

# HB1120

## [HB1120 HD2](#) [\(?\)](#)

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Measure Title: RELATING TO LAND USE.

Report Title: Office of Planning; Agricultural Land Use; Study

Description: Requires the Office of Planning to study current and potential alternative systems of classifying and regulating agricultural land and to submit interim and final reports to the legislature. Effective July 1, 2030. (HB1120 HD2)

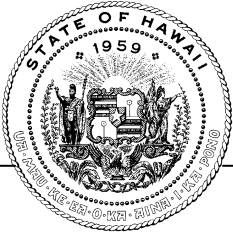
Companion:

Package: None

Current Referral: WTL/AGL, WAM

Introducer(s): MCKELVEY, EVANS, HASHEM, NAKASHIMA, ONISHI, TSUJI, Lowen

<a href="#">Sort by Date</a>		Status Text
3/6/2014	S	Received from House (Hse. Com. No. 209).
3/6/2014	S	Passed First Reading.
3/6/2014	S	Referred to WTL/AGL, WAM.
3/11/2014	S	The committee(s) on WTL/AGL has scheduled a public hearing on 03-19-14 1:15PM in conference room 225.



**OFFICE OF PLANNING  
STATE OF HAWAII**

**NEIL ABERCROMBIE**  
GOVERNOR

**JESSE K. SOUKI**  
DIRECTOR  
OFFICE OF PLANNING

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

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

Statement of the  
**OFFICE OF PLANNING**  
before the  
**SENATE COMMITTEE ON WATER AND LAND  
AND  
SENATE COMMITTEE ON AGRICULTURE**

Wednesday, March 19, 2014  
1:15 PM  
State Capitol, Conference Room 225

in consideration of  
**HB 1120, HD 2**  
**RELATING TO LAND USE.**

Chairs Solomon and Nishihara, Vice Chairs Galuteria and Kouchi, and Members of the Senate Committees on Water and Land and Agriculture.

HB 1120, HD 2 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. As amended, the bill requires OP to study the Land Study Bureau (LSB or Bureau) and potential alternative systems of classifying and regulating agricultural land and to submit interim and final reports to the legislature.

The Bureau prepared the Overall Productivity Rating of Hawaii's soils as it related 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).

The amendments to the bill are a great improvement in setting a more prudent course of action to address current concerns. However, there is still no provision for funding, and OP is inadequately staffed and has no discretionary monies to undertake the study while fully engaging the views of federal, state and county agencies, soil scientists, the agricultural community, landowners, developers and the general public. We recommend allocating funds to carry out this endeavor. Approximately \$500,000 would allow the office to contract for services to generate such a report, based on other planning projects of similar scope and size. The scope of work includes consultation with relevant experts, stakeholders, public, and report drafting.

Thank you for the opportunity to testify on this measure.



LAND USE RESEARCH  
FOUNDATION OF HAWAII

1100 Alakea Street, Suite 408  
Honolulu, Hawaii 96813  
(808) 521-4717  
[www.lurf.org](http://www.lurf.org)

March 17, 2014

Senator Malama Solomon, Chair  
Senator Brickwood Galuteria, Vice Chair  
Senate Committee on Water and Land

Senator Clarence K. Nishihara, Chair  
Senator Ronald D. Kouchi, Vice Chair  
Senate Committee on Agriculture

**Comments and Concerns Regarding HB 1120, HD2, Relating to Land Use (Requires the Office of Planning to study current and potential alternative systems of classifying and regulating agricultural land and to submit interim and final reports to the legislature.)**

**Wednesday, March 19, 2014, 1:15 p.m., in Conference Room 225**

The Land Use Research Foundation of Hawaii (“LURF”) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF’s mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii’s significant natural and cultural resources, and public health and safety.

**HB 1120, HD1.** In the 1960’s and 1970’s, the Land Study Bureau (“LSB”) of the University of Hawaii used the interaction of particular soil properties, topography and climate to establish a five-class agricultural productivity rating system, including “A”, “B”, “C”, “D” and “E” classifications, with “A” representing the class of highest productivity and “E” the lowest.

The purpose of this bill is to direct the Office of Planning (“OP”) to investigate the current status of the 1960s/1970s LSB’s five-class productivity rating system, both in statute and as a driver of land use and agricultural policy, and to make recommendations regarding the continued relevance of the system and the potential adoption of an alternative regulatory basis.

Based on the following reasons and considerations, LURF **opposes** HB 1120, HD2, and requests that this bill be **held** in Committee.

