

STAND. COM. REP. NO. 693

Honolulu, Hawaii

March 5, 2009

RE: H.B. No. 1048  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committees on Water, Land, & Ocean Resources and  
Agriculture, to which was referred H.B. No. 1048 entitled:

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

beg leave to report as follows:

The purpose of this bill is to encourage the use of the rural land district as a land use tool to preserve the state's agricultural land and non-agricultural rural uses, such as recreational uses, agricultural support activities, and buffering of agricultural and conservation lands from urban areas, by giving the counties greater authority to define the policies, standards, and procedures for the use and development of rural lands, provided that they, among other things, protect and enhance the character, economies, and physical form of Hawaii's rural areas and communities, and minimize residential sprawl into rural areas.

The Office of Planning and Department of Agriculture testified in support of this bill. A member of the Maui County Council, Hawaii Association of REALTORS, and Hawaii's Thousand Friends opposed this measure. The Department of Planning and Permitting of the City and County of Honolulu provided comments.

Your Committees find that pursuant to the general rule that state law supersedes county law, a county ordinance is invalid if, in its application, it conflicts with a state law that involves matters of statewide concern. Since all county ordinances are already subject to the confines of state law, your Committees find

HB1048 HD1 HSCR WLO-AGR HMS 2009-2549



it is unnecessary to specifically require county ordinances to conform to state law. Accordingly, your Committees have amended this bill by replacing the requirement that county laws governing land use and development conform to the policies, uses, standards, and restrictions for the use, subdivision, or development on land in the urban, rural, and agricultural land use districts, and important agricultural lands in Chapter 205, Hawaii Revised Statutes (HRS), with the requirement that each county establish by ordinance the policies, standards, and procedures for the use and development of land in rural districts.

Pursuant to Act 205, Session Laws of Hawaii 2005, an advisory group was convened in 2006 to redefine rural districts and create rural standards for boundary reviews. Your Committees find that the recommendations of the advisory group should be incorporated into this bill. Accordingly, your Committees have also amended this bill by:

- (1) Providing more specific guidance in Chapter 205, HRS, on the appropriate characteristics of rural and conservation districts;
- (2) Removing minimum lot sizes for the rural district from the criteria for rural districts;
- (3) Providing counties with the same degree of discretion to manage rural districts as they are currently provided with regard to lands in the urban district;
- (4) Authorizing counties to petition the Land Use Commission (LUC) for regional district boundary amendments of existing rural villages based on the criteria in Chapter 205, HRS, the general plan, development, and community plans; and
- (5) Providing for public input prior to LUC adoption of the boundary amendment.

Upon further consideration, your Committees have also:

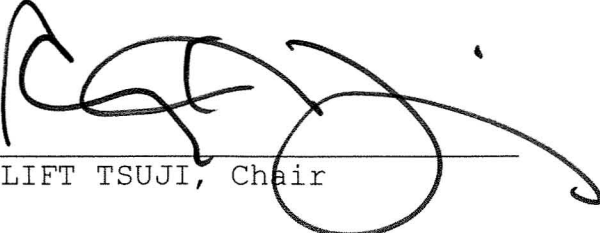
- (1) Deleted the provision that the use for which a special permit is requested must not be prohibited in sections 205-2 and 205-4.5, HRS, to prevent confusion;



- (2) Deleted the criteria for classification of agricultural lands currently listed in section 205-2(d), HRS, in favor of the permissible uses described in section 205-4.5, HRS; and
- (3) Made 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 and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1048, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1048, 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 and  
Agriculture,



\_\_\_\_\_  
CLIFT TSUJI, Chair



\_\_\_\_\_  
KEN ITO, Chair



State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

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

| <b>Bill/Resolution No.:</b><br>HB1048  | <b>Committee Referral:</b><br>WLO/AGR | <b>Date:</b><br>2/27/09 |      |         |
|--|---------------------------------------|-------------------------|------|---------|
| <input type="checkbox"/> The committee is reconsidering its previous decision on the measure.  |                                       |                         |      |         |
| <b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold<br><input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit) |                                       |                         |      |         |
| WLO Members  | Ayes                                  | Ayes (WR)               | Nays | Excused |
| 1. ITO, Ken (C)  | ✓                                     |                         |      |         |
| 2. HAR, Sharon E. (VC)   | ✓                                     |                         |      |         |
| 3. CABANILLA, Rida   |                                       |                         |      | ✓       |
| 4. CHANG, Jerry L.   |                                       |                         |      | ✓       |
| 5. CHONG, Pono   |                                       |                         |      | ✓       |
| 6. COFFMAN, Denny  | ✓                                     |                         |      |         |
| 7. HERKES, Robert N.   | ✓                                     |                         |      |         |
| 8. LEE, Chris  |                                       |                         |      | ✓       |
| 9. LUKE, Sylvia  |                                       |                         |      | ✓       |
| 10. MORITA, Hermina M.   |                                       |                         |      | ✓       |
| 11. SAGUM, Roland D., III  | ✓                                     |                         |      |         |
| 12. CHING, Corinne W.L.  | ✓                                     |                         |      |         |
| 13. THIELEN, Cynthia   |                                       | ✓                       |      |         |
| <b>TOTAL (13)</b>  | 6                                     | 1                       |      | 6       |
| <b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted<br>If joint referral _____ did not support recommendation.<br>_____ committee acronym(s)  |                                       |                         |      |         |
| <b>Vice Chair's or designee's signature:</b> _____<br>   |                                       |                         |      |         |
| <b>Distribution:</b> Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO  |                                       |                         |      |         |

State of Hawaii  
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Record of Votes of the Committee on Agriculture

| Bill/Resolution No.:  | Committee Referral: | Date:     |      |         |
|---|---------------------|-----------|------|---------|
| HB 1048   | WLO/AGR             | 2/27/09   |      |         |
| <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<br><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. WOOLEY, Jessica (VC)   | ✓                   |           |      |         |
| 3. BERG, Lyla B.  |                     | ✓         |      |         |
| 4. CHOY, Isaac W.   | ✓                   |           |      |         |
| 5. EVANS, Cindy   |                     |           |      | ✓       |
| 6. MANAHAN, Joey  | ✓                   |           |      |         |
| 7. McKELVEY, Angus L.K.   |                     |           |      | ✓       |
| <del>8. TAKAI, K. Mark</del>  |                     |           |      |         |
| 9. TOKIOKA, James Kunane  |                     |           |      | ✓       |
| 10. WAKAI, Glenn  |                     |           |      | ✓       |
| 11. MARUMOTO, Barbara C.  | ✓                   |           |      |         |
| TOTAL (11)  | 10                  | 1         | 0    | 4       |
| The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted<br>If joint referral, _____ did not support recommendation.<br>committee acronym(s)   |                     |           |      |         |
| Vice Chair's or designee's signature: _____   |                     |           |      |         |
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