

JAN 29 2015

A BILL FOR AN ACT

RELATING TO LAND USE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that there is an urgent
2 need to reform the state land use planning system and redefine
3 the roles of the State and the counties in that process. Reform
4 is needed to promote efficiency and avoid duplication between
5 the State and counties; to establish clear lines of
6 responsibility for decision-making and jurisdiction; to promote
7 the uniform application of state policies regarding the
8 protection of our environment and economy, and the provision of
9 shelter and the basic necessities of life to all members of our
10 community; to be responsive to changing social, economic, and
11 environmental needs; and to establish an integrated and
12 collaborative land use planning system for Hawaii.

13 The legislature further finds that there is no longer the
14 need for a state land use commission and land use classification
15 system that existed when the system was created in the early
16 1960s. County governments have matured and today have planning
17 systems and organizations in place, which are supported by



1 professional planning staffs that are fully capable of handling
2 these responsibilities. Furthermore, the counties are closer to
3 the people and their communities and are better able to
4 determine their needs and desires through community-based
5 planning. In addition, the county legislative process affords
6 the public numerous opportunities to express its views and
7 participate in planning and decision-making. Land use decisions
8 vital to the future of the counties need to be made by public
9 officials elected by the citizens of each county.

10 The legislature further finds that authority for
11 designation of public and private lands to be held in
12 conservation and their uses should be the function of the board
13 of land and natural resources. It is the intent of the
14 legislature that the counties have responsibility for land use
15 planning and zoning for all lands within the jurisdiction of
16 each county except that the management of conservation land
17 shall remain with the board of land and natural resources.

18 The purpose of this Act is to integrate the land use
19 planning system for Hawaii by repealing the state-level system
20 of land use districting and classification and by abolishing the
21 state land use commission.



1 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new part to be appropriately designated and to read
3 as follows:

4 "PART . IMPORTANT AGRICULTURAL LANDS

5 §46-A Declaration of policy. It is declared that the
6 people of Hawaii have a substantial interest in the health and
7 sustainability of agriculture as an industry in the State.
8 There is a compelling state interest in conserving the State's
9 agricultural land resource base and assuring the long-term
10 availability of agricultural lands for agricultural use to
11 achieve the purposes of:

- 12 (1) Conserving and protecting agricultural lands;
- 13 (2) Promoting diversified agriculture;
- 14 (3) Increasing agricultural self-sufficiency; and
- 15 (4) Assuring the availability of agriculturally suitable
16 lands,

17 pursuant to article XI, section 3, of the Hawaii state
18 constitution.

19 §46-B Important agricultural lands; definition and
20 objectives. (a) As used in this part, unless the context



1 otherwise requires, "important agricultural lands" means those
2 lands, identified pursuant to this part, that:

3 (1) Are capable of producing sustained high agricultural
4 yields when treated and managed according to accepted
5 farming methods and technology;

6 (2) Contribute to the State's economic base and produce
7 agricultural commodities for export or local
8 consumption; or

9 (3) Are needed to promote the expansion of agricultural
10 activities and income for the future, even if
11 currently not in production.

12 (b) The objective for the identification of important
13 agricultural lands is to identify and plan for the maintenance
14 of a strategic agricultural land resource base that can support
15 a diversity of agricultural activities and opportunities that
16 expand agricultural income and job opportunities and increase
17 agricultural self-sufficiency for current and future
18 generations. To achieve this objective, the counties shall:

19 (1) Promote agricultural development and land use planning
20 that delineates blocks of productive agricultural land



1 and areas of agricultural activity for protection from
2 the encroachment of nonagricultural uses; and

3 (2) Establish incentives that promote:

4 (A) Agricultural viability;

5 (B) Sustained growth of the agriculture industry; and

6 (C) The long-term agricultural use and protection of
7 these productive agricultural lands.

8 **§46-C Important agricultural lands; policies.** County
9 agricultural policies, tax policies, land use plans, ordinances,
10 and rules shall promote the long-term viability of agricultural
11 use of important agricultural lands and shall be consistent with
12 and implement the following policies:

13 (1) Promote the retention of important agricultural lands
14 in blocks of contiguous, intact, and functional land
15 units large enough to allow flexibility in
16 agricultural production and management;

17 (2) Discourage the fragmentation of important agricultural
18 lands and the conversion of these lands to
19 nonagricultural uses;

20 (3) Direct nonagricultural uses and activities from
21 important agricultural lands to other areas and ensure



1 that uses on important agricultural lands are actually
2 agricultural uses;

3 (4) Limit physical improvements on important agricultural
4 lands to maintain affordability of these lands for
5 agricultural purposes;

6 (5) Provide a basic level of infrastructure and services
7 on important agricultural lands limited to the minimum
8 necessary to support agricultural uses and activities;

9 (6) Facilitate the long-term dedication of important
10 agricultural lands for future agricultural use through
11 the use of incentives;

12 (7) Facilitate the access of farmers to important
13 agricultural lands for long-term viable agricultural
14 use; and

15 (8) Promote the maintenance of essential agricultural
16 infrastructure systems, including irrigation systems.

17 **§46-D Standards and criteria for the identification of**
18 **important agricultural lands.** The standards and criteria in
19 this section shall be used to identify important agricultural
20 lands. Lands identified as important agricultural lands need
21 not meet every standard and criteria listed below. Rather,



1 lands meeting any of the criteria below shall be given initial
2 consideration; provided that the designation of important
3 agricultural lands shall be made by weighing the standards and
4 criteria with each other to meet the constitutionally mandated
5 purposes in article XI, section 3, of the state constitution and
6 the objectives and policies for important agricultural lands in
7 sections 46-B and 46-C. The standards and criteria shall be as
8 follows:

- 9 (1) Land currently used for agricultural production;
- 10 (2) Land with soil qualities and growing conditions that
11 support agricultural production of food, fiber, or
12 fuel- and energy-producing crops;
- 13 (3) Land identified under agricultural productivity rating
14 systems, such as the agricultural lands of importance
15 to the State of Hawaii (ALISH) system adopted by the
16 board of agriculture on January 28, 1977;
- 17 (4) Land types associated with traditional native Hawaiian
18 agricultural uses, such as taro cultivation, or unique
19 agricultural crops and uses, such as coffee,
20 vineyards, aquaculture, and energy production;



- 1 (5) Land with sufficient quantities of water to support
- 2 viable agricultural production;
- 3 (6) Land whose designation as important agricultural lands
- 4 is consistent with general, development, and community
- 5 plans of the county;
- 6 (7) Land that contributes to maintaining a critical land
- 7 mass important to agricultural operating productivity;
- 8 and
- 9 (8) Land with or near support infrastructure conducive to
- 10 agricultural productivity, such as transportation to
- 11 markets, water, or power.

12 **§46-E County zoning; agricultural zoning district.** Each

13 county shall establish at least one agricultural zoning district

14 for the purpose of protecting important agricultural lands.

15 Uses in this zoning district shall be restricted to those uses

16 directly related to agricultural production and agricultural

17 economic opportunities. The minimum lot size of the restricted

18 agricultural zoning district shall be twenty-five acres.

19 **§46-F Petition by farmer or landowner.** (a) A farmer or

20 landowner with lands qualifying under section 46-D may file a

1 petition for declaratory ruling with the counties at any time in
2 the designation process.

3 (b) The petition for declaratory ruling shall be submitted
4 in accordance with the ordinances of the respective counties and
5 shall include:

6 (1) Tax map keys of the land to be designated along with
7 verification and authorization from the applicable
8 landowners;

9 (2) Proof of qualification for designation under section
10 46-D, respecting a regional perspective; and

11 (3) The current or planned agricultural use of the area to
12 be designated.

13 (c) Each respective county shall review the petition and
14 the accompanying submissions to evaluate the qualifications of
15 the land for designation as important agricultural lands in
16 accordance with section 46-D. If the county, after its review
17 and evaluation, finds that the lands qualify for designation as
18 important agricultural lands under this part, the county shall
19 issue a declaratory order designating the lands as important
20 agricultural lands.



1 **§46-G Incentives for important agricultural lands.** (a)

2 To achieve the long-term agricultural viability and use of
3 important agricultural lands, each county shall ensure that
4 their:

5 (1) Agricultural development, land use, water use,
6 regulatory, tax, and land protection policies; and

7 (2) Permitting and approval procedures,
8 enable and promote the economic sustainability of agriculture.

9 Agricultural operations occurring on important agricultural
10 lands shall be eligible for incentives and protections provided
11 by the counties pursuant to this section to promote the
12 viability of agricultural enterprise on important agricultural
13 lands and to assure the availability of important agricultural
14 lands for long-term agricultural use.

15 (b) Incentive programs shall provide preference to
16 important agricultural lands and agricultural businesses on
17 important agricultural lands. Counties shall cooperate with
18 each other in program development to prevent duplication of and
19 to streamline and consolidate access to programs and services
20 for agricultural businesses located on important agricultural
21 lands.



1 (c) Counties shall cooperate with the state agencies to
2 establish incentive and protection programs that are designed to
3 provide a mutually supporting framework of programs and measures
4 that enhance agricultural viability on important agricultural
5 lands that may include:

- 6 (1) Grant assistance;
- 7 (2) Real property tax systems that support the needs of
8 agriculture, including property tax assessments based
9 on agricultural use valuation;
- 10 (3) Reduced infrastructure requirements and facilitated
11 building permit processes for dedicated agricultural
12 structures;
- 13 (4) Tax incentives to offset operational costs, promote
14 agricultural business viability, and promote the long-
15 term protection of important agricultural lands;
- 16 (5) Agricultural business planning, marketing, and
17 implementation grants;
- 18 (6) Tax incentives and programs for equity investments and
19 financing for agricultural operations, including
20 agricultural irrigation systems;



1 (7) Other programs and mechanisms that promote investment
2 in agricultural businesses or agricultural land
3 protection, such as the purchase of development
4 rights;

5 (8) State funding mechanisms to fund business viability
6 and land protection programs;

7 (9) Water regulations and policies that provide farmers of
8 important agricultural lands access to adequate and
9 cost-effective sources of water;

10 (10) Other measures that would ensure that state capital
11 investments, projects, programs, and rules are
12 consistent with this part; and

13 (11) Agricultural education and training for new farmers;
14 upgrading the skills of existing farmers and other
15 agriculture-related employees through the use of
16 mentoring, business incubators, and public or private
17 scholarships.

18 (d) County agencies shall review the protection and
19 incentive measures enacted for important agricultural lands and
20 agricultural viability pursuant to this part at least every five
21 years to:



- 1 (1) Determine their effectiveness in sustaining
2 agriculture in Hawaii, assuring agricultural
3 diversification, and increasing agricultural self-
4 sufficiency;
- 5 (2) Determine their effectiveness in enhancing investment
6 in and agricultural activities on important
7 agricultural lands; and
- 8 (3) Modify measures and programs as needed.

9 (e) This section shall apply only to those lands
10 designated as important agricultural lands pursuant to sections
11 46-F and 46-J.

12 **§46-H Identification of important agricultural lands;**
13 **county process.** (a) Each county shall identify and map
14 potential important agricultural lands within its jurisdiction
15 based on the standards and criteria in section 46-D and the
16 intent of this part, except lands that have been designated,
17 through the zoning or county planning process for urban use by a
18 county.

19 (b) Each county shall develop maps of potential lands to
20 be considered for designation as important agricultural lands in
21 consultation and cooperation with landowners, the department of



1 agriculture, agricultural interest groups, including
2 representatives from the Hawaii Farm Bureau Federation and other
3 agricultural organizations, the United States Department of
4 Agriculture - Natural Resources Conservation Service, the office
5 of planning, and other groups as necessary.

6 (c) Each county, through its planning department, shall
7 develop an inclusive process for public involvement in the
8 identification of potential lands and the development of maps of
9 lands to be recommended as important agricultural lands,
10 including a series of public meetings throughout the
11 identification and mapping process. The planning departments
12 may also establish one or more citizen advisory committees on
13 important agricultural lands to provide further public input,
14 utilize an existing process (such as general plan, development
15 plan, community plan), or employ appropriate existing and
16 adopted general plan, development plan, or community plan maps.

17 (d) The counties shall take notice of those lands that
18 have already been designated as important agricultural lands.

19 Upon identification of potential lands to be recommended to
20 the county council as potential important agricultural lands,
21 the counties shall take reasonable action to notify each owner



1 of those lands by mail or posted notice on the affected lands to
2 inform them of the potential designation of their lands.

3 In formulating its final recommendations to the respective
4 county councils, the planning departments shall report on the
5 manner in which the important agricultural lands mapping relates
6 to, supports, and is consistent with the:

7 (1) Standards and criteria set forth in section 46-D;

8 (2) County's adopted land use plans, as applied to both
9 the identification and exclusion of important
10 agricultural lands from such designation;

11 (3) Comments received from government agencies and others
12 identified in subsection (b);

13 (4) Viability of existing agribusinesses; and

14 (5) Representations or position statements of the owners
15 whose lands are subject to the potential designation.

16 (e) The important agricultural lands maps shall be
17 submitted to the county council for decision-making. The county
18 council shall adopt the maps, with or without changes, by
19 ordinance.



1 (f) Designations made pursuant to this section take effect
2 three years after incentives and protections for important
3 agricultural lands and agricultural viability are enacted.

4 **§46-I Consultation with state agencies.** The respective
5 county councils may consult with the department of agriculture
6 and the office of planning as needed. The department of
7 agriculture and the office of planning may review the report and
8 recommendations from the planning departments and provide
9 comments to the respective county councils.

