



# Sierra Club Hawai'i Chapter

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## SENATE COMMITTEE ON WATER, LAND, AND HOUSING

February 3, 2011, 1:15 P.M.  
(Testimony is 1 page long)

### TESTIMONY IN OPPOSITION TO SB 735

Aloha Chair Dela Cruz and Members of the Committee:

The Sierra Club, Hawaii Chapter, with 8,000 dues paying members and supporters statewide, supports the intent of SB 735 but *opposes* the bill in its current form. This measure would create an imbalanced task force to review the Land Use Commission's criteria for land reclassifications.

The counties historically have been lax in defending Hawai'i's land use law and preventing rural sprawl on agricultural lands. Due to weak enforcement of agricultural land protection, farmland has been subject to the type of real estate speculation that drives up the price of land further out of reach for local residents and local farmers. It has made it difficult to effectively plan Hawai'i's future and ensure orderly development.

The counties have, unfortunately, been some of the prime advocates for relaxed land use laws. David Tanoue, the Director of Permitting and Planning at the City and County of Honolulu was quoted recently as saying he can't think of a major development project he's opposed. *Civil Beat*, available at <http://www.civilbeat.com/articles/2010/11/10/6470-planning-director-hasnt-opposed-a-major-project/> Similar examples can be given on other islands, such as the county-approved development sprawl at Hokuia.

To this end, it seems profoundly inappropriate to suggest the vast majority -- eight of the members of the proposed task force -- would be representatives selected by the counties. It would seem more prudent suggest representatives from the Urban Land Institute, the Department of Urban Planning at the University of Hawaii, or experts in agricultural, native Hawaiian customary rights, and environmental issues. A more balanced task force would ensure a higher degree of trust in the final result. Involving more folks from outside of government would ensure solutions that aren't simply the *status quo*.

Mahalo for the opportunity to testify.

**From:** [Windward Ahupua`a Alliance](#)  
**To:** [WLH Testimony](#)  
**Subject:** SB 735 Testimony  
**Date:** Thursday, February 03, 2011 10:44:09 AM

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**COMMITTEE ON WATER, LAND AND HOUSING**  
**Senator Donovan M. Dela Cruz, Chair**  
**Senator Malama Solomon, Vice Chair**

**1:15 pm**  
**Thursday, February 3, 2011**  
**Conference Room 225**

**SB 735 - RELATING TO LAND USE**

**Requires the office of planning to convene a task force to review all requirements under chapter 205, Hawaii Revised Statutes, and make recommendations to ensure that the land use commission considers the cumulative and long-term impacts of all pending and proposed development requests during its review of reclassification petitions. Requires the task force, with the assistance of the legislative reference bureau, to report its findings to the legislature.**

On behalf of the ***Windward Ahupua`a Alliance***, an organization that works to educate & inform residents, visitors, businesses, policymakers at all levels of government, and the media about using **SMART GROWTH** principles which promote sustainability, I am here to support **SB 735** which would establish a temporary task force to evaluate **Chapter 205 HRS** - in particular, **Section 205-17** which establishes the decision-making criteria (see below). The task force would then make recommendations to the **Legislature** for possible changes in the laws governing the **Land Use Commission**.

Based upon my own experiences attending & participating in a variety of hearings conducted by both the **City & County of Honolulu** and the **State Land Use Commission**, it is clear that there is a need to look at whether it is appropriate for these permitting entities to take into consideration the **cumulative** impacts of all proposed & pending developments rather than just those in the petition or application before them.

When I raised the issue some 18 months ago during a **LUC** hearing, I was told that the **Commission may**, but not **must**, take into consideration the cumulative impacts.

Whether it's potable water resources or the need to consider constructing transportation, sewer lines, or additional schools, it is critically important that we do take into consideration what the impacts will be on those who will still be around 30 years from now .

Although this bill does focus on **Section 205-17**, the entire **Chapter 205** needs to be reviewed to see else might need to be changed.

Finally, I know that a lot of other bills coming before the **2011 Legislature** request the establishment of task forces and working groups. These are great ways to get needed research done using community volunteers and experts from both the public & private sectors without expending large sums of money and burdening already-stressed-out state employees to do all the work themselves.

**Mahalo** for the opportunity to testify in support of **SB 735**.

Shannon Wood, **President & Co-Founder**  
**Windward Ahupua`a Alliance**

**PLANT A NATIVE TREE CAMPAIGN/Plug In & Power UP!/RECYCLING FOR CHANGE/BUST-A-DUMPER Campaign**

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### **PURPOSE OF THE LAW**

In 1961, the Hawaii State Legislature determined that a lack of adequate controls had caused the development of Hawaii's limited and valuable land for short-term gain for the few while resulting in long-term loss to the income and growth potential of our State's economy. Development of scattered subdivisions, creating problems of expensive yet reduced public services, and the conversion of prime agricultural land to residential use, were key reasons for establishing the state-wide zoning system.

To administer this state-wide zoning law, the Legislature established the Land Use Commission. The Commission is responsible for preserving and protecting Hawaii's lands and encouraging those uses to which lands are best suited.

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### **ROLE OF THE COMMISSION**

The Commission's primary role is to ensure that areas of state concern are addressed and considered in the land use decision-making process.

The Commission establishes the district boundaries for the entire State. The Commission acts on petitions for boundary changes submitted by private landowners, developers and State and county agencies. The Commission also acts on requests for special use permits within the Agricultural and Rural Districts.

### **DISTRICT BOUNDARY AMENDMENT PROCEDURES**

District boundary amendments are obtained by petition to the Commission. Amendment petitions can be initiated by State departments or agencies; County departments or agencies in which the property is situated; and any person with a direct interest in the property sought to be reclassified. ....

Upon acceptance of a properly filed petition, the Commission must hold a hearing on the island on which the subject property is situated within not less than 60 days and not more than 180 days. ....

The Commission must decide upon the request within 365 days after the petition is deemed a proper filing unless otherwise ordered by a court, or unless a time extension, which shall not exceed 90 days, is established by a two-thirds vote of the members of the commission. The Commission may approve, approve with conditions or deny the petition. If a district boundary is amended with conditions, the conditions must be recorded with the Bureau of Conveyances, as these conditions will run with the land and shall be binding upon the petitioner and subsequent persons with any interest in the land.

On petitions to redistrict Conservation lands, the requirements of the EIS law (Chapter 343, HRS) must be met before the petition to reclassify Conservation land can be officially accepted as a proper filing and acted upon by the Commission. Amendment of a district boundary requires approval by at least six of the nine Commissioners.

### **DECISION-MAKING CRITERIA**

The Land Use Law requires the Commission to specifically consider the following criteria in review of any petition for a boundary amendment:

- A Conformity to the goals, objectives and policies of the Hawaii State Plan (Chapter 226, Hawaii Revised Statutes) and the Functional Plans adopted pursuant to the State Plan.
- B Extent to which the proposed reclassification conforms to the applicable district standards
- C Impacts on the following State concerns:
  - 1 preservation or maintenance of important natural systems or habitats;
  - 2 maintenance of valued cultural, historical or natural resources;
  - 3 maintenance of other natural resources relevant to Hawaii's economy, including but not limited to agricultural resources;
  - 4 commitment of state funds and resources;
  - 5 provision for employment opportunities and economic development; and
  - 6 provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap group
- D The representations and commitments made by the petitioner in securing a boundary change.

Furthermore, the Commission must take into account the General Plan of the respective County; and, where applicable, the objectives, policies and guidelines of the State Coastal Zone Management Law (Chapter 205A, Hawaii Revised Statutes).