

# S.B. NO. 2680

JAN 25 2010

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## A BILL FOR AN ACT

RELATING TO LAND USE.

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

1           SECTION 1. Chapter 205, Hawaii Revised Statutes, is  
2 amended by adding three new sections to be appropriately  
3 designated and to read as follows:

4           "§205-A Regional district boundary amendments,  
5 applications. (a) Notwithstanding any other law to the  
6 contrary, any county planning department or the office of  
7 planning may apply to the commission for a regional change in  
8 the boundary of a district; provided that the following  
9 requirements are met:

10           (1) The application for a regional change in the boundary  
11 of a district is in conformity with the county  
12 community, development, or community development plans  
13 adopted pursuant to the county general plan, and the  
14 county community, development, or community  
15 development plans were adopted or revised by the  
16 county council within five years before the  
17 application was filed;

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1       (2) The application area is not classified as  
2       conservation;

3       (3) The application area is regional in geographic  
4       coverage, including multiple parcels of land, owned by  
5       more than one landowner; and

6       (4) The office of planning and the planning department for  
7       the county in which the application area is located  
8       have no objection to the application.

9       (b) An application for a regional change in the boundary  
10      of a district shall include such information as the commission  
11      may require, including a description of the application area,  
12      the names and addresses of those persons identified by applicant  
13      to have a property interest in the application area, and a  
14      justification for the regional change in the boundary of the  
15      district.

16      (c) On an application for a regional change in the  
17      boundary of a district, the commission shall hold on the island  
18      affected a public hearing and not a contested case hearing,  
19      provided that prior to the public hearing on the application for  
20      a regional change in the boundary of a district, the commission  
21      shall:

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- 1        (1) Give at least thirty days' notice for a public  
2        hearing. The notice shall include:
- 3        (A) A statement of the topic of the public hearing;  
4        (B) A statement that a copy of the application will be  
5        mailed to any interested person who requests a  
6        copy, pays the required fees for the copy and  
7        postage, if any, together with a description of  
8        where and how the request may be made;
- 9        (C) A statement of when, where, and during what times  
10       the application may be reviewed in person; and
- 11       (D) The date, time, and place where the public hearing  
12       will be held and where interested persons may be  
13       heard on the proposed application;
- 14       (2) The notice shall be mailed to the office of planning,  
15       the affected county planning department, and all  
16       persons who have made a timely written request to the  
17       commission for advance notice of its public hearing  
18       and to all persons with a property interest in the  
19       lands identified in the application; provided that the  
20       adoption or rejection of an application as determined  
21       by the commission shall not be invalidated solely

1 because of the inadvertent failure to mail an advance  
2 notice of a public hearing; and

3 (3) The notice shall be published in a media of general  
4 circulation statewide, which is printed or  
5 communicated and issued at least twice weekly in the  
6 county affected by the proposed application.

7 **§205-B Regional district boundary amendments,**

8 **approval deadline.** Within a period of not more than one hundred  
9 twenty days of receipt of a complete filing of an application  
10 for a regional district boundary amendment, the commission shall  
11 approve, approve in part, or deny the application.

12 **§205-C Regional district boundary amendments,**

13 **approval criteria.** The commission shall approve an application  
14 upon a showing by the clear preponderance of the evidence that  
15 the proposed regional district boundary amendment is reasonable,  
16 not violative of section 205-2, and consistent with the policies  
17 and criteria of sections 205-16 and 205-17. The commission may  
18 impose such conditions as may be necessary to ensure compliance  
19 with section 205-2 and the policies and criteria of sections  
20 205-16 and 205-17. Six affirmative votes of the commission  
21 shall be necessary for any regional district boundary  
22 amendment."

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1 SECTION 2. New statutory material is underscored.

2 SECTION 3. In codifying the new sections added to  
3 chapter 205, Hawaii Revised Statutes, the revisor of statutes  
4 shall substitute appropriate section numbers for the letters  
5 used in the new sections designated in this Act.

6 SECTION 4. This Act shall take effect upon its  
7 approval.

8  
9 INTRODUCED BY: \_\_\_\_\_

10 BY REQUEST

**Report Title:**

Land Use; District Boundary Amendment Process

**Description:**

Establishing a quasi-legislative process to simplify the State Land Use Commission's procedures in limited situations involving state or county petitions for district boundary amendments to conform State land use classification with county plans.

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## JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO LAND USE.

PURPOSE: The purpose of this bill is to establish a quasi-legislative process to simplify the State Land Use Commission's procedures in limited situations involving state or county petitions for district boundary amendments to conform state land use classification with county plans.

MEANS: Add three new sections to chapter 205, Hawaii Revised Statutes.

JUSTIFICATION: Under the existing land use system, long-range land use policy is in effect decided on a project-by-project basis as cases come before the State Land Use Commission. There is a need to take a longer-range, more comprehensive and planning-oriented view. The existing land use process also treats county government-initiated petitions for large regional areas the same as project-by-project developer-initiated petitions, notwithstanding that the county petitions are based on county general and development plans prepared with extensive community input.

This bill establishes a new quasi-legislative process that simplifies the State Land Use Commission's procedures for petitions by county planning departments or the State Office of Planning for regional boundary amendments that conform to county plans and meet other specified requirements.

Impact on the public: This bill will allow for a longer range, comprehensive, and planning-oriented review of land use changes because it will facilitate regional boundary amendments that conform to county plans and that are initiated by the State or the counties. Regional land use changes will be evaluated as a whole and cumulatively rather than on a project-by-project basis. The implementation of county plans that have been prepared with extensive public input will be facilitated.

Impact on the department and other agencies: Since the bill is intended to facilitate regional boundary amendments, it is anticipated that over the long term, the workload of the State Office of Planning, the State Land Use Commission and the county planning agencies would decrease because more land use changes would be reviewed on a regional basis rather than on a case-by-case basis.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BED-103, BED-144.

OTHER AFFECTED AGENCIES: County planning and permitting agencies and State Office of Planning.

EFFECTIVE DATE: Upon approval.