10 **§46-J Designation of important agricultural lands;**
11 **adoption of important agricultural lands maps.** (a) After
12 receipt of the maps of eligible important agricultural lands
13 from the respective county planning departments and the
14 recommendations of the department of agriculture and the office
15 of planning, the respective county councils shall then proceed
16 to identify and designate important agricultural lands, subject
17 to section 46-F. The decision shall consider the county maps of
18 eligible important agricultural lands; declaratory orders
19 designating important agricultural lands during the three year
20 period following the enactment of ordinances establishing
21 incentives and protections contemplated under section 46-G;



1 landowner position statements and representations; and any other
2 relevant information.

3 In designating important agricultural lands in the State,
4 pursuant to the recommendations of individual county planning
5 departments, the respective county councils shall consider the
6 extent to which:

7 (1) The proposed lands meet the standards and criteria
8 under section 46-D;

9 (2) The proposed designation is necessary to meet the
10 objectives and policies for important agricultural
11 lands in sections 46-B and 46-C; and

12 (3) The respective county councils has designated lands as
13 important agricultural lands, pursuant to section 46-
14 F; provided that if the majority of landowners'
15 landholdings is already designated as important
16 agricultural lands, excluding lands held in the
17 conservation district, pursuant to section 46-F or any
18 other provision of this part, the respective county
19 councils shall not designate any additional lands of
20 that landowner as important agricultural lands except
21 by a petition pursuant to section 46-F.



1 Any decision regarding the designation of lands as
2 important agricultural lands and the adoption of maps of those
3 lands pursuant to this section shall be based upon written
4 findings of fact and conclusions of law, presented in at least
5 one public hearing conducted in the county where the land is
6 located in, that the subject lands meet the standards and
7 criteria set forth in section 46-D and shall be approved by the
8 respective county council.

9 (b) Copies of the maps of important agricultural lands
10 adopted under this section shall be transmitted to each county
11 planning department and county council, the department of
12 agriculture, the agribusiness development corporation, the
13 office of planning, and other state agencies involved in land
14 use matters. The maps of important agricultural lands shall
15 guide all decision-making on the proposed reclassification or
16 rezoning of important agricultural lands, state agricultural
17 development programs, and other state and county land use
18 planning and decision-making.

19 (c) The respective county councils shall have the sole
20 authority to interpret the adopted map boundaries delineating
21 the important agricultural lands.



1 (d) The respective county councils may designate lands as
2 important agricultural lands and adopt maps for a designation
3 pursuant to:

4 (1) A farmer or landowner petition for declaratory ruling
5 under section 46-F at any time; or

6 (2) The county process for identifying and recommending
7 lands for important agricultural lands under section
8 46-H no sooner than three years,

9 after the enactment of ordinances establishing incentives and
10 protections contemplated under this part.

11 **§46-K Standards and criteria for the reclassification or**
12 **rezoning of important agricultural lands.** (a) Any land use
13 district boundary amendment or change in zoning involving
14 important agricultural lands identified pursuant to this part
15 shall be subject to this section.

16 (b) Upon acceptance by the county for processing, any
17 application for a special permit involving important
18 agricultural lands shall be referred to the department of
19 agriculture and the office of planning for review and comment.



1 (c) Any decision by the county pursuant to this section
2 shall specifically consider the following standards and
3 criteria:

4 (1) The relative importance of the land for agriculture
5 based on the stock of similarly suited lands in the
6 area and the State as a whole;

7 (2) The proposed district boundary amendment or zone
8 change will not harm the productivity or viability of
9 existing agricultural activity in the area, or
10 adversely affect the viability of other agricultural
11 activities or operations that share infrastructure,
12 processing, marketing, or other production-related
13 costs or facilities with the agricultural activities
14 on the land in question;

15 (3) The district boundary amendment or zone change will
16 not cause the fragmentation of or intrusion of
17 nonagricultural uses into largely intact areas of
18 lands identified by the respective counties as
19 important agricultural lands that create residual
20 parcels of a size that would preclude viable
21 agricultural use;



1 (4) The public benefit to be derived from the proposed
2 action is justified by a need for additional lands for
3 nonagricultural purposes; and

4 (5) The impact of the proposed district boundary amendment
5 or zone change on the necessity and capacity of state
6 and county agencies to provide and support additional
7 agricultural infrastructure or services in the area.

8 (d) Any decision pursuant to this section shall be based
9 upon a determination that:

10 (1) On balance, the public benefit from the proposed
11 district boundary amendment or zone change outweighs
12 the benefits of retaining the land for agricultural
13 purposes; and

14 (2) The proposed action will have no significant impact
15 upon the viability of agricultural operations on
16 adjacent agricultural lands.

17 (e) The standards and criteria of this section shall be in
18 addition to the decision-making criteria adopted by each county
19 to govern decisions of county decision-making authorities under
20 this chapter.



1 (f) Any decision of any county on a land use district
2 boundary amendment or change in zoning involving important
3 agricultural lands shall be approved by the body responsible for
4 the decision.

5 (g) A farmer or landowner with qualifying lands may also
6 petition the respective counties to remove the "important
7 agricultural lands" designation from lands if a sufficient
8 supply of water is no longer available to allow profitable
9 farming of the land due to governmental actions, acts of God, or
10 other causes beyond the farmer's or landowner's reasonable
11 control.

12 **§46-L Important agricultural lands; county ordinances.**

13 (a) Each county shall adopt ordinances that reduce
14 infrastructure standards for important agricultural lands no
15 later than the effective date of the enactment of protection and
16 incentive measures for important agricultural lands and
17 agricultural viability.

18 (b) For counties without ordinances adopted pursuant to
19 subsection (a), important agricultural lands designated pursuant
20 to this part may be subdivided without county processing or
21 standards; provided that:



1 (1) None of the resulting lots shall be used solely for
2 residential occupancy; and

3 (2) The leasehold lots shall return to the original lot of
4 record upon expiration or termination of the lease.

5 **§46-M Periodic review and amendment of important**
6 **agricultural lands maps.** The maps delineating important
7 agricultural lands shall be reviewed in conjunction with the
8 county general plan and community and development plan revision
9 process, or at least once every ten years following the adoption
10 of the maps by the respective county councils; provided that the
11 maps shall not be reviewed more than once every five years. Any
12 review and amendment of the maps of important agricultural lands
13 shall be conducted in accordance with this part. In these
14 periodic reviews or petitions by the farmers or landowners for
15 declaratory rulings, the "important agricultural lands"
16 designation shall be removed from those important agricultural
17 lands where the respective county councils have issued a
18 declaratory order that a sufficient supply of water is no longer
19 available to allow profitable farming of these lands due to
20 governmental actions, acts of God, or other causes beyond the
21 farmer's or landowner's reasonable control."



1 SECTION 3. Chapter 183C, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§183C- Boundary amendment decision-making criteria. In
5 its review of any petition for reclassification of the
6 conservation district boundaries pursuant to this chapter, the
7 respective counties shall specifically consider the following:

8 (1) The extent to which the proposed reclassification
9 conforms to the applicable goals, objectives, and
10 policies of the Hawaii state plan and relates to the
11 applicable priority guidelines of the Hawaii state
12 plan and the adopted functional plans;

13 (2) The extent to which the proposed reclassification
14 conforms to the applicable conservation district
15 standards; and

16 (3) The impact of the proposed reclassification on the
17 following areas of state concern:

18 (A) Preservation or maintenance of important natural
19 systems or habitats; and

20 (B) Maintenance of valued cultural, historical, or
21 natural resources.



