

Honolulu, Hawaii

MAR 02 2007

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

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.B. No. 546, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this measure is to protect and preserve agricultural productivity and viability in agricultural districts by increasing the minimum lot size in the rural districts and strengthening agricultural land use policy by establishing a minimum lot size on agricultural districts.

Specifically, this measure:

- (1) Changes the minimum lot size from one-half acre to one acre in rural districts;
- (2) Establishes a minimum lot size of five acres in an agricultural district; and
- (3) Allows for the clustering of dwelling units in rural and agricultural districts as long as the maximum density limitation for each respective district is not diminished.

Testimony in support of this measure was submitted by the Sierra Club, Hawai'i Chapter; Hawaii's Thousand Friends; the Hawaii Association of Realtors; and two individuals. Testimony in opposition to this measure was submitted by the Department of



Planning and Permitting, City and County of Honolulu. The Department of Agriculture; the Office of Planning, Department of Business, Economic Development, and Tourism; the Environmental Center, University of Hawaii; and two Council Members, Maui County Council submitted comments.

In the recent past, hundreds of acres of agricultural land have been converted into developments that feature homes without agricultural activity, agribusiness, or subsistence farming. The loss of these agricultural lands results in a loss of the State's ability to develop sustainable agricultural productivity that could increase food and fuel self-sufficiency for Hawaii residents. Furthermore, agricultural viability is threatened by increased agricultural land values and nuisance complaints regarding the agricultural activities of agricultural producers. Changes in land use laws can assist in creating a more viable rural district that can absorb development pressures that are currently directed at the agricultural districts.

Your Committee finds that redefining the rural districts and strengthening the land use policy for agricultural districts is needed to accommodate non-urban, non-agricultural activities and uses in rural areas, while directing these higher-value, non-agricultural uses away from agricultural lands in the agricultural districts.

It was indicated to your Committee in submitted testimony that a more comprehensive approach is needed to effectively achieve a more desirable land use pattern that provides long-term protection for the State's valued agricultural lands, and for rural communities and rural landscapes. Furthermore, there were strong concerns raised regarding how the proposed minimum lot size requirements would affect existing county zoning ordinances for rural and agricultural district lands.

Accordingly, your Committee has amended this measure by adding language that adopts a more comprehensive approach to land use planning for rural and agricultural districts that:

- (1) Amends section 205-2, Hawaii Revised Statutes, by:
  - (A) Retaining the proposed amendment to increase the minimum lot size from one-half acre to one acre in a rural district; and



- (B) Adding additional criteria for the determination of a rural district;
- (2) Amends section 205-4.5, Hawaii Revised Statutes, by:
    - (A) Adding definitions for and providing references to agricultural activities, agribusiness, and subsistence farming; and
    - (B) Clarifying that the provisions under this section will not apply to the development of any land within an agricultural district that has not been approved by the respective county as of July 1, 2007;
- (3) Amends section 205-5, Hawaii Revised Statutes, by:
    - (A) Establishing a minimum lot size of five acres in an agricultural district;
    - (B) Adding provisions to include a range of uses that support rural economic activities, rural settlements, and open space as a permitted use within a rural district;
    - (C) Adding criteria for a rural village or service center within a rural district; and
    - (D) Conforming this section's minimum lot size in a rural district reference to the amendment made in section 205-2, Hawaii Revised Statutes, from one-half acre to one acre in a rural district;
- (4) Amends section 205-6, Hawaii Revised Statutes, to provide further clarity;
- (5) Adds a clause that the lawful use of land or buildings on the effective date of this measure may continue although the use does not conform to the requirements of this measure, unless the nonconforming use is expanded, changed or discontinued; and
- (6) Makes technical, nonsubstantive amendments for the purposes of style and consistency.



Your Committee believes that this measure, as amended, fulfills the intent of this measure, which is to protect and preserve agricultural productivity and viability in agricultural districts.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 546, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 546, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Water, Land,  
Agriculture, and Hawaiian  
Affairs,



RUSSELL S. KOKUBUN, Chair



The Senate  
Twenty-Fourth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Water, Land, Agriculture and Hawaiian Affairs**  
**WAH**

Bill / Resolution No.:* <i>SB 546 SD1</i>	Committee Referral: <i>WAH</i>	Date: <i>2/28/07</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	<i>X</i>			
TOKUDA, Jill N. (VC)	<i>X</i>			
FUKUNAGA, Carol				<i>X</i>
HEE, Clayton				<i>X</i>
SLOM, Sam	<i>X</i>			
<b>TOTAL</b>	<i>3</i>	<i>0</i>	<i>0</i>	<i>2</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution:	Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	

\*Only one measure per Record of Votes