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Statement of
MARY LOU KOBAYASHI
Planning Program Administrator, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON WATER, LAND, OCEAN RESOURCES
AND HAWAIIAN AFFAIRS**
AND
HOUSE COMMITTEE ON AGRICULTURE
Friday, February 1, 2008
8:30 AM
State Capitol, Conference Room 325

in consideration of
HB 2946
RELATING TO LAND USE.

Chairs Ito and Tsuji, Vice Chairs Karamatsu and Brower, and Members of the House Committees on Water, Land, Ocean Resources, and Hawaiian Affairs and Agriculture.

The Office of Planning (OP) supports HB 2946 which authorizes a one-time process for the reclassification of lands that were classified as Agricultural prior to June 4, 1976, from the State Agricultural District to the Rural District, subject to a sunset date of December 31, 2010. The Department of Agriculture (DOA) and OP are tasked with developing recommendations for boundary amendments in consultation with the counties, and submitting the recommendations to the State Land Use Commission (LUC) before January 1, 2010. LUC is to conduct at least one public hearing in accordance with Chapter 91, Hawaii Revised Statutes (HRS), in each County where the lands are situated. LUC must act within 90 days of receipt of the recommendations and must adopt all district boundaries on or before June 30, 2010.

OP strongly supports the shifting of higher-valued, non-conforming non-farm uses from the State Agricultural Land Use District to the Rural District as a key

component to protecting the State's agricultural lands and helping to ensure the affordability of lands for agriculture in the future.

Given the reference to June 4, 1976, in the bill, it may be the intent of the bill to reclassify small lot subdivisions in the Agricultural District which were created prior to June 4, 1976, from the Agricultural District into the Rural District. There were numerous small lot subdivisions created in the Agricultural District during the late 1950s to early 1970s before tighter standards for Agricultural District were adopted. Many of these lots are not used for agriculture. If this is the intent, the language should be clarified. As the bill reads now, the DOA and OP would be reviewing all lands classified as Agricultural prior to June 4, 1976. Very few lands have been reclassified into the Agricultural District since June 4, 1976. Therefore, the lands reviewed would likely be similar to the lands currently in the Agricultural District now.

We view the provision of a one-time process for the review and reclassification of these previously subdivided small lot subdivisions from the Agricultural District to the Rural District as a positive step. However, should the Committees pass this measure, we also ask the Committee to consider measures to redefine the State Rural Land Use District, and a tighten State Agricultural District standards, which would assist in preventing future occurrences of the siting of non-agricultural uses in the Agricultural District. OP urges the Committees to consider legislation that would provide a stronger policy framework for the Rural District to ensure that the fragmentation and rising land values resulting from subdivisions in the Agricultural District are not merely sustained under the Rural District designation. The future of Hawaii's rural areas depends on how well we respond to this challenge, and the use of the proper policies and tools to plan and manage our valued rural legacy.

OP recommends the bill be amended to: (1) clarify the reclassification proceeding shall be a quasi-legislative process subject to Chapter 92, HRS, rather than Chapter 91 and (2) clarify whether the intent is to review all lands in the Agricultural District or only small lot subdivisions created prior to June 4, 1976. OP is willing to provide technical amendments should the Committees desire.

OP also stands ready to review all lands in the Agricultural District if that is the Committee's intent.

Thank you for the opportunity to testify.

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
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SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEES ON WATER, LAND, OCEAN RESOURCES,
AND HAWAIIAN AFFAIRS, AND AGRICULTURE
FRIDAY, FEBRUARY 1, 2008
8:30 a.m.
Room 325

HOUSE BILL 2946
RELATING TO LAND USE

Chairpersons Ito and Tsuji and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 2946 that allows the counties, in collaboration with the Office of Planning and the Department of Agriculture, a one-time process to reclassify certain Agricultural District lands to the Rural District. The Land Use Commission (LUC) is to adopt the new Rural District boundaries by June 30, 2010. We believe that the process as described is inclusive, comprehensive, and transparent. The Department of Agriculture supports this measure, provided that its passage does not replace or adversely impact priorities as found in our Executive Biennium Budget. We defer to the LUC and the Office of Planning regarding whether the completion of the final recommendations for new Rural District boundaries and subsequent LUC action is doable within the short timeframe. We believe that a well defined Rural District can redirect much of the development pressure currently placed on the Agricultural District, and make much more effective the Administration's bill, (House Bill 3032) that requires and enforces substantial agricultural use of agricultural lands that are subdivided and any farm dwellings that are proposed.