1 §183C- Adjustments of assessing practices. Upon the
2 adoption of conservation district boundaries, certified copies
3 of the classification maps showing the district boundaries shall
4 be filed with the appropriate county finance departments. The
5 counties, when making assessments of property within the
6 district, shall give consideration to the use that may be made
7 thereof."

8 SECTION 4. Chapter 226, Hawaii Revised Statutes, is
9 amended by adding a new section to part II to be appropriately
10 designated and to read as follows:

11 "§226- County development plans; agriculture. County
12 development and comprehensive plans shall describe and identify
13 agricultural areas including important agricultural lands
14 consistent with article XI, section 3, of the State
15 Constitution. Important agricultural lands shall include lands
16 for current and potential agricultural cultivation and
17 agricultural uses with a high capacity for intensive and
18 sustainable cultivation or pasturage. The county land use
19 regulations shall be designed to protect those lands designated
20 as important agricultural lands."



1 SECTION 5. Section 26-18, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The following are placed in the department of
4 business, economic development, and tourism for administrative
5 purposes as defined by section 26-35: Aloha Tower development
6 corporation, Hawaii community development authority, Hawaii
7 housing finance and development corporation, high technology
8 development corporation, [~~land use commission,~~] natural energy
9 laboratory of Hawaii authority, and any other boards and
10 commissions as shall be provided by law.

11 The department of business, economic development, and
12 tourism shall be empowered to establish, modify, or abolish
13 statistical boundaries for cities, towns, or villages in the
14 State and shall publish, as expeditiously as possible, an up-to-
15 date list of cities, towns, and villages after changes to
16 statistical boundaries have been made."

17 SECTION 6. Section 46-15, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) The mayor of each county, after holding a public
20 hearing on the matter and receiving the approval of the
21 respective council, shall be empowered to designate areas of



1 land for experimental and demonstration housing projects, the
2 purposes of which are to research and develop ideas that would
3 reduce the cost of housing in the State. Except as hereinafter
4 provided, the experimental and demonstration housing projects
5 shall be exempt from all statutes, ordinances, charter
6 provisions, and rules or regulations of any governmental agency
7 or public utility relating to planning, zoning, construction
8 standards for subdivisions, development and improvement of land,
9 and the construction and sale of homes thereon; provided that
10 the experimental and demonstration housing projects shall not
11 affect the safety standards or tariffs approved by the public
12 ~~[utility commissions]~~ utility commission for ~~[such]~~ a public
13 utility.

14 The mayor of each county with the approval of the
15 respective council may designate a county agency or official who
16 ~~[shall have the power to]~~ may review all plans and
17 specifications for the subdivisions, development and improvement
18 of the land involved, and the construction and sale of homes
19 thereon. The county agency or official ~~[shall have the power~~
20 ~~to]~~ may approve or disapprove or to make modifications to all or
21 any portion of the plans and specifications.



1 The county agency or official shall submit preliminary
2 plans and specifications to the legislative body of the
3 respective county for its approval or disapproval. The final
4 plans and specifications for the project shall be deemed
5 approved by the legislative body if the final plans and
6 specifications do not substantially deviate from the approved
7 preliminary plans and specifications. The final plans and
8 specifications shall constitute the standards for the particular
9 project.

10 No action shall be prosecuted or maintained against any
11 county, its officials or employees, on account of actions taken
12 in reviewing, approving, or disapproving such plans and
13 specifications.

14 Any experimental or demonstration housing project for the
15 purposes hereinabove mentioned may be sponsored by any state or
16 county agency or any person as defined in section 1-19.

17 ~~[The county agency or official shall apply to the state~~
18 ~~land use commission for an appropriate land use district~~
19 ~~classification change, except where a proposed project is~~
20 ~~located on land within an urban district established by the~~
21 ~~state land use commission. Notwithstanding any law, rule, or~~



1 ~~regulation to the contrary, the state land use commission may~~
2 ~~approve the application at any time after a public hearing held~~
3 ~~in the county where the land is located upon notice of the time~~
4 ~~and place of the hearing being published in the same manner as~~
5 ~~the notice required for a public hearing by the planning~~
6 ~~commission of the appropriate county.]"~~

7 SECTION 7. Section 92-6, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§92-6 Judicial branch, quasi-judicial boards and**
10 **investigatory functions; applicability.** [~~a~~] This part shall
11 not apply:

- 12 (1) To the judicial branch~~[-];~~ or
13 (2) To adjudicatory functions exercised by a board and
14 governed by sections 91-8 and 91-9, or authorized by
15 other sections [~~of the Hawaii Revised Statutes~~]. In
16 the application of this [~~subsection,~~] section, boards
17 exercising adjudicatory functions include, but are not
18 limited to, the following:

- 19 (A) Hawaii labor relations board, chapters 89 and
20 377;



- 1 (B) Labor and industrial relations appeals board,
2 chapter 371;
- 3 (C) Hawaii paroling authority, chapter 353;
- 4 (D) Civil service commission, chapter 26;
- 5 (E) Board of trustees, employees' retirement system
6 of the State of Hawaii, chapter 88;
- 7 (F) Crime victim compensation commission, chapter
8 351; and
- 9 (G) State ethics commission, chapter 84.

10 ~~[(b) Notwithstanding provisions in this section to the~~
11 ~~contrary, this part shall apply to require open deliberation of~~
12 ~~the adjudicatory functions of the land use commission.]"~~

13 SECTION 8. Section 171-49.7, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~§~~§171-49.7~~]~~ **Public lands suitable and available for**
16 **residential development; inventory.** The department of land and
17 natural resources shall complete and maintain a current
18 inventory of all public lands [~~placed in the urban district~~]
19 designated by the [~~land use commission under chapter 205~~]
20 various counties for urban use which are or may be suitable and
21 available for residential development. This inventory shall be



1 updated at the end of each quarter and shall contain the
2 following information: the island and area in which the land is
3 situated, the acreage, and [~~such~~] other related information
4 [~~which~~] that the department determines may be necessary to
5 identify and inventory the land."

6 SECTION 9. Section 183C-1, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~+~~§183C-1[~~+~~] **Findings and purpose.** The legislature
9 finds that lands within the [~~state land use~~] conservation
10 district contain important natural resources essential to the
11 preservation of the State's fragile natural ecosystems and the
12 sustainability of the State's water supply. It is therefore,
13 the intent of the legislature to conserve, protect, and preserve
14 the important natural resources of the State through appropriate
15 management and use to promote their long-term sustainability and
16 the public health, safety and welfare."

