

STAND. COM. REP. NO. 2437

Honolulu, Hawaii

FEB 19 2016

RE: S.B. No. 2355
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Water, Land, and Agriculture, to which was referred S.B. No. 2355 entitled:

"A BILL FOR AN ACT RELATING TO THE LAND USE COMMISSION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize the Land Use Commission to amend, modify, or vacate boundary amendment approvals, special permit approvals, and conditions of direct state concern granted pursuant to chapter 205, Hawaii Revised Statutes, if the commission finds a failure to substantially meet conditions of direct state concern, to be specified by the commission at the time it approves, denies, or modifies a boundary amendment or special permit; and
- (2) Allow the Land Use Commission to fine parties who fail to comply with conditions of direct state concern after they have been notified of violations of the conditions.

Your Committee received testimony in support of this measure from the Office of Planning; Land Use Commission; Hawaii's Thousand Friends; Conservation Council for Hawai'i; Ho'omana Pono, LLC; Sierra Club of Hawai'i; and nine individuals. Your Committee received comments on this measure from the Building Industry Association of Hawaii and Chamber of Commerce Hawai'i.



Your Committee finds that currently the only remedy available to the Land Use Commission when a petitioner fails to perform according to the conditions and requirements of a land use district boundary amendment or special permit is to grant an order to show cause pursuant to section 15-15-93, Hawaii Administrative Rules. Your Committee finds that additional tools are necessary for the Land Use Commission to enforce conditions and requirements of land use district boundary amendments and special permits in a manner that ensures that the interests of the State, counties, and public are protected.

Your Committee has amended this measure by:

- (1) Inserting a definition for the term "substantial commencement" in section 205-4(g), Hawaii Revised Statutes, to mean completion of all public improvements and infrastructure required by conditions imposed, both within and outside the project area, and completed construction of twenty percent of the physical private improvements such that they are usable or habitable;
- (2) Deleting language that would have authorized the Land Use Commission to amend, modify, or vacate boundary amendment approvals and conditions of direct state concern under certain conditions;
- (3) Inserting language to allow the Land Use Commission on its own motion or on the motion of any interested party to vacate, void, modify, or amend boundary amendment approvals and conditions of direct state concern granted pursuant to chapter 205, Hawaii Revised Statutes;
- (4) Deleting language that would have authorized the Land Use Commission to amend, modify, or vacate special permit approvals and conditions of direct state concern under certain conditions;
- (5) Inserting language to allow the Land Use Commission on its own motion or on the motion of any interested party to vacate, void, modify, or amend any special permit and conditions of direct state concern granted pursuant to chapter 205, Hawaii Revised Statutes;
- (6) Requiring conditions of direct state concern relating to boundary amendments and special permits to include

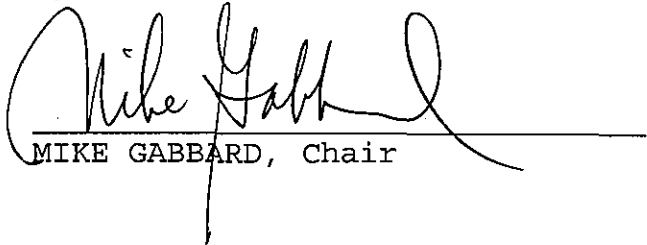


conditions that protect the state marine and terrestrial environment and protect archaeological features and burial grounds, and conditions relating to the public trust doctrine;

- (7) Increasing the maximum fine for failure to substantially meet the conditions of direct state concern relating to boundary amendments and special permits from \$10,000 to \$50,000 per day; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Water, Land, and Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2355, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2355, S.D. 1, and be referred to your Committees on Judiciary and Labor and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land, and
Agriculture,




MIKE GABBARD, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Water, Land, and Agriculture
WLA

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2355	WLA, JPL/WAM	02-17-16		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
GABBARD, Mike (C)	/			
NISHIHARA, Clarence K. (VC)	/			
DELA CRUZ, Donovan M.	/			
RIVIERE, Gil	/			
RUDERMAN, Russell E.	/			
SHIMABUKURO, Maile S.L.	/			
THIELEN, Laura H.	/			
WAKAI, Glenn				/
SLOM, Sam				/
TOTAL	7			2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes