

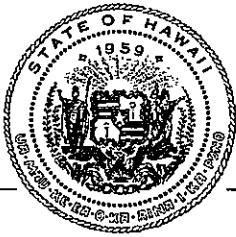
har2-Samantha

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 02, 2012 9:37 AM
To: WLOtestimony
Cc: d davidson@dbedt.hawaii.gov
Subject: Testimony for HB2419 on 2/3/2012 9:00:00 AM

Testimony for WLO 2/3/2012 9:00:00 AM HB2419

Conference room: 325
Testifier position: Oppose
Testifier will be present: No
Submitted by: Orlando Davidson
Organization: State Land Use Commission
E-mail: ddavidson@dbedt.hawaii.gov
Submitted on: 2/2/2012

Comments:



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR
RICHARD C. LIM
DIRECTOR
MARY ALICE EVANS
DEPUTY DIRECTOR
JESSE K. SOUKI
DIRECTOR
OFFICE OF PLANNING

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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES.
Friday, February 3, 2012
9:00 AM
State Capitol, Conference Room 325

in consideration of
HB 2419
RELATING TO LAND USE.

Chair Chang, Vice Chair Har, and Members of the House Committee on Water, Land and Ocean Resources.

The Office of Planning (OP) opposes this bill which seeks to allow county general plan amendments that require the reclassification of lands from the State agricultural, rural and urban districts to be approved by Declaratory Order of the State Land Use Commission (LUC).

Our primary concern is that State interests may not be served well under this proposal. OP represents the State's position and is a mandatory party in district boundary reclassifications before the LUC. In the Declaratory Order process, unlike boundary reclassifications, OP is not a mandatory party and would have to formally intervene in order to take part in the proceeding. Should State interests be adversely affected by the proposal, OP would need to intervene and request a contested case hearing in order to present State agency expert witnesses and be able to cross-examine parties. The Declaratory Order process does not provide a full opportunity to hear

and examine the advantages and disadvantages and associated impacts of the proposal to State priorities including the promotion of the agricultural industry, protection of agricultural lands, cultural and archaeological resources, safeguards to water supply and public health, sustainable energy and resources use, protection of natural resources including coastal and marine resources, and ensuring the adequacy of transportation systems, public educational facilities and other State-provided services and facilities.

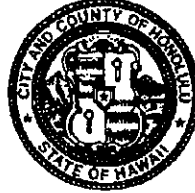
The language of the bill is also unclear in its references to general plan amendments. The HRS §226-2 definition of county general plan is “the comprehensive long-range plan or development plan, if any, which has been adopted by ordinance or resolution by a county council.” The four counties have both general plans which are usually broad policy documents and more detailed island, community and development plans. The more detailed plans include land use maps, some of which also designate urban growth areas. The bill does not distinguish between general plan amendments done as part of a periodic and comprehensive general plan review process by the counties and those amendments that are done on an individual basis by landowners and developers for specific project proposals.

Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

February 3, 2012

The Honorable Jerry L. Chang, Chair
and Members of the Committee on
Water, Land & Ocean Resources
State House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Chang and Members:

**Subject: House Bill No. 2419
Related to Land Use**

The Department of Planning and Permitting **supports the intent** of House Bill No. 2419 to streamline land use boundary amendments, and "support county rule". However, there are a number of flaws in the bill and, therefore, we **request modifications** from the bill in its present form. As proposed, the bill would amend Chapter 205, HRS, by requiring counties to seek a declaratory order from the Land Use Commission to reclassify lands based on changes to the county general plan, as defined under Section 226-2, HRS.

We would support the bill with the following changes:

1. The declaratory order process is optional for the counties,
2. The State land use changes are based on the county general plans or county development plans, as also defined under Section 226-2, HRS, and
3. The declaratory order applies to the reclassification of lands under Chapter 205 alone, and not as an action approving county plans.

There are a number of issues that will determine whether a county seeks a declaratory order, including availability of resources, interest of the subject landowner and lessees, and community support. Timing is also important. Note also that the subject county plans are long range, and their broad range of recommendations, including future development patterns, are not intended to be completely implemented immediately.

The Honorable Jerry L. Chang, Chair
and Members of the Committee on
Water, Land & Ocean Resources
State House of Representatives
RE: House Bill No. 2419
February 3, 2012
Page 2

Reference to county regional development plans should be included in the bill as they provide more guidance on land use boundary amendments than our general plan. In addition, while they provide the City's position on land development, these plans are not considered petitions for land use district boundary changes. Therefore, it is misleading to say that there are "reclassifications contained in the amended county general plans". As presently worded, the bill seems to suggest that the land use commission would take action on the county plans themselves ("a declaratory order to approve the amended county general plan".) We would be deeply concerned if the bill is mandating that a State-appointed body could disapprove plans that were adopted by the county's legislative body. This would be completely contradictory to the bill's intent.