17 SECTION 10. Section 183C-2, Hawaii Revised Statutes, is
18 amended by amending the definition of "conservation district" to
19 read as follows:

20 ""Conservation district" means those lands within the
21 various counties of the State bounded by the conservation



1 district line, as established under provisions of Act 187,
2 Session Laws of Hawaii 1961, and Act 205, Session Laws of Hawaii
3 1963, or future amendments thereto.

4 Conservation districts include areas necessary for
5 protecting watersheds and water sources; preserving scenic and
6 historic areas; providing park lands, wilderness, and beach
7 reserves; conserving indigenous or endemic plants, fish, and
8 wildlife, including those that are threatened or endangered;
9 preventing floods and soil erosion; forestry; open space areas
10 whose existing openness, natural condition, or present state of
11 use, if retained, would enhance the present or potential value
12 of abutting or surrounding communities, or would maintain or
13 enhance the conservation of natural or scenic resources; areas
14 of value for recreational purposes; other related activities;
15 and other permitted uses not detrimental to a multiple use
16 conservation concept."

17 SECTION 11. Section 183C-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[~~§~~183C-3~~]~~ **Powers and duties of the board and**
20 **department.** The board and department shall:



- 1 (1) Maintain an accurate inventory of lands classified
2 within the state conservation district by the [~~state~~
3 ~~land use commission, pursuant to chapter 205;~~]
4 respective counties;
- 5 (2) Identify and appropriately zone those lands classified
6 within the conservation district;
- 7 (3) Adopt rules[~~7~~] in compliance with chapter 91 [~~which~~]
8 that shall have the force and effect of law;
- 9 (4) Set, charge, and collect reasonable fees in an amount
10 sufficient to defray the cost of processing
11 applications for zoning, use, and subdivision of
12 conservation lands;
- 13 (5) Establish categories of uses or activities on
14 conservation lands, including allowable uses or
15 activities for which no permit shall be required;
- 16 (6) Establish restrictions, requirements, and conditions
17 consistent with the standards set forth in this
18 chapter on the use of conservation lands; and
- 19 (7) Establish and enforce land use regulations on
20 conservation district lands including the collection



1 of fines for violations of land use and terms and
2 conditions of permits issued by the department."

3 SECTION 12. Section 201H-12, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The corporation may develop public land in an
6 agricultural district subject to the prior approval of the [land
7 ~~use commission, when developing lands greater than fifteen acres~~
8 ~~in size,] respective counties, and public land in a conservation
9 district subject to the prior approval of the board of land and
10 natural resources. The corporation shall not develop state
11 monuments, historical sites, or parks. When the corporation
12 proposes to develop public land, it shall file with the
13 department of land and natural resources a petition setting
14 forth the purpose for the development. The petition shall be
15 conclusive proof that the intended use is a public use superior
16 to that which the land has been appropriated."~~

17 SECTION 13. Section 201H-38, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) The corporation may develop on behalf of the State or
20 with an eligible developer, or may assist under a government
21 assistance program in the development of, housing projects that



1 shall be exempt from all statutes, ordinances, charter
2 provisions, and rules of any government agency relating to
3 planning, zoning, construction standards for subdivisions,
4 development and improvement of land, and the construction of
5 dwelling units thereon; provided that:

- 6 (1) The corporation finds the housing project is
7 consistent with the purpose and intent of this
8 chapter, and meets minimum requirements of health and
9 safety;
- 10 (2) The development of the proposed housing project does
11 not contravene any safety standards, tariffs, or rates
12 and fees approved by the public utilities commission
13 for public utilities or of the various boards of water
14 supply authorized under chapter 54; and
- 15 (3) The legislative body of the county in which the
16 housing project is to be situated shall have approved
17 the project with or without modifications:
- 18 (A) The legislative body shall approve, approve with
19 modification, or disapprove the project by
20 resolution within forty-five days after the
21 corporation has submitted the preliminary plans



1 and specifications for the project to the
2 legislative body. If on the forty-sixth day a
3 project is not disapproved, it shall be deemed
4 approved by the legislative body;

5 (B) No action shall be prosecuted or maintained
6 against any county, its officials, or employees
7 on account of actions taken by them in reviewing,
8 approving, modifying, or disapproving the plans
9 and specifications; and

10 (C) The final plans and specifications for the
11 project shall be deemed approved by the
12 legislative body if the final plans and
13 specifications do not substantially deviate from
14 the preliminary plans and specifications. The
15 final plans and specifications for the project
16 shall constitute the zoning, building,
17 construction, and subdivision standards for that
18 project. For the purposes of sections 501-85 and
19 502-17, the executive director of the corporation
20 or the responsible county official may certify
21 maps and plans of lands connected with the



1 project as having complied with applicable laws
2 and ordinances relating to consolidation and
3 subdivision of lands, and the maps and plans
4 shall be accepted for registration or recordation
5 by the land court and registrar[; and

6 ~~(4) The land use commission shall approve, approve with~~
7 ~~modification, or disapprove a boundary change within~~
8 ~~forty-five days after the corporation has submitted a~~
9 ~~petition to the commission as provided in section 205-~~
10 ~~4. If, on the forty-sixth day, the petition is not~~
11 ~~disapproved, it shall be deemed approved by the~~
12 ~~commission]."~~

13 SECTION 14. Section 205A-2, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) Policies.

16 (1) Recreational resources[;]:

17 (A) Improve coordination and funding of coastal
18 recreational planning and management; and

19 (B) Provide adequate, accessible, and diverse
20 recreational opportunities in the coastal zone
21 management area by:



- 1 (i) Protecting coastal resources uniquely suited
2 for recreational activities that cannot be
3 provided in other areas;
- 4 (ii) Requiring replacement of coastal resources
5 having significant recreational value
6 including, but not limited to surfing sites,
7 fishponds, and sand beaches, when [~~such~~]
8 these resources will be unavoidably damaged
9 by development; or requiring reasonable
10 monetary compensation to the State for
11 recreation when replacement is not feasible
12 or desirable;
- 13 (iii) Providing and managing adequate public
14 access, consistent with conservation of
15 natural resources, to and along shorelines
16 with recreational value;
- 17 (iv) Providing an adequate supply of shoreline
18 parks and other recreational facilities
19 suitable for public recreation;
- 20 (v) Ensuring public recreational uses of county,
21 state, and federally owned or controlled



S.B. NO. 1238

1 shoreline lands and waters having
2 recreational value consistent with public
3 safety standards and conservation of natural
4 resources;

5 (vi) Adopting water quality standards and
6 regulating point and nonpoint sources of
7 pollution to protect, and where feasible,
8 restore the recreational value of coastal
9 waters;

10 (vii) Developing new shoreline recreational
11 opportunities, where appropriate, such as
12 artificial lagoons, artificial beaches, and
13 artificial reefs for surfing and fishing;
14 and

15 (viii) Encouraging reasonable dedication of
16 shoreline areas with recreational value for
17 public use as part of discretionary
18 approvals or permits by the [~~land use~~
19 ~~commission,~~] respective counties and the
20 board of land and natural resources [~~, and~~
21 ~~county authorities~~]; and crediting [~~such~~]



