

JAN 29 2015

A BILL FOR AN ACT

RELATING TO COMMUNITY PLANNING.

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

1 SECTION 1. The legislature finds that affordable housing
2 is a serious concern for many Hawaii residents. According to
3 the 2011 Hawaii housing planning study, up to fifty thousand new
4 housing units will be needed by 2016 to meet the new demand
5 generated by changing demographics and economic conditions.
6 Failure to produce sufficient units for low and moderate income
7 households will cause pent-up demand in these market segments.
8 According to the Hawaii public housing authority annual report
9 for fiscal year 2014, the Hawaii public housing authority's
10 fifty-year-old public housing inventory is in need of repair,
11 with a maintenance backlog estimated at \$754,000,000.

12 The increased demand for affordable housing is partially
13 the result of the addition of substantial numbers, at least one
14 hundred thousand on average, to the Hawaii resident population
15 each decade from 1960 to 2000. For each decade between 2000 and
16 2030, the population is expected to increase by one hundred



1 forty thousand, with approximately fifty-nine thousand of that
2 growth being in the neighbor island counties.

3 The increasing population puts pressure on the State and
4 counties to implement land use practices that carefully regulate
5 a balance of development while sustaining the beauty and natural
6 resources of the islands. Changes in state and county land use
7 practices need to be implemented to plan for proper population
8 growth; otherwise, new housing supply will decrease and island-
9 wide prices will increase. It costs approximately \$300,000 to
10 subsidize one affordable rental unit, which, multiplied by the
11 state shortage of ten thousand units, requires \$3,000,000,000 of
12 taxpayer subsidy and provides no solution to the affordable
13 housing shortage. On the island of Oahu, up to four thousand
14 new households are created each year, which requires the
15 building of one hundred thousand new homes over the next twenty-
16 five years.

17 The legislature also finds that changes need to be made to
18 provide opportunities to preserve or increase the number of
19 affordable housing facilities within transit-oriented
20 development zones and improve facilities for the care of
21 children and the elderly. Transit-oriented development that



1 includes child care and elder care enables families to use mass
2 transit while meeting the needs of their family members.
3 Focusing on such redevelopment and reinvestment will create
4 communities which foster growth in a safe and healthy
5 environment by reducing traffic congestion, greenhouse gases,
6 and use of fossil fuels. Tools such as transferring density
7 rights, incentives for redevelopment, revenue generating public-
8 private partnerships, and economic development strategies can
9 encourage the development of infrastructure that allows for a
10 preferred choice of walking, biking, or the use of public
11 transportation will help accommodate the State's growing
12 population.

13 Existing land use practices, including statutes,
14 ordinances, permitting, development application processes, and
15 environmental infrastructure, should be reviewed to effectively
16 determine recommendations required to plan for the reduction of
17 urban sprawl and proper development and redevelopment to
18 accommodate population growth. Focused growth along the transit
19 corridors and through the county development or sustainable
20 communities plans for Ewa, Central Oahu, and the Primary Urban
21 Center is a viable approach to development.



1 The purpose of this Act is to establish planning districts,
2 create a comprehensive application process to apply for
3 residential and commercial qualified projects, and establish the
4 transit-oriented district program.

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

8 **"PART . PLANNING DISTRICTS**

9 **§46-A Findings and purpose.** The legislature finds that
10 successful planning for growth requires reducing sprawl and
11 creating urban developments in existing and new communities that
12 offer a high quality of life for a broad range of household
13 types. Further, well-designed and well-integrated higher-
14 density development can significantly reduce dependency on cars
15 and decrease traffic congestion and vehicle emissions. Benefits
16 are even greater when job locations and retail shopping
17 locations are incorporated with the housing. Mixed-use
18 neighborhoods make it easier for persons to park their cars in
19 one location where they may accomplish several tasks. This not
20 only reduces the number of car trips required but also reduces
21 overall parking needs for the community and our carbon imprint.



1 Infrastructure improvements are greatly needed to increase
2 safety and promote healthy lifestyle habits such as walking and
3 biking.

4 The purpose of this part is to facilitate commercial and
5 residential development of an exceptional level of quality on
6 land adjacent to public transportation stations and centers by
7 creating a process and reduced up-front costs that will, in
8 turn, act as catalytic projects for neighborhood reinvestment.

