.

The other incentive allows for an easier boundary amendment reclassification process for landowners who designate their lands as IAL in perpetuity, by combining the petitions for designation and reclassification, provided that:

- (1) The land sought to be reclassified is within the same county as the land to be designated IAL;
- (2) Reclassification of the land is consistent with relevant county general, development, and community plans; and
- (3) The total acreage of the land sought to be reclassified is less than 20 percent of the land that is the subject of the petition.

H.B. No. 2807, H.D. 2, also seeks to protect the integrity of the agricultural lands by:

- (1) Clarifying that the farm dwellings permitted on prime agricultural lands in the agricultural district must be part of a working farm, or a farming operation necessary to the production and distribution of agricultural commodities, and not merely relating to farming and animal husbandry;
- (2) Clarifying that lands in the rural district may be used for agribusiness activities and farm worker housing, which are currently found on agricultural lands; and
- (3) Clarifying that areas that are not used for, or not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics, shall be in the rural district, and not the agricultural district.



Regarding the designation of IAL, H.B. No. 2807, H.D. 2,
among other things:

- (1) Requires land designated as IAL, in a petition to designate IAL and reclassify other lands, at a minimum be:
 - (A) Land with soil classification as overall (master) productivity rating:
 - (i) Class A or B; or
 - (ii) Class C or D if the land is currently in agricultural production or could be put into productive agricultural use with the implementation of new technology or development of irrigation water;
 - (B) Land with sufficient quantities of water to support viable agricultural production; and
 - (C) Land that contributes to maintaining a critical land mass important to agricultural operating productivity;
- (2) Adds as a standard and criteria to be used to identify IALs, land that, although unsuited for agricultural use because of topography, must be kept together as part of the tax map key parcel; and
- (3) Requires the Land Use Commission (LUC) to grant or deny a petition to designate IAL and reclassify lands to other uses in its entirety.

Your Committees have further amended H.B. No. 2807, H.D. 2,
by:

- (1) Providing that lands in the rural district shall also include:
 - (A) Low-density residential lots and residential subdivisions existing on agricultural lands before January 1, 2008;

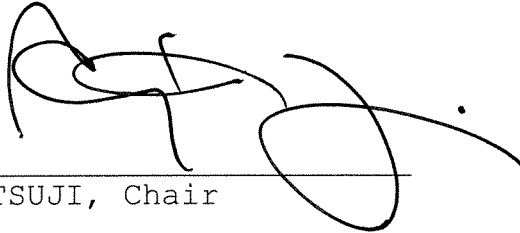


- (B) Areas to preserve natural landscapes, open space, and the rural character of the area; and
 - (C) Clusters of historic plantation settlements that do not function as a suburb of a major urban center;
- (2) Removing the requirement that lands designated as IAL remain IAL in perpetuity;
 - (3) Allowing a landowner seeking reclassification of lands in conjunction with a petition to designate land as IAL, to reclassify to conservation land, as well as rural or urban;
 - (4) Allowing a landowner who designates IAL to earn up to 20 percent of the IAL acreage in transferrable credits that can be used to reclassify other agricultural lands to other uses, to account for situations where the landowner who designates IALs may not own lands appropriate for reclassification at the time of designation of IALs;
 - (5) Allowing the LUC to designate IALs in accordance with this Act before the counties submit maps of recommended IALs;
 - (6) Removing from the minimum requirement of land designated as IAL, in a petition to simultaneously designate IAL and reclassify other lands, land quality based on soil classification:
 - (7) Removing the requirement that the reclassification of the lands sought to be reclassified in a petition to designate IAL be consistent with relevant community plans, and requiring consistency only with county general and development plans;
 - (8) Removing county authority to issue special use permits on agricultural lands; and
 - (9) Making technical, nonsubstantive amendments for style, clarity, and consistency.



As affirmed by the records of votes of the members of your Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 546, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 546, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Water, Land,
Ocean Resources & Hawaiian
Affairs and Agriculture,



CLIFT TSUJI, Chair



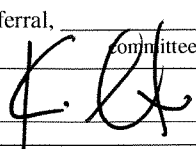
KEN ITO, Chair



State of Hawaii
House of Representatives
The Twenty-fourth Legislature

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Record of Votes of the Committee on Water, Land, Ocean Resources & Hawaiian Affairs

Bill/Resolution No.: SB 546 SD 2	Committee Referral: WLH/AGR	Date: 4/2/08		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
WLH Members	Ayes	Ayes (WR)	Nays	Excused
1. ITO, Ken (C)	✓			
2. KARAMATSU, Jon Riki (VC)	✓			
3. CARROLL, Mele		✓		
4. MAGAOAY, Michael Y.	✓			
5. MORITA, Hermina M.		✓		
6. SAGUM, Roland D., III	✓			
7. SAIKI, Scott K.		✓		
8. THIELEN, Cynthia		✓		
TOTAL (8)	4	4		
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. _____ committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office				

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State of Hawaii
House of Representatives
The Twenty-fourth Legislature

Record of Votes of the Committee on Agriculture

Bill/Resolution No.: SB 546, SD 2	Committee Referral: WLH/AGR	Date: 4/2/08		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
AGR Members	Ayes	Ayes (WR)	Nays	Excused
1. TSUJI, Clift (C)	/			
2. BROWER, Tom (VC)	/			
3. BERG, Lyla B., Ph.D.		/		
4. CHANG, Jerry L.	/			
5. HANOHANO, Faye P.		/		
6. HERKES, Robert N.		/		
7. MANAHAN, Joey	/			
8. WAKAI, Glenn				/
9. YAMANE, Ryan I.	/			
10. YAMASHITA, Kyle T.	/			
11. CHING, Corinne W.L.		/		
12. MEYER, Colleen Rose				/
TOTAL (12)	6	4	0	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: <u>Tom Brown</u>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office				