Finally, we are also puzzled as to why the declaratory order process would not be available to lands of 15 acres or less. It would seem relatively onerous for these smaller requests to still go through the present process if they are also consistent with the county development plans.

In summary, we oppose the passage of House Bill No. 2419 in its present form. Thank you for the opportunity to testify.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'David K. Tanoue', with a horizontal line extending to the right.

David K. Tanoue, Director
Department of Planning and Permitting

DKT:jmf
hb2419-LandUse-rh.doc

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

February 2, 2012

TO: Honorable Jerry L. Chang, Chair
Committee on Water, Land and Ocean Resources

FROM: Robert Carroll
Council Member, East Maui

A handwritten signature in cursive script that reads "Robert Carroll".

DATE: February 3, 2012 @ 9:00a in conference rm. 325

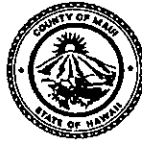
SUBJECT: **TESTIMONY ON HB 2419, RELATING TO LAND USE**

I OPPOSE HB 2419 for the reasons cited in testimony submitted by the Maui County Council Chair, Danny Mateo and urge you to reject this measure. Thank you.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

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www.mauicounty.gov/council

TO: The Honorable Jerry L. Chang, Chair
House Committee on Water, Land & Ocean Resources

FROM: Don Couch
Council Member, South Maui District

DATE: Thursday, February 2, 2012

SUBJECT: **OPPOSITION TO HB 2419, RELATING TO LAND USE**

Thank you for the opportunity to testify regarding this measure. I provide this testimony as an individual member of the Maui County Council.

I **oppose HB 2419** for the reasons cited in testimony submitted by the Maui County Council Chair, and urge you to oppose this measure.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White




Director of Council Services
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February 2, 2012

TO: The Honorable Jerry L. Chang, Chair
House Committee on Water, Land, & Ocean Resources

FROM: Danny A. Mateo
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 3, 2012; TESTIMONY IN OPPOSITION TO HB 2419,
RELATING TO LAND USE**

Thank you for the opportunity to testify in opposition to this important measure. The purpose of this measure is to require counties to seek a declaratory order from the State Land Use Commission to approve amendments to a county general plan.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

1. The measure violates home-rule principles by giving the State Land Use Commission veto authority over amendments to a county's general plan. Counties must maintain decision-making authority over this fundamental land-use planning document.
2. Although the purpose set forth in Section 1 of the measure suggests the intent is to facilitate the State land use district classification process when adopting amendments to a county general plan, the proposed amendment to Chapter 205 reads much more broadly, and appears to drastically circumscribe a county's existing authority over its general plan.
3. The measure seemingly shifts the onus to the counties to petition the Land Use Commission for reclassifications of district boundaries when the counties are in the process of amending their general plans (of which community plans are a part). Currently, private landowners may petition the Land Use Commission for such reclassifications where they are motivated to do so.

For the foregoing reasons, I oppose this measure.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
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February 2, 2012

TO: Honorable Jerry L. Chang, Chair
House Committee on Water, Land, and Ocean Resources

FROM: Joseph Pontanilla, Council Vice-Chair

A handwritten signature in cursive script that reads "Joseph Pontanilla".

DATE: Friday February 3, 2012

SUBJECT: **OPPOSITION TO HB 2419, RELATING TO LAND USE**

Thank you for the opportunity to testify in opposition of this measure. I provide this testimony as an individual member of the Maui County Council.

I **oppose HB 2419** for the reasons cited in testimony submitted by Maui County Council Chair Danny A. Mateo and urge you to oppose this measure.

12:02:02:kbn/JP: HB 2419



**Testimony to the House Committee on Water, Land & Ocean Resources
Friday, February 3, 2012
9:00 a.m.
State Capitol - Conference Room 325**

RE: HOUSE BILL NO. 2419 RELATING TO THE LAND USE

Chair Chang, Vice Chair Har, and members of the committee:

The Chamber of Commerce of Hawaii strongly supports H.B. No. 2419 which proposes to require the counties seek declaratory ruling from the land use commission for reclassification of lands in a county general plan. Changes to the general plan take effect immediately upon approval of the reclassification by the land use commission.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

As stated in the bill, in making amendments to county general plans, the counties are inclusive, holding many public hearings and allowing for public input on the proposed amendments. Amendments to a county general plan are voted on by appointed commissions as well as elected legislative bodies. Consequently, counties conduct more community outreach than the land use commission.

Moreover, the Counties are better equipped to plan for urban expansion as they are primarily responsible for the government services that need to be provided in urban areas. We find the existing process cumbersome and needlessly redundant. For example, the current process would have the Counties plan for urban expansion in their general plans or sustainable community plans/development plans, then wait until private developer is willing to take the matter before the State Land Use Commission to reclassify the lands for urban expansion.

The proposed bill would remove some of the unnecessary redundancy in the process, save costs, and also create more certainty for private investors.

Thank you for this opportunity to express our views.