9 **§46-B Definitions.** As used in this part, unless the
10 context otherwise requires:

11 "Action" or "action taken" means approval, approval with
12 modification, or disapproval.

13 "Application" means the preliminary plans and
14 specifications for a qualified project and includes materials,
15 such as plans, information, or specifications, submitted to a
16 planning agency by a qualified developer.

17 "Legislative body" means the legislative body of the county
18 to which a qualified developer submits an application for final
19 approval of a qualified project.



1 "Planning agency" or "agency" means the planning agency of
2 a county to which a qualified developer submits an application
3 for a qualified project.

4 "Program" means the transit-oriented district program
5 pursuant to section 46-D, as established by the county.

6 "Qualified developer" means a person, landowner,
7 corporation, organization, partnership, association, or other
8 legal entity that is:

- 9 (1) Licensed to do business in the State; and
10 (2) Bonded and in good standing in an amount to be
11 determined by the respective legislative body.

12 "Qualified project" or "project" means a project as defined
13 by the county that is located wholly within a planning district
14 and promotes public transit ridership.

15 "Transit-oriented development" or "transit-oriented
16 redevelopment" means land use projects of relatively intense
17 concentration involving a mixture of uses that depend upon and
18 support transit ridership.

19 **§46-C Planning districts.** A county with a population of
20 five hundred thousand or more may establish planning districts
21 within the urban district. A planning district shall consist of



1 a transit-oriented development within a radius, as specified by
2 the county pursuant to rule, of a:

3 (1) Bus transit station or center, as designated by the
4 county to achieve density and ridership goals, located
5 within the county development or sustainable
6 communities plans for Ewa, Central Oahu, and the
7 Primary Urban Center that has existing infrastructure,
8 public utilities, and roadways; or

9 (2) Rail transit station, as designated by the county to
10 achieve density and ridership goals, located at east
11 Kapolei, the University of Hawaii West Oahu, West
12 Loch, Waipahu, Leeward Community College, or Pearl
13 Highlands;

14 provided that the designation of a planning district shall not
15 change the land use classification of the parcel.

16 **§46-D Transit-oriented development program.** (a) A county
17 that establishes a planning district shall establish a transit-
18 oriented development program. The program shall include:

19 (1) Guidelines for community-based planning for transit-
20 oriented development districts;



- 1 (2) Strategies for infrastructure upgrades to support
- 2 development and redevelopment;
- 3 (3) Minimum mixed use design and site plan guidelines;
- 4 (4) Guidelines for complete streets programs; and
- 5 (5) Strategies to promote public transit ridership.
- 6 (b) In developing the program, the county may establish
- 7 minimum eligibility criteria for qualified projects, including:
- 8 (1) Minimum and maximum project sizes;
- 9 (2) Requiring a mix of commercial and residential uses;
- 10 (3) Establishing workforce and affordable housing
- 11 requirements;
- 12 (4) Proposing parking ratios below any existing required
- 13 ratio and a maximum cap on the total number of parking
- 14 spaces, proposing a centralized public or private
- 15 parking structure, or proposing a transportation plan
- 16 with innovative parking solutions;
- 17 (5) Creating street level activities, including early
- 18 evening hour activities and retail and public
- 19 gathering areas; and



1 (6) Providing community benefits, including off-site open
2 space, on-site social services space, and major off-
3 site infrastructure upgrades.

4 (c) A county or county agency participating in the program
5 shall adopt rules or regulations as necessary for the purposes
6 of this section, including:

7 (1) Criteria for granting exemptions pursuant to sections
8 46-E and 46-F;

9 (2) Considerations, upon submission of an application for
10 a qualified project to the planning agency, regarding
11 the existing use of lands, including zoning, location,
12 and future impacts; and

13 (3) Assurances for a fair and equitable application
14 process.

15 **§46-E State incentives; exemptions.** Subject to rules
16 adopted pursuant to sections 46-D and 46-I, qualified projects
17 in established planning districts shall be exempt from all state
18 fees associated with land development; provided that approval
19 for the exemption is granted by the state agency that would
20 otherwise receive the fee.