1 the dedication against the requirements of
2 section 46-6;

3 (2) Historic resources[+]:

4 (A) Identify and analyze significant archaeological
5 resources;

6 (B) Maximize information retention through
7 preservation of remains and artifacts or salvage
8 operations; and

9 (C) Support state goals for protection, restoration,
10 interpretation, and display of historic
11 resources;

12 (3) Scenic and open space resources[+]:

13 (A) Identify valued scenic resources in the coastal
14 zone management area;

15 (B) Ensure that new developments are compatible with
16 their visual environment by designing and
17 locating [~~such~~] these developments to minimize
18 the alteration of natural landforms and existing
19 public views to and along the shoreline;



S.B. NO. 1238

- 1 (C) Preserve, maintain, and, where desirable, improve
- 2 and restore shoreline open space and scenic
- 3 resources; and
- 4 (D) Encourage those developments that are not coastal
- 5 dependent to locate in inland areas;
- 6 (4) Coastal ecosystems[+]:
- 7 [~~(A)~~] ~~Exercise an overall conservation ethic, and~~
- 8 ~~practice stewardship in the protection, use, and~~
- 9 ~~development of marine and coastal resources;~~
- 10 ~~(B)~~] (A) Improve the technical basis for natural
- 11 resource management;
- 12 [~~(C)~~] (B) Preserve valuable coastal ecosystems,
- 13 including reefs, of significant biological or
- 14 economic importance;
- 15 [~~(D)~~] (C) Minimize disruption or degradation of
- 16 coastal water ecosystems by effective regulation
- 17 of stream diversions, channelization, and similar
- 18 land and water uses, recognizing competing water
- 19 needs; and
- 20 [~~(E)~~] (D) Promote water quantity and quality planning
- 21 and management practices that reflect the



1 tolerance of fresh water and marine ecosystems
2 and maintain and enhance water quality through
3 the development and implementation of point and
4 nonpoint source water pollution control measures;

5 (5) Economic uses[+]:

6 (A) Concentrate coastal dependent development in
7 appropriate areas;

8 (B) Ensure that coastal dependent development such as
9 harbors and ports, and coastal related
10 development such as visitor industry facilities
11 and energy generating facilities, are located,
12 designed, and constructed to minimize adverse
13 social, visual, and environmental impacts in the
14 coastal zone management area; and

15 (C) Direct the location and expansion of coastal
16 dependent developments to areas presently
17 designated and used for [~~such~~] these developments
18 and permit reasonable long-term growth at [~~such~~]
19 designated areas, and permit coastal dependent
20 development outside of presently designated areas
21 when:



- 1 (i) Use of presently designated locations is not
- 2 feasible;
- 3 (ii) Adverse environmental effects are minimized;
- 4 and
- 5 (iii) The development is important to the State's
- 6 economy;
- 7 (6) Coastal hazards~~[*]~~:
- 8 (A) Develop and communicate adequate information
- 9 about storm wave, tsunami, flood, erosion,
- 10 subsidence, and point and nonpoint source
- 11 pollution hazards;
- 12 (B) Control development in areas subject to storm
- 13 wave, tsunami, flood, erosion, hurricane, wind,
- 14 subsidence, and point and nonpoint source
- 15 pollution hazards;
- 16 (C) Ensure that developments comply with requirements
- 17 of the Federal Flood Insurance Program; ~~[and]~~
- 18 (D) Prevent coastal flooding from inland projects~~[-]~~;
- 19 and
- 20 (E) Develop a coastal point and nonpoint source
- 21 pollution control program.



- 1 (7) Managing development[+]:
 - 2 (A) Use, implement, and enforce existing law
 - 3 effectively to the maximum extent possible in
 - 4 managing present and future coastal zone
 - 5 development;
 - 6 (B) Facilitate timely processing of applications for
 - 7 development permits and resolve overlapping or
 - 8 conflicting permit requirements; and
 - 9 (C) Communicate the potential [~~short~~] short- and
 - 10 long-term impacts of proposed significant coastal
 - 11 developments early in their life cycle and in
 - 12 terms understandable to the public to facilitate
 - 13 public participation in the planning and review
 - 14 process;
- 15 (8) Public participation[+]:
 - 16 (A) [~~Promote public involvement in coastal zone~~
 - 17 ~~management processes;~~] Maintain a public advisory
 - 18 board to identify coastal management problems and
 - 19 to provide policy advice and assistance to the
 - 20 coastal zone management program;



- 1 (B) Disseminate information on coastal management
2 issues by means of educational materials,
3 published reports, staff contact, and public
4 workshops for persons and organizations concerned
5 with [~~coastal~~] coastal-related issues,
6 developments, and government activities; and
- 7 (C) Organize workshops, policy dialogues, and site-
8 specific mediations to respond to coastal issues
9 and conflicts;
- 10 (9) Beach protection;
- 11 (A) Locate new structures inland from the shoreline
12 setback to conserve open space[, ~~minimize~~
13 ~~interference with natural shoreline processes,~~]
14 and to minimize loss of improvements due to
15 erosion;
- 16 (B) Prohibit construction of private erosion-
17 protection structures seaward of the shoreline,
18 except when they result in improved aesthetic and
19 engineering solutions to erosion at the sites and
20 do not interfere with existing recreational and
21 waterline activities;



- 1 (C) Minimize the construction of public erosion-
- 2 protection structures seaward of the shoreline;
- 3 (D) Prohibit private property owners from creating a
- 4 public nuisance by inducing or cultivating the
- 5 private property owner's vegetation in a beach
- 6 transit corridor; and
- 7 (E) Prohibit private property owners from creating a
- 8 public nuisance by allowing the private property
- 9 owner's unmaintained vegetation to interfere or
- 10 encroach upon a beach transit corridor;
- 11 (10) Marine resources[+]:
- 12 (A) Exercise an overall conservation ethic, and
- 13 practice stewardship in the protection, use, and
- 14 development of marine and coastal resources;
- 15 [~~A~~] (B) Ensure that the use and development of
- 16 marine and coastal resources are ecologically and
- 17 environmentally sound and economically
- 18 beneficial;
- 19 [~~B~~] (C) Coordinate the management of marine and
- 20 coastal resources and activities to improve
- 21 effectiveness and efficiency;



1 ~~(C)~~ (D) Assert and articulate the interests of the
2 State as a partner with federal agencies in the
3 sound management of ocean resources within the
4 United States exclusive economic zone;

5 ~~(D)~~ (E) Promote research, study, and understanding
6 of ocean processes, marine life, and other ocean
7 resources to acquire and inventory information
8 necessary to understand how ocean development
9 activities relate to and impact upon ocean and
10 coastal resources; and

11 ~~(E)~~ (F) Encourage research and development of new,
12 innovative technologies for exploring, using, or
13 protecting marine and coastal resources."

