



**OFFICE OF PLANNING
STATE OF HAWAII**

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

NEIL ABERCROMBIE
GOVERNOR

JESSE K. SOUKI
DIRECTOR
OFFICE OF PLANNING

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <http://planning.hawaii.gov/>

Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON WATER AND LAND
Wednesday, January 22, 2014
8:30 AM
State Capitol, Conference Room 325

in consideration of
HB 1120
RELATING TO LAND USE.

Chair Evans, Vice Chair Lowen, and Members of the House Committee on Water and Land.

HB 1120 enumerates additional duties for the Office of Planning (OP) under Hawaii Revised Statutes (HRS) § 226-53, without funding or support to carry out the purposes of the bill. Specifically, the bill requires OP to periodically update the Land Study Bureau's (LSB or Bureau) Overall Productivity Rating of Hawaii's soils as it relates to agricultural productive capacity.

The Bureau, which was located at the University of Hawaii, no longer exists. It was tasked with preparing an inventory and evaluation of the State's land resources during the 1960s and 1970s. The Bureau developed the LSB rating system by grouping all lands in the State, except those in the State urban district, into homogeneous units of land types; described their condition and environment; rated the land on its overall quality in terms of agricultural productivity; appraised its performance for selected alternative crops; and delineated the various

land types and groupings based on soil properties and productive capabilities. The Bureau evaluated several land types based on several factors including soil profile, slope, erosion, and rainfall to determine its over-all or general productive capacity and not for any specific crop. Lands are classified into five categories from “A” to “E,” with “A” being the most productive and “E” being least productive. A more detailed summary of the Bureau’s work can be found at <http://files.hawaii.gov/dbedt/op/gis/data/lsb.pdf>.

The LSB rating system continues to be used in land use decision-making today. The LSB rating system is used to determine where educational ecotourism will be allowed (HRS § 205-6); where certain uses will be allowed within the State agricultural district (HRS §§ 205-2 and -4.5); where exemptions from subdivision requirements will be allowed for lands in the State agricultural district (HRS §201N-14); and whether State non-agricultural park lands can be transferred for the use or development of golf courses, golf driving ranges, and country clubs (HRS § 166E-3).

Even if updating the LSB rating system did significantly change the amount and location of classified lands under the Bureau’s rubric, OP does not have the expertise or resources to assume that function. OP does not produce scientific data. This function requires soil scientists, climatologists, agronomists, hydrologists, geologists, agricultural economists, and cooperative extension agents who understand soil properties and productive capabilities. The Land Study Bureau was based at the University of Hawaii and was staffed by faculty and technicians with expertise. Furthermore, OP does not have discretionary monies to engage experts to survey over a million acres of land in the State agricultural district.

Thank you for the opportunity to testify on this measure.

**HOUSE COMMITTEE ON WATER & LAND
HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**

January 22, 2014, 8:30 A.M.
(*Testimony is 2 pages long*)

TESTIMONY IN SUPPORT OF HB 1120

Aloha Chair Evans, Chair Hanohano, and Members of the Committees:

The Sierra Club, Hawaii Chapter, with over 12,000 dues paying members and supporters statewide, *supports* HB 1120. This measure establishes a “use-it-or-lose-it” policy for land use reclassifications. This measure would vastly improve “smart growth” policies on our islands, help ensure proper allocation of finite infrastructure resource dollars, and help prevent land speculation by discouraging large landowners from simply seeking to reclassify their land to sell it at a higher value.

Too often, large developments that require the reclassification of agricultural land to urban are approved by the state land use commission (LUC) but then shelved for many years, if not decades, for various reasons. Turtle Bay (Kuilima) on O`ahu is a prime example, where planning was completed in the 1980s based on the presumed need for affordable housing and jobs, but no homes have been built decades later.

When reclassifications are made but the land goes unused, planning becomes difficult, as decisions regarding future growth and infrastructure needs for an area become uncertain. Some developments were planned under conditions different from today, and the conditions applied by the LUC may no longer make sense.

HB 1120 supports the original intent of Hawai`i’s venerable Land Use Law. The law was passed in 1961 to protect natural beauty and natural resources, to prevent scattered and premature development, and to limit land speculation of urban areas. 1961 House Journal 855; 1961 Sess. Laws 299; see also, Haw. Rev. Stat. § 226-104. As the Hawai`i Supreme Court noted:

In sum, the overarching purpose of the state land use law is to “protect and conserve” natural resources and foster “intelligent,” “effective,” and “orderly” land allocation and development. See 1961 Haw. Sess. L. Act 187 § 1 at 299 (“[I]n order to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited for the public welfare . . . , the power to zone should be exercised by the State.”) See also Pearl Ridge Estates Community Ass'n v.

Lear Siegler, Inc., 65 Haw. 133, 144 n.9, 648 P.2d 702, 709 n.9 (Nakamura, J., concurring) (“Thus, conservation lands must be reserved if practicable, agricultural lands should be protected, and urban lands should be developed in orderly fashion.”)

Curtis v. Board of Appeals, County of Hawai`i, 90 Hawai`i 384, 396, 978 P. 2d 822, 834 (1999).

The Hawai`i Supreme Court has long observed that the emphasis of the Land Use Law is on controlling growth and protecting resources:

By enacting HRS ch. 205 in 1961, the legislature intended, inter alia, to “[s]tage the allocation of land for development in an orderly plan,” H.Stand.Comm.Rep. No. 395, 1st Haw.Leg., 2d Sess., reprinted House Journal 855-56, and to redress the problem of “inadequate controls [which] have caused many of Hawaii’s limited and valuable lands to be used for purposes that may have a short-term gain to a few but result in long-term loss to the income and growth potential of our economy. Act 187, 1961 Haw.Sess. Laws 299.

Neighborhood Board v. State Land Use Commission, 64 Haw. 265, 272-3, 639 P.2d 1097 (1982).

Hawaii’s Land Use Law was enacted in an effort to manage growth on islands of limited resources:

Scattered subdivisions with expensive, yet reduced public services; the shifting of prime agricultural lands into non-revenue producing residential uses when other lands are available that could serve adequately urban needs . . . these are evidences of the need for public concern and action.

Act 187, 1961 Haw Sess. Laws 299.

Today, tens of thousands of units have been approved for development but not yet built. In the meantime, tens of thousands of new units are proposed and seeking (or will be seeking) reclassification from the LUC. Without a “use-it-or-lose-it” provision as contemplated in HB 1055, a patchwork of development may occur throughout our islands, diluting our limited public infrastructure dollars, decreasing open space, and increasing speculation on agricultural lands.

Mahalo for the opportunity to testify.