

# SB 1026

## SB1026

Measure Title: RELATING TO THE LAND USE COMMISSION.

Report Title: Land Use Commission

Description: Provides the Land Use Commission with more efficient and varied methods of dealing with situations where a petitioner has violated the conditions contained in a decision and order.

Companion: [HB796](#)

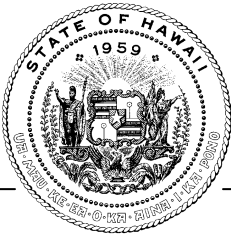
Package: Gov

Current Referral: WTL/EGH, JDL

Introducer(s): KIM (Introduced by request of another party)

<u>Sort by Date</u>		Status Text
1/24/2013	S	Introduced.
1/24/2013	S	Passed First Reading.
1/24/2013	S	Referred to WTL/EGH, JDL.
2/1/2013	S	The committee(s) on WTL/EGH has scheduled a public hearing on 02-05-13 1:30PM in conference room 225.

**S** = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment  
Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.



# DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of  
**JESSE K. SOUKI**  
Director, Office of Planning  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON WATER AND LAND  
AND  
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT  
OPERATIONS AND HOUSING**

Tuesday, February 5, 2013  
1:30 PM  
State Capitol, Conference Room 225

in consideration of  
**SB 1026**  
**RELATING TO THE LAND USE COMMISSION.**

Chairs Solomon and Dela Cruz, Vice Chairs Shimabukuro and Slom, and Members of the Senate Committees on Water and Land and Economic Development, Government Operations and Housing.

The Office of Planning (OP) strongly supports Senate Bill 1026, which is an Administration bill. This bill gives the Land Use Commission more practical tools for enforcing its decisions and orders. Currently, the Commission's only remedy for a violation of its decision and orders is to revert the land back to its original classification. In many situations, reversion is a blunt enforcement tool that prevents the Commission and parties from tailoring a more practical solution.

This bill provides a more effective tool for ensuring that the interests of the State, the counties, and the public are protected.

Thank you for the opportunity to testify on this matter.



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

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Statement of  
**Richard C. Lim**  
Director  
Department of Business, Economic Development & Tourism  
before the  
**SENATE COMMITTEES ON WATER AND LAND  
AND  
ECONOMIC DEVELOPMENT, GOVERNMENT RELATIONS AND HOUSING**

Tuesday, February 5, 2013  
1:30 PM  
State Capitol, Conference Room 225

In consideration of  
**SB 1026**  
**RELATING TO THE LAND USE COMMISSION.**

Chairs Solomon and Dela Cruz, Vice Chairs Shimabukuro and Slom, Members of the Committees.

The Department of Business, Economic Development & Tourism strongly supports HB 1026, an Administration Bill, which will provide much needed alternatives and flexibility to the Land Use Commission in situations where there has been a violation of an LUC order and the County has failed to enforce a condition or requirement contained in a district boundary amendment.

The proposed amendment would reinforce the Land Use Commission's right to place conditions on a boundary amendment and give it the ability to fashion a remedy that better fits the needs of the situation. This would provide a much more effective tool to the Land Use Commission to ensure the State's, the Counties' and the public's interests are protected. The change will also provide the general public and developers more effective ways of dealing with violations.

We defer to the State Land Use Commission with respect to the specific provisions as proposed within the bill.

Thank you for the opportunity to testify on this matter.

**From:** [Gil Riviere](#)  
**To:** [WTLTestimony](#)  
**Subject:** Oppose SB1026  
**Date:** Monday, February 04, 2013 9:38:04 AM

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Aloha, Senator Solomon and Committee Members.

I OPPOSE SB1026.

The Land Use Commission should be given more authority to sanction lack of performance. This bill goes the other way by permitting the commission to "modify the conditions or impose new conditions to ensure compliance with the decision and order."

If the commission determines that the lack of performance is insufficient to reverse a land use change, then the only modifications likely to occur are elimination of the requirements "to ensure compliance." This rewards lack of performance and is exactly the opposite of what should occur.

If this bill is to proceed, it should be amended to strengthen LUC authority to enforce compliance. No easing of requirements should be allowed because the land use change was based on ALL of the commitments by the land owner and/or developer.

Please defer SB1026.

Respectfully,

Gil Riviere  
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February 1, 2013

COMMITTEE ON WATER and LAND

Senator Malama Solomon, Chair  
Senator Maile Shimabukuro, Vice Chair

COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING

Senator Donovan Dela Cruz, Chair  
Senator Sam Slom, Vice Chair

SB 1026 RELATING TO COASTAL ZONE MANAGEMENT

Committee Chairs and members:

Hawaii's Thousand Friends, a statewide non-profit land and water advocacy organization, *opposes* SB 1026 that adds a new section to part II of Chapter 205A, Coastal Zone Management, to provide a process for state consistency review and certification for development by a state agency on state land within the special management area.

SB 1026 is an automatic approval bill. Once a notice of state consistency certification is filed by a state agency and the state consistency certification published then a state project on state land **shall** proceed.

- Line 5 “the state agency **shall** file a notice of state consistency certification”
- Line 15 - “After publication of the state consistency certification, a development by a state agency on state land **shall be allowed** within a special management area without obtaining a permit or shoreline setback as otherwise required by this chapter”

SB 1026 exempts any state agency development within the SMA with a state consistency certification from being consistent with county general plans and zoning, which is a requirement in section 205A-26 (2)(C).

SB 1026 limits public participation. Under the proposed state consistency review there is only 1 opportunity for public input and that is during a 30-day comment period, which will be noticed in the Office of Environmental Control (OEQC) Environmental Notice. Currently notices of SMA applications are sent to Oahu Neighborhood Boards so that the community is aware of activities proposed within the coastal zone.

Under this new scheme once a person or organization has responded to the notice of state consistency certification the only way a person or organization can “retrieve” a response to

their comments is to read a notice listed *somewhere* giving instructions on how to retrieve electronic and printed copies of the state agency responses. In other words, the responding agency will not provide commentators with responses to their comments but leaves it up to the commenter to find the agencies response.

SB 1026 is anti-home rule. Under Hawaii's federally recognized and financially supported Coastal Zone Management Law, HRS 205A, the Special Management Area Permitting process is the county's role in the protection of our islands sensitive coastal areas.

The SMA permit process provides many opportunities for public input on environmental and cultural impacts from development within the coastal zone - hearings before county Planning Commissions, the Honolulu City Council and public hearings in the community where the development is proposed.

SB 1026 infers that somehow developments by state agencies on state land will be less harmful to Hawaii's coastal environment than other projects and thus should be excluded from county SMA review. This is an illogical assumption. Any development within Hawaii's coastal zone must be comprehensively reviewed for compliance with Hawaii's CZM Law to ensure adequate public access, to avoid substantial adverse environmental or ecological effects, prevent permanent losses of valuable resources, and ensure that development is consistent with the county general plans and zoning.

If passed into law SB 1026 will eliminate the counties SMA review process as provided in Hawaii's CZM law, limit public participation, and exempt state projects within the SMA from compliance with county plans and zoning.

SB 1026 is irresponsible, unnecessary and another end run around Hawaii's coastal protection laws and must be held in committee.