1 **§46-F County incentives; exemptions.** Subject to rules
2 adopted pursuant to sections 46-D and 46-I, qualified projects
3 in a planning district that are approved by the legislative body
4 shall receive exemptions from the zone change process and
5 compliance with zoning standards. Additionally, a county may
6 adopt any other incentives that it deems appropriate to be
7 granted to qualified projects.

8 **§46-G Qualified projects; application by developer;**
9 **review.** (a) A qualified developer may submit to a planning
10 agency an application for approval of a qualified project within
11 a planning district. The application shall include a transit
12 ridership study that demonstrates the need for development by
13 determining the size of the service population, transportation
14 demands, and other factors that will achieve desired transit
15 ridership goals and overall land use density, as determined by
16 the planning agency; provided that the overall land use density
17 shall be consistent with existing county general plans and state
18 plans.

19 (b) The planning agency shall review the application and
20 secure any additional information that the planning agency deems
21 necessary for the purpose of taking action. The planning agency



1 shall take action within forty-five days of the application
2 being deemed complete; provided that the time to take action may
3 be extended up to ten days for good cause. No later than fifty-
4 five days of the application being deemed complete, the planning
5 agency shall notify the developer of the action taken.

6 (c) If the planning agency approves the application, with
7 or without modifications, the planning agency shall forward the
8 application with its recommendation to the legislative body.
9 The legislative body shall have forty-five days from the date of
10 receipt of the planning agency's recommendation to approve,
11 approve with modifications, or disapprove the application by
12 resolution.

13 **§46-H Floor area ratio transfer.** (a) There is
14 established a discretionary review process to be conducted by
15 the county legislative body, subject to the recommendation of
16 the county planning director, for the transfer of floor area
17 within a planning district from sending sites to a receiving
18 site within a planning district established pursuant to section
19 46-C(2)(B). The purpose of this process is to encourage the
20 transfer of floor area to properties with lot dimensions that
21 allow for additional floor area while complying with the



1 building envelope requirements and building height requirements
2 set forth in a county land use ordinance.

3 (b) The proposed creation and redemption of floor area
4 ratio transfers shall take place solely on a voluntary basis
5 between consenting parties. Landowners shall not be required to
6 create or convey floor area ratio transfers; provided that floor
7 area ratio transfers shall be created, conveyed, or redeemed in
8 accordance with this section to be recognized by a legislative
9 body.

10 (c) Floor area ratio transfers shall not involve an
11 existing public park or open space.

12 (d) All requests to create, convey, and redeem floor area
13 ratio transfer credits shall be accompanied by and occur in
14 conjunction with the following:

15 (1) A project agreement, including any accompanying permit
16 approval request, improvement permit, development
17 permit, conditional use permit, variance, and master
18 plan permit; and

19 (2) A proposal to create, convey, and redeem floor area
20 ratio transfer credits on forms prescribed by the



1 director of the planning agency that contain the
2 following information:

3 (A) Particular to a sending site:

4 (i) A cover letter identifying the landowner's
5 name, mailing address, and contact
6 information and briefly explaining what the
7 landowner seeks to accomplish;

8 (ii) A certificate of title demonstrating
9 ownership of the proposed sending site and
10 receiving site;

11 (iii) A draft covenant that provides the
12 protections and restrictions on the proposed
13 property;

14 (iv) A baseline documentation report that
15 establishes the current condition of the
16 proposed sending site that contains, at a
17 minimum, a general location map, legal
18 description and sketch of parcel boundaries,
19 and documentation (such as maps, written
20 summaries, and photographs) of existing
21 conditions that relate to the proposed



1 easement restrictions as well as the
2 proposed rights to be retained by the
3 landowner; and
4 (v) An affidavit signed by the landowner and
5 preparer of the submittal, attesting to the
6 accuracy of the information contained in the
7 baseline documentation report; and
8 (B) Particular to a receiving site, plans, diagrams,
9 and supporting text that clearly identify and
10 illustrate the location and extent of proposed
11 floor area transfer.
12 (e) The legislative body shall review and act upon all
13 applications for floor area ratio transfers to create, convey,
14 and redeem floor area ratio transfer credits after receiving a
15 recommendation from the respective county's director of the
16 planning agency.
17 (f) The legislative body shall make the following findings
18 of fact to approve an application to create, convey, and redeem
19 floor area ratio transfer credits that the:



1 (1) Receiving site allows for additional floor area while
2 complying with the building envelope requirements and
3 the land use ordinance; and

4 (2) Creation, conveyance, and redemption of floor area
5 ratio transfer credits enable the subject lots to
6 fulfill the development objectives of the county
7 general or development plans.