14 SECTION 15. Section 226-52, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The statewide planning system shall consist of the
17 following policies, plans, and programs:

18 (1) The overall theme, goals, objectives, and policies
19 established in this chapter that shall provide the
20 broad guidelines for the State;



1 (2) The priority guidelines established in this chapter
2 that shall provide guidelines for decisionmaking by
3 the State and the counties for the immediate future
4 and set priorities for the allocation of resources.
5 The formulation and revision of state functional plans
6 shall be in conformance with the priority guidelines;
7 (3) State functional plans that shall be prepared to
8 address, but not be limited to, the areas of
9 agriculture, conservation lands, education, energy,
10 higher education, health, historic preservation,
11 housing, recreation, tourism, and transportation. The
12 preparing agency for each state functional plan shall
13 also consider applicable federal laws, policies, or
14 programs that impact upon the functional plan area.
15 State functional plans shall define, implement, and be
16 in conformance with the overall theme, goals,
17 objectives, policies, and priority guidelines
18 contained within this chapter. County general plans
19 and development plans shall be taken into
20 consideration in the formulation and revision of state
21 functional plans;



- 1 (4) County general plans that shall indicate desired
2 population and physical development patterns for each
3 county and regions within each county. In addition,
4 county general plans or development plans shall
5 address the unique problems and needs of each county
6 and regions within each county. County general plans
7 or development plans shall further define the overall
8 theme, goals, objectives, policies, and priority
9 guidelines contained within this chapter. State
10 functional plans shall be taken into consideration in
11 amending the county general plans; and
- 12 (5) State programs that shall include but not be limited
13 to programs involving coordination and review;
14 research and support; design, construction, and
15 maintenance; services; and regulatory powers. State
16 programs that exercise coordination and review
17 functions shall include but not be limited to the
18 state clearinghouse process, the capital improvements
19 program, and the coastal zone management program.
20 State programs that exercise regulatory powers in
21 resource allocation shall include but not be limited



1 to the land use and management programs administered
2 by [~~the land use commission and~~] the board of land and
3 natural resources. State programs shall further
4 define, implement, and be in conformance with the
5 overall theme, goals, objectives, and policies, and
6 shall utilize as guidelines the priority guidelines
7 contained within this chapter, and the state
8 functional plans approved pursuant to this chapter."

9 SECTION 16. Section 279E-1, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[~~+~~]**§279E-1**[~~+~~] **Statement of purpose.** (a) The legislature
12 finds that Section 112 of the Federal-Aid Highway Act of 1973,
13 [~~Section 9 of the Urban Mass Transportation Act of 1964, as~~
14 ~~amended,~~] Metropolitan Transportation Planning Act, 49 U.S. Code
15 section 5303, as amended, and other federal [~~law~~] laws require
16 that a metropolitan planning organization be designated to act
17 as an advisory urban transportation planning organization and to
18 receive certain funds for the purpose of carrying out
19 continuing, comprehensive, cooperative urban transportation
20 planning. It is further suggested that the organization be



1 established under specific state legislation to coordinate
2 metropolitan transportation planning.

3 The Oahu Transportation Planning Program, a quasi-agency
4 presently charged with coordinating transportation planning on
5 Oahu has been unable to satisfy federal requirements for a
6 "continuing, comprehensive, and cooperative", transportation
7 planning process. As a result, the Federal Highway
8 Administration and the Urban Mass Transportation Administration
9 have decertified Oahu transportation programs for federal
10 funding. This problem has resulted in statewide concern about
11 the effects of decertification because of its impact on
12 transportation programs and consequently employment and also
13 because Oahu contains the greater part of the State's population
14 and employment.

15 In order to be recertified, it is mandatory that a
16 Metropolitan Planning Organization be established and designated
17 by the State as soon as possible. Loss of all federal planning
18 and construction funds for transit and transportation will
19 continue until this is done.

20 (b) This [MPO] Metropolitan Planning Organization will be
21 primarily an advisory body to the legislature and the



1 legislative body of the appropriate county in affairs involving
2 the continuous, comprehensive, cooperative urban transportation
3 planning for the county. This chapter is designed to provide
4 the mechanism by which orderly and reasoned urban transportation
5 planning can take place within the framework of federal law and
6 the need to provide for adequate and informed representation
7 from both the state and county governments and the public at
8 large.

9 It is appropriate that each unit of general purpose
10 government within the jurisdiction of the Metropolitan Planning
11 Organization shall have adequate representation on the
12 Metropolitan Planning Organization. The Metropolitan Planning
13 Organization [~~(MPO)~~], will, utilizing input from appropriate
14 state and city agencies, coordinate and develop a prospectus and
15 a unified planning work program, a transportation plan and a
16 transportation improvement program including an annual element
17 of projects recommended for funding in order to provide this
18 advice to legislative and government agencies. It is very
19 important that the delineation of state and county functions
20 relating to transportation within the metropolitan area be



1 carefully considered in the designation of the [~~MPO.~~]

2 Metropolitan Planning Organization.

3 (c) Hawaii's state government differs markedly from most
4 mainland states. Hawaii has a two-tier government: the State
5 and the various counties. The state government functions as a
6 general purpose government having the responsibility for many
7 programs, such as public education, health, welfare and
8 judiciary, which are usually controlled by local government in
9 mainland states. [~~In addition, land use, through the state land
10 use commission, is generally determined by the State rather than
11 by the counties as is usually the case on the mainland.] In
12 transportation, the state government has responsibility for such
13 normally local government programs as airports, bikeways,
14 harbors, and waterways.~~

15 Hawaii's two-tier government did not come about by
16 accident; it was the result of careful consideration and study
17 of Hawaii's unique geographic configuration. As a state
18 comprised of islands, Hawaii has four counties, each consisting
19 of separate islands and consequently not contiguous.

20 Because the State of Hawaii is comprised of islands, much
21 of the transportation planning done by the State is designed to



1 facilitate transportation solely within the county in which the
2 project is built. Obviously, a state highway built on the
3 island of Oahu will only serve that island. Hence, for example,
4 the State's three major defense highways, H-1, H-2 and [~~TH-3,~~
5 H-3] which are all located on Oahu, while designated as state
6 highways, serve only the transportation needs of the residents
7 of Oahu. However, this is entirely consistent with the present
8 delineation of roadway functions in Hawaii. The State is
9 generally responsible for providing highway facilities that
10 facilitate inter-community transportation, with the counties
11 primarily responsible for local intra-community streets and
12 roads. As a result, the State has by design a major portion of
13 the responsibility for transportation in each county, and more
14 importantly for that part of the transportation network most
15 closely related to and impacting on planning in general and
16 transportation planning in particular.

17 (d) Unlike most mainland states, Hawaii has only one
18 urbanized area, the [~~City and County~~] city and county of
19 Honolulu[, ~~where eighty-one per cent of the State's population~~
20 ~~reside~~]. In transportation, the State has programmed
21 approximately \$149 million dollars in new highway facilities for



1 Oahu in fiscal year 1976 as compared to approximately \$31
2 million dollars by the [~~City and County~~] city and county of
3 Honolulu. Additionally, the State's major airports and harbors
4 are located on Oahu. In short, the State has responsibility for
5 most of the major transportation facilities and projects on Oahu
6 and any designation of [~~an MPO~~] Metropolitan Planning
7 Organization must take this into account. Designation of [~~an~~
8 ~~MPO which~~] a Metropolitan Planning Organization that does not
9 provide for significant state participation simply does not
10 recognize the existing delineation of state and county functions
11 relating to transportation in Hawaii.

