

JAN 23 2015

A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. Section 205-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§205-4 Amendments to district boundaries involving land**
4 **areas greater than fifteen acres.** (a) Any department or agency
5 of the State, any department or agency of the county in which
6 the land is situated, or any person with a property interest in
7 the land sought to be reclassified, may petition the land use
8 commission for a change in the boundary of a district. This
9 section applies to all petitions for changes in district
10 boundaries of lands within conservation districts, lands
11 designated or sought to be designated as important agricultural
12 lands, and lands greater than fifteen acres in the agricultural,
13 rural, and urban districts, except as provided in section 201H-
14 38. The land use commission shall adopt rules pursuant to
15 chapter 91 to implement section 201H-38.

16 (b) Upon proper filing of a petition pursuant to
17 subsection (a) the commission shall, within not less than sixty



1 and not more than one hundred and eighty days, conduct a hearing
2 on the appropriate island in accordance with the provisions of
3 sections 91-9, 91-10, 91-11, 91-12, and 91-13, as applicable.

4 (c) Any other provision of law to the contrary
5 notwithstanding, notice of the hearing together with a copy of
6 the petition shall be served on the county planning commission
7 and the county planning department of the county in which the
8 land is located and all persons with a property interest in the
9 land as recorded in the county's real property tax records. In
10 addition, notice of the hearing shall be mailed to all persons
11 who have made a timely written request for advance notice of
12 boundary amendment proceedings, and public notice shall be given
13 at least once in the county in which the land sought to be
14 redistricted is situated as well as once statewide at least
15 thirty days in advance of the hearing. The notice shall comply
16 with section 91-9, shall indicate the time and place that maps
17 showing the proposed district boundary may be inspected, and
18 further shall inform all interested persons of their rights
19 under subsection (e).

20 (d) Any other [~~provisions~~] provision of law to the
21 contrary notwithstanding, prior to hearing of a petition the



1 commission and its staff may view and inspect any land [which]
2 is the subject of the petition.

3 (e) Any other [~~provisions~~] provision of law to the
4 contrary notwithstanding, agencies and persons may intervene in
5 the proceedings in accordance with this subsection.

6 (1) The petitioner, the office of planning, and the county
7 planning department shall in every case appear as
8 parties and make recommendations relative to the
9 proposed boundary change.

10 (2) All departments and agencies of the State and of the
11 county in which the land is situated shall be admitted
12 as parties upon timely application for intervention.

13 (3) All persons who have some property interest in the
14 land, who lawfully reside on the land, or who
15 otherwise can demonstrate that they will be so
16 directly and immediately affected by the proposed
17 change that their interest in the proceeding is
18 clearly distinguishable from that of the general
19 public shall be admitted as parties upon timely
20 application for intervention.



- 1 (4) All other persons may apply to the commission for
2 leave to intervene as parties. Leave to intervene
3 shall be freely granted, provided that the commission
4 or its hearing officer if one is appointed may deny an
5 application to intervene when in the commission's or
6 hearing officer's sound discretion it appears that:
7 (A) the position of the applicant for intervention
8 concerning the proposed change is substantially the
9 same as the position of a party already admitted to
10 the proceeding; and (B) the admission of additional
11 parties will render the proceedings inefficient and
12 unmanageable. A person whose application to intervene
13 is denied may appeal [~~such~~] the denial to the circuit
14 court pursuant to section 91-14.
- 15 (5) The commission shall pursuant to chapter 91 adopt
16 rules governing the intervention of agencies and
17 persons under this subsection. [~~Such~~] The rules shall
18 without limitation establish: (A) the information to
19 be set forth in any application for intervention; (B)
20 time limits within which [~~such~~] applications shall be



1 filed; and (C) reasonable filing fees to accompany
2 [~~such~~] applications.

3 (f) Together with other witnesses that the commission may
4 desire to hear at the hearing, it shall allow a representative
5 of a citizen or a community group to testify who indicates a
6 desire to express the view of [~~such~~] the citizen or community
7 group concerning the proposed boundary change.

8 (g) Within a period of not more than three hundred sixty-
9 five days after the proper filing of a petition, unless
10 otherwise ordered by a court, or unless a time extension, which
11 shall not exceed ninety days, is established by a two-thirds
12 vote of the members of the commission, the commission, by filing
13 findings of fact and conclusions of law, shall act to approve
14 the petition, deny the petition, or to modify the petition by
15 imposing conditions necessary to uphold the intent and spirit of
16 this chapter or the policies and criteria established pursuant
17 to section 205-17 or to assure substantial compliance with
18 representations made by the petitioner in seeking a boundary
19 change. The commission may provide by condition that absent
20 substantial commencement of use of the land in accordance with
21 such representations, the commission shall issue and serve upon



1 the party bound by the condition an order to show cause why the
2 property should not revert to its former land use classification
3 or be changed to a more appropriate classification. [~~Sueh~~] The
4 conditions, if any, shall run with the land and be recorded in
5 the bureau of conveyances.

6 (h) No amendment of a land use district boundary shall be
7 approved unless the commission finds upon the clear
8 preponderance of the evidence that the proposed boundary is
9 reasonable, not violative of section 205-2 and part III of this
10 chapter, and consistent with the policies and criteria
11 established pursuant to sections 205-16 and 205-17. Six
12 affirmative votes of the commission shall be necessary for any
13 boundary amendment under this section.

14 (i) Parties to proceedings to amend land use district
15 boundaries may obtain judicial review thereof in the manner set
16 forth in section 91-14, provided that the court may also reverse
17 or modify a finding of the commission if [~~sueh~~] the finding
18 appears to be contrary to the clear preponderance of the
19 evidence.

20 (j) At the hearing, all parties may enter into appropriate
21 stipulations as to findings of fact, conclusions of law, and



1 conditions of reclassification concerning the proposed boundary
2 change. The commission may but shall not be required to approve
3 ~~[such]~~ the stipulations based on the evidence adduced.

4 (k) Any other provision of law to the contrary
5 notwithstanding, upon approval by ordinance of the appropriate
6 county, and with concurrence from the land use commission,
7 boundary amendments reflected in the general plan, development
8 plan, community plan, or sustainable community plan shall be
9 adopted in accordance with the approved plans. The commission
10 shall not be required to conduct a hearing pursuant to
11 subsection (b) or take further action.

12 (l) Any other provision of law to the contrary
13 notwithstanding, each agency responsible for providing
14 infrastructure to an area of planned growth requiring boundary
15 amendments adopted pursuant to subsection (k) shall prepare a
16 budget within one year of the effective date of the amendment,
17 which shall prioritize funding for all infrastructure required
18 to support the planned growth reflected in the adopted general
19 plan, development plan, community plan, or sustainable community
20 plan."



S.B. NO. 685

1 SECTION 2. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act shall take effect upon its approval.

4

INTRODUCED BY: Will Egan


Françoise Chum Oakland



S.B. NO. 685

Report Title:

LUC; Counties; Boundary Amendments

Description:

Authorizes district boundary amendments in accordance with an ordinance adopted to amend a county general, development, community, or sustainable community plan upon concurrence from the LUC. Requires agencies responsible for providing infrastructure to areas of planned growth requiring boundary amendments to prepare a budget within 1 year of the boundary amendment.

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