8 (g) The creation, conveyance, and redemption of floor area
9 ratio transfer credits shall be limited by the following:

10 (1) Floor area ratio transfer credits shall not be created
11 or redeemed in conjunction with a variance approval to
12 exceed any maximum building height or building
13 footprint, or reduce any setback specified in the
14 county land use ordinance;

15 (2) No more than fifty per cent of the maximum permitted
16 floor area ratio shall be transferred from any sending
17 site; provided that contiguous lots may transfer one
18 hundred per cent of the maximum permitted floor area
19 ratio; and

20 (3) Floor area ratio transfer credits shall be created and
21 redeemed concurrently. No floor area ratio transfer



1 credit may be reserved for future conveyance to a
2 sending site.

3 (h) To establish floor area ratio transfer credits, the
4 sending site landowner shall record a covenant running with the
5 land over the sending site consistent with this section. The
6 covenant shall:

7 (1) Run with the land on the sending site;

8 (2) Restrict the floor area ratio of the sending site to
9 the ratio established by the transfer; and

10 (3) Name the planning agency as an intended beneficiary
11 with the right to enforce the covenant.

12 (i) The director of the planning agency shall maintain a
13 register of all floor area ratio transfer credits both created
14 and redeemed pursuant to this section and shall update this
15 register annually.

16 **§46-I Adoption of rules.** A planning agency may adopt
17 rules pursuant to chapter 91 that are necessary to effectuate
18 the purposes of this part, including rules to specify materials
19 that shall be necessary components of a complete application."

20 SECTION 3. The office of planning may establish two
21 temporary positions, subject to chapters 76 and 89, Hawaii



1 Revised Statutes; provided that funding for the positions shall
2 be provided by the Honolulu authority for rapid transportation
3 to carry out the purposes of this Act.

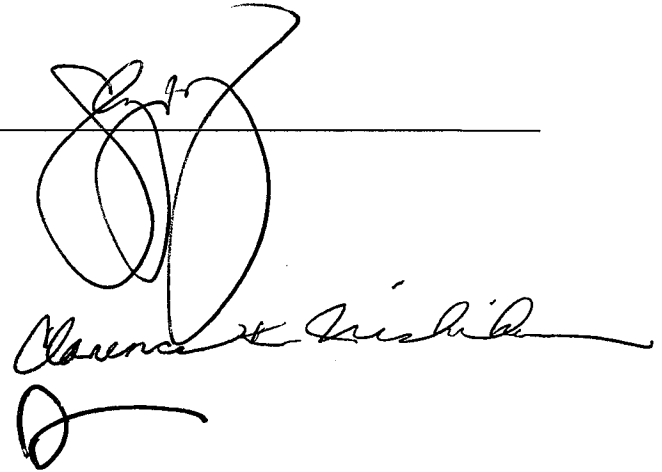
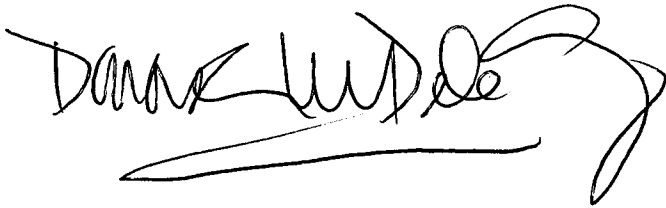
4 SECTION 4. In codifying the new sections added by section
5 2 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 5. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 6. This Act shall take effect on July 1, 2015.

15

INTRODUCED BY: _____



S.B. NO. 1366

Report Title:

Transit-oriented Development; Planning Districts; Statewide Planning

Description:

Authorizes counties with a population of 500,000 or more to establish planning districts and create a process for developers to apply for residential and commercial qualified projects. Authorizes a county to establish a transit-oriented development program. Authorizes state and county incentives for qualified projects. Establishes a discretionary review process for the transfer of floor area within certain planning districts. Authorizes the office of planning to hire two temporary positions to be funded by the Honolulu authority for rapid transportation, if funds are available.

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

