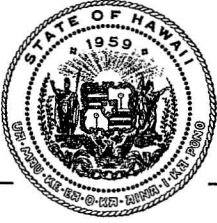


**From:** Teresa Hee [Thee@dbedt.hawaii.gov]  
**Sent:** Wednesday, February 02, 2011 2:35 PM  
**To:** WLOtestimony  
**Cc:** Gov.Policy; DBFLeg.DIR; Gail Haruki; Tommilyn Soares  
**Subject:** HB1503\_BED-OP\_02-04-11\_WLO-EEP  
**Attachments:** HB1503\_BED-OP\_WLO-EEP\_02-04-2011.pdf

**Categories:** Red Category .

<b>Testifier:</b>	<b>Mary Lou Kobayashi Planning Program Administrator Office of Planning</b>
<b>Committee:</b>	<b>WLO/EEP</b>
<b>Date/Time of Hrg.</b>	<b>Friday, 2/04/11 @ 10:00 AM, Rm. 325</b>
<b>Measure No.</b>	<b>HB 1503</b>
<b>No. of Copies to Committee:</b>	<b>1</b>

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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, AND OCEAN RESOURCES**  
**AND**  
**HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION**

Friday, February 4, 2011  
10:00 AM  
State Capitol, Conference Room 325

in consideration of  
**HB 1503**  
**RELATING TO LAND USE.**

Chairs Chang and Morita, Vice Chairs Har and Coffman, and Members of the House Committees on Water, Land, and Ocean Resources and Energy and Environmental Protection.

The Office of Planning supports the concept of a plan-based, quasi-legislative boundary amendment process, but does not support HB 1503 in its current form. OP has prepared bills for for a plan-based, quasi-legislative proceeding, which were submitted in prior legislative sessions.

HB 1503 proposes to amend Section 205-18, Hawai'i Revised Statutes (HRS), to establish a quasi-legislative process for County- and OP-initiated applications for boundary amendments consistent with adopted county long-range land use plans. The bill includes provisions for hearing timelines, public notice, and decision-making criteria. This procedure would be limited to one application per island every five years. The Land Use Commission

(LUC) could approve the individual boundary amendments contained in an application in whole or in part. Approval of a boundary amendment would require six affirmative votes.

HB 1503 also exempts the quasi-legislative application from Chapter 343, HRS, except for boundary amendments proposed for lands in the Conservation District. Any boundary amendment denied in a quasi-legislative proceeding would be allowed to be submitted to the LUC for a boundary amendment under Sections 205-3.1 or 205-4, HRS, after six months. The bill also provides that subsequent county rezoning must contain conditions that address statutory requirements under Section 205-17(3) related to areas of State interests, and the County is to give State agencies an opportunity to comment on rezoning actions. The rezoning process is to incorporate requirements under Sections 6E-42 and 6E-43, HRS, such that all applicable studies are required to be done in the rezoning process, not in the periodic review and boundary amendment process.

HB 1503 contains many of the critical elements that OP believes are necessary for establishing an effective quasi-legislative, regional plan-based boundary amendment process. A quasi-legislative proceeding will reduce the procedural burden of boundary amendments, but this change, by itself, will not contribute significantly to more effective implementation of statewide land use policy or better planning outcomes.

In particular, OP has the following concerns about the bill as written:

1. Areas of State concern. The bill's provisions for incorporating State agencies' concerns in county rezoning are a good start toward addressing areas of State concern. However, they would need to be further amended and strengthened to ensure that there is adequate coordination and mitigation of development impacts on State-funded and maintained infrastructure and services or natural

resources that are managed by the State. The decision-making criteria should also be expanded to include Sections 205-17(1) through 205(17)(4).

2. Issues related to timing of reclassification and development under the plan-based proceeding. County plans have planning horizons of 20-plus years.

Unless the plan-based application includes only those lands that are phased for development within a five- to ten-year development horizon, then lands planned for urbanization could be urbanized prematurely, perhaps well in advance of planned infrastructure and service systems or even the end-user market has emerged for lands being reclassified. This has two impacts of concern to OP.

First, premature reclassification could impact negatively on agricultural land leases and farmers' ability to obtain long-term leases for available land, thus impairing their ability to obtain financing or ensure an adequate return on longer-term agricultural investments.

Second, there is a potential for projects to proceed with zoning and permitting in areas planned for growth, but where infrastructure system and services are inadequate and planned improvements are not scheduled or funded for many years out.

These potentially adverse consequences need to be addressed and resolved in any proposal for such a proceeding.

3. Other issues:

- a. Clarification with respect to County and OP applications. The bill needs to clarify if the application is a joint application of the County

and OP, or if applications may be made by a County or OP.

- b. Timeframe for petitioning LUC for boundary amendment after denial under proposed proceeding. Existing law allows a petition for a boundary amendment that has been denied to be resubmitted after one year. The same standard should be applied to the quasi-legislative proceeding.
- c. Appeal mechanism. The bill is silent on whether administrative and judicial appeals are allowed, and the basis for such appeals, if any. An appeal mechanism of some kind might provide a safeguard for such a proceeding.
- d. Character of State land use classification. Land use designations and growth patterns contained in a County land use plans can change over time. There is a question as to whether the State land use classification based on an adopted County plan should or should not have an entitlement character, to avoid non-conformance should a County plan be amended in the future. Any proposal for a plan-based proceeding will need to address this issue.

In summary, OP would be able to support legislation that would incorporate and address these concerns. We would also support legislation that would permit further review of this concept.

Thank you for the opportunity to testify.