12 The [~~MPO~~] Metropolitan Planning Organization must be
13 designed to prevent the type of situation [~~which~~] that led to
14 the decertification of the [~~OTPP,~~] Oahu Transportation Planning
15 Program it must have its own coordinating staff independent of
16 either state or county agencies; it must be accessible and
17 accountable to the public; and it must provide for public input.

18 (e) The purpose of this chapter is to establish and
19 specify the role of the organization to be designated by the
20 governor as the [~~MPO~~] Metropolitan Planning Organization as
21 required by 23 United States Code 134 [~~and Section 4(a) of the~~



1 ~~Urban Mass Transportation Act of 1964, as amended, (49 U.S.C.~~
2 ~~1603(a))]~~ and the Federal Transit Act (49 U.S.C. 5303(c)), as
3 amended, which requires the comprehensive planning of
4 transportation improvements."

5 SECTION 17. Section 343-5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Except as otherwise provided, an environmental
8 assessment shall be required for actions that:

- 9 (1) Propose the use of state or county lands or the use of
10 state or county funds, other than funds to be used for
11 feasibility or planning studies for possible future
12 programs or projects that the agency has not approved,
13 adopted, or funded, or funds to be used for the
14 acquisition of unimproved real property; provided that
15 the agency shall consider environmental factors and
16 available alternatives in its feasibility or planning
17 studies; [~~provided further that an environmental~~
18 ~~assessment for proposed uses under section 205-~~
19 ~~2(d)(11) or 205-4.5(a)(13) shall only be required~~
20 ~~pursuant to section 205-5(b);]~~



S.B. NO. 1238

- 1 (2) Propose any use within any land classified [~~as a~~] for
2 conservation [~~district~~] by the [~~state land use~~
3 ~~commission under chapter 205,~~] respective counties;
- 4 (3) Propose any use within a shoreline area as defined in
5 section 205A-41;
- 6 (4) Propose any use within any historic site as designated
7 in the National Register or Hawaii Register, as
8 provided for in the Historic Preservation Act of 1966,
9 Public Law 89-665, or chapter 6E;
- 10 (5) Propose any use within the Waikiki area of Oahu, the
11 boundaries of which are delineated in the land use
12 ordinance as amended, establishing the "Waikiki
13 Special District";
- 14 (6) Propose any amendments to existing county general or
15 development plans where the amendment would result in
16 designations other than agriculture, conservation, or
17 preservation, except actions proposing any new county
18 general [~~plan~~] or development plans or amendments to
19 any existing county general [~~plan~~] or development
20 plans initiated by a county;



1 (7) Propose any reclassification of any land classified
2 [as a] for conservation [~~district~~] by the [~~state land~~
3 ~~use commission under chapter 205;~~] respective
4 counties;

5 (8) Propose the construction of new or the expansion or
6 modification of existing helicopter facilities within
7 the State, that by way of their activities, may
8 affect:

9 (A) Any land classified [as a] for conservation
10 [~~district~~] by the [~~state land use commission~~
11 ~~under chapter 205;~~] respective counties;

12 (B) A shoreline area as defined in section 205A-41;
13 or

14 (C) Any historic site as designated in the National
15 Register or Hawaii Register, as provided for in
16 the Historic Preservation Act of 1966, Public Law
17 89-665, or chapter 6E; or until the statewide
18 historic places inventory is completed, any
19 historic site that is found by a field
20 reconnaissance of the area affected by the
21 helicopter facility and is under consideration



1 for placement on the National Register or the
2 Hawaii Register of Historic Places; and

3 (9) Propose any:

4 (A) Wastewater treatment unit, except an individual
5 wastewater system or a wastewater treatment unit
6 serving fewer than fifty single-family dwellings
7 or the equivalent;

8 (B) Waste-to-energy facility;

9 (C) Landfill;

10 (D) Oil refinery; or

11 (E) Power-generating facility."

12 SECTION 18. Chapter 205, Hawaii Revised Statutes, is
13 repealed.

14 SECTION 19. The land use commission and the system of
15 districting and classification of lands set forth in section
16 205-2, Hawaii Revised Statutes, are abolished. All rights,
17 powers, functions, and duties of the land use commission are
18 transferred to the various counties except for the establishment
19 of the boundaries for conservation lands as provided for in
20 section 3 of this Act, which shall remain with the State. Each
21 respective county shall be accorded all the rights, powers,



1 functions, and duties of the land use commission over the
2 respective lands outside of the conservation district boundaries
3 within each of the respective counties.

4 All officers and employees whose functions are transferred
5 by this Act or whose office or position is abolished, shall not
6 be separated from public employment, but shall remain in the
7 employment of the State or of one of the respective counties and
8 shall be assigned to any office or position for which such
9 officer or employee is eligible under the personnel laws of the
10 State or of the respective counties.

11 No officer or employee of the State having tenure shall
12 suffer any loss of salary, seniority, prior service credit,
13 vacation, sick leave, or other employee benefit or privilege as
14 a consequence of this Act, and such officer or employee may be
15 transferred or appointed to a civil service position without the
16 necessity of examination; provided that the officer or employee
17 possesses the minimum qualifications for the position to which
18 the officer or employee is transferred or appointed; and
19 provided that subsequent changes in status may be made pursuant
20 to applicable civil service and compensation laws.



1 An officer or employee of the State who does not have
2 tenure and who may be transferred or appointed to a civil
3 service position as a consequence of this Act shall become a
4 civil service employee without the loss of salary, seniority,
5 prior service credit, vacation, sick leave, or other employee
6 benefits or privileges and without the necessity of examination;
7 provided that such officer or employee possesses the minimum
8 qualifications for the position to which the officer or employee
9 is transferred or appointed.

10 All appropriations, records, equipment, machines, files,
11 supplies, contracts, books, papers, documents, maps, and other
12 personal property heretofore made, used, acquired, or held by
13 the land use commission relating to the functions transferred to
14 the various counties shall be transferred with the functions to
15 which they relate.

16 SECTION 20. In codifying the new sections added by section
17 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.



S.B. NO. 1238

1 SECTION 21. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun, before its effective date.

4 SECTION 22. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 23. This Act shall take effect upon its approval.

7

INTRODUCED BY: Anne Trerick
M.A. W.
Breene Hunt



S.B. NO. 1238

Report Title:

Land Use; Transfer to Counties

Description:

Abolishes the land use commission and transfers its functions to the counties. Transfers jurisdiction over important agricultural lands to the counties. Makes various amendments to the coastal zone management law. Makes various amendments to metropolitan planning organization law.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