**LURF’s Position.**

- **The OP is Not in the Position to Conduct the Study Proposed by this Bill.**

With all due respect to the OP, LURF believes it is not appropriate for that office to conduct the study proposed by the current version of this bill, as the OP does not have the expertise **in**

**agriculture** that is required to assume that function. Conducting the proposed study may be less daunting than the task assigned to the OP under the original version of this bill (i.e., periodic update of the LSB's detailed land use classification productivity rating of Hawaii's soils as it relates to agricultural productive capacity), however, without proficiency in agriculture, and despite being authorized to collaborate with other agencies and organizations, the OP is nevertheless still not in the position to make the determinations, evaluations and recommendations required by this bill.

The OP by its own admission also lacks the funding necessary to carry out the specified objectives of this measure.

- **There is No Need for this Legislation, as the LSB's Five-Class Productivity Rating System is No Longer a Driver of Land Use and Agricultural Policy.**

LURF believes that despite its continued statutory existence, the LSB's rating system is no longer a leading factor in land use and agricultural policy, and for all practical purposes, has been superseded by the Important Agricultural Lands (IAL) laws, which have changed the paradigm from land rating systems to IAL, which encourages and supports successful and viable agricultural operations regardless of land rating systems.

The identification and designation of IAL was first proposed at the 1978 Constitutional Convention and approved by voters as a constitutional amendment in the same year. Enacted as Article XI, Section 3, of the Constitution of the State of Hawaii, the State is required to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands. The Constitution requires the State to identify IAL to support the aforementioned purposes.

The IAL laws (Act 183, SLH 2005 and Act 233 SLH 2008), were enacted in 2005 and 2008, to fulfill the constitutional mandate and purposes.

Most significant about the IAL laws is the fact that said laws were based on a consensus of agricultural stakeholders, including the Hawaii Farm Bureau Federation, LURF, the Hawaii Department of Agriculture ("HDOA"), University of Hawaii College of Tropical Agriculture and Human Resources, Hawaii Agricultural Research Center, Department of Business and Economic Development & Tourism, Office of Planning, Department of Taxation and the planning offices of the four counties; all of them coming together to form a mutual agreement on a system to fulfill the constitutional mandate, based on the common understanding that the only effective long-term way to preserve agricultural lands is to protect and support viable agricultural businesses on such lands.

While State rating systems may have some value, the IAL laws recognize that it is not the only consideration for the identification and designation of IAL agricultural land, and thus refers to agricultural productivity rating systems as a standard in only one of the eight IAL criteria, and does not specifically mention LSB.

In 2000, the DOA observed that the LSB's rating system is dated, and indexed to sugar, pine and farm practices in the 1960's and 1970's; and the DOA noted that the Hanalei Valley taro-growing lands were rated "E" (the worst productivity). In contrast, the IAL law includes in its standards and criteria for designation, "Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation..."

The IAL criteria also recognizes the value of agricultural lands with non-class "A" ratings, which are valuable to Hawaii's agricultural industries, such as cattle-grazing pasture lands, dairy, eggs,

chicken, pork, coffee, wine vineyards, ornamental flowers, aquaponics and hydroponics. Many such agricultural uses including livestock, eggs and pork are understood by IAL as being important to "food sustainability," and are recognized by the consensus-driven IAL process as providing opportunities and helping farmers to be profitable.

LURF believes that the LSB's ratings probably have not changed much over the past 20 years (when the LSB ratings were established, sugar and pineapple were the main agricultural products), however, the agricultural industry has changed dramatically and has become much more diverse as farmers continue efforts to find ways to remain profitable.

Land use and agricultural policy is now driven by IAL because it is based on the diversity and viability of agriculture (not the LSB rating itself), and on the preservation of lands through dedication. Under the new IAL dynamic, the State encourages and incentivizes the designation of agricultural lands of any soil quality, notwithstanding any land "ratings." For example, significant tracts of non-class "A" rated agricultural lands on Hawaii Island have already been designated as IAL for use as cattle grazing and core ranch operations that annually produce 7.5 million pounds of beef.

Given the establishment and implementation of the IAL laws, this Legislature should move forward by creating more incentives for agricultural operators; focusing on IAL dedications by the State and counties; and assisting with funding for the studies required in connection with said dedications, rather than looking backward and unnecessarily revisiting LSB ratings.

Should agricultural stakeholders themselves identify a legitimate need to go back and review LSB ratings, such a review should be conducted through the same collaborative process originally followed for the establishment of the IAL laws.