We recommend that to expedite the one-time reclassification process as intended, the Land Use Commission should be authorized to use the quasi-legislative process subject to Chapter 92, HRS, rather than Chapter 91. We also recommend that the Office of Planning along with the Department of Agriculture develop the who will report on the recommendations made to the LUC that will be submitted to the 2010 Legislature (page 6, line 19).

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES**

on House Bill 2946 – Relating to Land Use

**BEFORE THE HOUSE COMMITTEE ON WATER, LAND, OCEAN RESOURCES &
HAWAIIAN AFFAIRS
AND
HOUSE COMMITTEE ON AGRICULTURE**

Friday, February 1, 2008

House Bill 2946 proposes a one-time opportunity for the reclassification of land into rural land use districts that were classified agriculture prior to June 4, 1976. The Department of Land and Natural Resources (Department) supports rural communities, which contain a diverse array of historic resources, and values the role rural communities play in Hawaii's history and sense of place. However, the Department defers to the Department of Agriculture and Office of Planning on the specifics of this bill.



Legislative Testimony

HB 2946, RELATING TO LAND USE

House Committees on Water, Land, Ocean Resources & Hawaiian
Affairs
and Agriculture

February 1, 2008
325

8:30 a.m.

Room:

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB 2946, which would provide a one-time, streamlined process for proposed boundary amendments for lands in the agricultural district to the rural land use district.

This bill would allow for a mass reclassification of agricultural lands into the rural district without the benefit of adequate public hearing or public review, and with specific exemption from all State Historic Preservation review. Such county rezoning requests should be brought individually before the Land Use Commission (LUC), which was created for this purpose and with the requisite public review process. Also, the LUC's requirements for review of boundary amendments are far more involved and in-depth, for good reason.

This bill seeks to bypass the State land use laws and environmental and cultural review processes, which the Legislature saw fit to create and the Hawai'i State Courts have seen fit to uphold. The Legislature cannot be fooled by this bill's methods or intentions.

The single hearing provided by this bill for all of a county's recommendations is irresponsible, unreasonable and burdensome for both the LUC and the public to provide adequate and in-depth analysis and information on what could be innumerable properties in multiple locations within a county.

The Hawaii Revised Statutes (HRS) mandate OHA to ensure the betterment of the condition of Native Hawaiians, in part by examining other agencies' actions. Public review of important land use decisions such as these allows OHA to fulfill its mandate by providing it with adequate

opportunity to ensure the protection of traditional and cultural access rights and uses, Native Hawaiian archaeological and burial sites, and natural and cultural resources.

This bill would not only eliminate an adequate response by the public and public agencies like OHA, but it also eliminates other government controls in the form of exemptions to Historic Preservation laws. The bill would specifically exempt these boundary amendments from HRS §§ 6E-3 ("Historic Preservation Program"), 6E-8 ("Review of effect of state projects"), and 6E-42 ("Review of proposed projects").

The bill also violates a Hawai'i Supreme Court order. The LUC must, per the Hawai'i Supreme Court decision of Ka Paʻakai O Ka ʻĀina v. Land Use Comm'n, 94 Haw. 31, 45 (2000), "preserve and protect customary and traditional practices of Native Hawaiians," which it would not be allowed or able to appropriately do under the direction of this proposed legislation.

For all of the above reasons, OHA urges the Committees to HOLD SB 843. Thank you for the opportunity to testify.

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO
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January 31, 2008

Honorable Representative Ken Ito, Chair
Honorable Representative Jon Riki Karamatsu, Vice Chair
Members of the House Committee on Water, Land, Ocean Resources & Hawaiian
Affairs
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: IN OPPOSITION OF HB 2946
RELATING TO LAND USE
Hearing: Friday, February 1, 2008, 8:30 a.m.

Dear Chair Ito, Vice Chair Karamatsu and the House Committee on Water, Land,
Ocean Resources & Hawaiian Affairs:

For the Record my name is Buzz Hong the Executive Director for the Hawaii
Building & Construction Trades Council, AFL-CIO. Our Council is comprised
of 16-construction unions and a membership of 26,000 statewide.

The Council OPPOSES the passage of HB 2946, which allow counties a one-
time opportunity to reclassify areas of land into rural land use districts.

Thank you for the opportunity to submit this testimony in opposition of
HB2946.

Sincerely,

William "Buzz" Hong

WBH/dg