For the reasons stated above, LURF respectfully recommends that **HB 1120, HD2 be held in this Committee.**

Thank you for the opportunity to provide comments regarding this proposed measure.



# Chamber of Commerce HAWAII

*The Voice of Business*

**Testimony to the Senate Committee on Water and Land and Committee on Agriculture  
Wednesday, March 19, 2014 at 1:15 P.M.  
State Capitol - Conference Room 225**

**RE: HOUSE BILL NO. 1120, HD 2, RELATING TO LAND USE**

Chairs Solomon and Nishihara, Vice Chairs Galuteria and Kouchi, and members of the committees:

The Chamber provides the following **comments** on HB 1120 HD 2, which would require the Office of Planning to investigate the current status of the land study bureau's five-class productivity rating system, both in statute and as a driver of land use and agricultural policy, and to make recommendations regarding the continued relevance of the system and the potential adoption of an alternative regulatory basis.

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.

We understand that the Land Study Bureau inventory prepared in the 1960's and 1970's relied on soil conditions and isolation. It also relied on irrigation infrastructure that was provided by the plantations in most cases. Now, much of the plantation irrigation systems are in disrepair so a factual reassessment of the productivity of the agricultural zoned lands in Hawaii would seem prudent at this time. In addition, the designation of Important Agricultural Lands (IAL) is primarily based on the "agricultural viability" of the land and water to be productive. Agricultural lands by themselves have little or no value from a production standpoint unless there is an economically viable source of water for irrigation.

We also agree with the testimony from the Office of Planning that they are not staffed or funded appropriately for this work. We suggest that if the Legislature is serious about reassessing the productivity of the agricultural lands in Hawaii, they provide sufficient funding, appropriate assessment criteria and also include representation from the industry (i.e. Hawaii Farm Bureau Federation, etc.) to assist the Office of Planning in determining the "agricultural viability" of the agricultural lands in Hawaii.

Thank you for the opportunity to express our views on this matter.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WTLTestimony](#)  
**Cc:** [mauibrad@hotmail.com](mailto:mauibrad@hotmail.com)  
**Subject:** Submitted testimony for HB1120 on Mar 19, 2014 13:15PM  
**Date:** Tuesday, March 11, 2014 4:59:36 PM

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**HB1120**

Submitted on: 3/11/2014

Testimony for WTL/AGL on Mar 19, 2014 13:15PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brad Parsons	Individual	Oppose	No

Comments: Senators: Opposed to HB1120, HD2. This study is not needed, is a waste of taxpayer dollars, and the current 5-class system for classifying agricultural land is not the problem of inadequate edible agricultural production in Hawaii. The problems are high input costs, high cost of land use, and temporarily inadequate human resources. This bill does not address those problems. Instead this bill is an easily recognized policy positioning effort to build momentum where it does not otherwise exist to try to seize control of a robust agricultural land use legal regime. It's not transparent, is a waste of money, won't solve the problems, and we don't need it.  
Aloha, Brad Parsons

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**Cc:** [dbwoodsluv@hotmail.com](mailto:dbwoodsluv@hotmail.com)  
**Subject:** \*Submitted testimony for HB1120 on Mar 19, 2014 13:15PM\*  
**Date:** Tuesday, March 18, 2014 8:52:34 PM

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**HB1120**

Submitted on: 3/18/2014

Testimony for WTL/AGL on Mar 19, 2014 13:15PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
denise woods	Individual	Oppose	No

Comments:

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**Date:** Tuesday, March 11, 2014 5:33:53 PM

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**HB1120**

Submitted on: 3/11/2014

Testimony for WTL/AGL on Mar 19, 2014 13:15PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
elaine dunbar	Individual	Oppose	No

Comments: In other words you are trying to expand the other uses for AG land other than agriculture. Will you be downgrading the land classifications to do this? Whether you realize it not, ANY AG land A, B, C,D is important nowadays since most of Hawaii's land has been replaced by developments or Chemical Products that have ruined the soil. Trying to maintain the argument that only A or B Ag is all that's important is shallow thinking and not enlightened planning for the future.

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**Subject:** \*Submitted testimony for HB1120 on Mar 19, 2014 13:15PM\*  
**Date:** Tuesday, March 18, 2014 11:19:19 PM

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**HB1120**

Submitted on: 3/18/2014

Testimony for WTL/AGL on Mar 19, 2014 13:15PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Paul A. komara, Jr.	Individual	Oppose	No

Comments:

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