

**OFFICE OF PLANNING
STATE OF HAWAII**

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DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
ACTING DIRECTOR
OFFICE OF PLANNING

Statement of
LEO R. ASUNCION
Acting Director, Office of Planning
before the
HOUSE COMMITTEE ON WATER AND LAND
Friday, February 13, 2015
10:00 AM
State Capitol, Conference Room 325

in consideration of
HB 828
RELATING TO LAND USE.

Chair Yamane, Vice Chair Cullen, and Members of the House Committee on Water and Land.

The Office of Planning (OP) opposes HB 828, which would amend Hawaii Revised Statutes (HRS) § 205-4 to provide for automatic boundary amendments that would conform to boundaries in county adopted plans, with Land Use Commission (LUC) concurrence. No other action or hearing by the LUC would be required. The bill would also require that all agencies responsible for public infrastructure necessary to support planned development prepare budgets prioritizing infrastructure investments within one year of the effective date of the boundary amendments.

In the Statewide Land Use System Review Project being conducted by OP, many participants have called for streamlining the boundary amendment process, citing duplication with county planning and permitting processes and the cost and expense of the contested-case boundary amendment process. OP, however, does not support streamlining the boundary amendment process without also establishing mechanisms by which to ensure that State concerns

and interests—including its obligation to protect public trust resources and the provision of community facilities and infrastructure, such as schools and highways—are incorporated and addressed effectively in land use plans and decision-making and plan implementation.

Furthermore, individual agency capital improvement program budgets are resource-constrained, such that more coordinated infrastructure planning at an early stage between State and county agencies is needed to support quality growth in our communities. OP respectfully requests the Committee hold this bill.

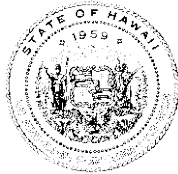
Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lieutenant Governor

LUIS P. SALAVERIA
Director

MARY ALICE EVANS
Acting Deputy Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai`i

DANIEL ORODENKER
Executive Officer

Bert K. Saruwatari
Planner
SCOTT A.K. DERRICKSON AICP
Planner

RILEY K. HAKODA
Chief Clerk/Planner

FRED A. TALON
Drafting Technician

Statement of
Daniel E. Orodener
Executive Officer
Land Use Commission
Before the
House Committee on Water & Land
February 13, 2015
10:00 AM
State Capitol, Conference Room 325

In consideration of
HB 828
RELATING TO LAND USE

Chair Yamane, Vice Chair Cullen, and members of the Committee on Water and Land:

The Land Use Commission (LUC) opposes HB 828 that would amend Chapter 205-4, Hawai`i Revised Statutes (HRS) providing for automatic boundary amendments that conform to adopted county plans; with concurrence of the LUC. No other action or hearing would be required. Further, the bill would require within one year of any adopted boundary amendments, that public agencies with responsibility for infrastructure necessary to support development in these areas to prepare budgets prioritizing such projects. This would, in effect, give the counties control over state budgets and could cause agencies such as the Department of Transportation (DOT) and Department of Education (DOE) significant hardship.

We would also note that this measure may be inconsistent with Hawaii Supreme Court decisions with regard to due process requirements in cases involving property rights. Under the State Supreme Court Decision of Towne v Land Use Commission it was determined that decisions impacting ownership rights must be subject to a quasi-judicial process. Specifically "any action taken on the petition for boundary change is a proceeding in which ..[a property owner or adjoining property owner]...has legal rights as a specific and interested party and is entitled by law to have a determination on these rights".

A contested case, or quasi-judicial proceeding with allowances for intervention, is therefore a due process requirement and mandated by law. This rule applies to both the State and the counties (as further defined by the Hawaii Administrative Procedures Act). This measure would remove the due process requirement protections currently available by allowing decisions to be made without a hearing.

The Hawaii Supreme Court also requires that decisions regarding re-classification of land analyze all of the issues arising under the “public trust doctrine”. These include preservation of rights and artifacts associated with cultural and archeological resources as well as gathering rights and water rights. The County process does not take these into account. Changes to district boundaries made without detailed analysis could therefore be violative of the public trust doctrine as well.

State-level boundary amendments are a deliberative process designed to protect the public interest under the umbrella of the public trust doctrine, while also protecting this body and taxpayers from having to provide infrastructure improvements solely to the benefit of private developers. We do recognize that State planning and the review of boundary changes could be improved upon and can be done in a more collaborative manner. However, for the reasons stated, this measure runs the risk of causing significant problems with public policy and State budgeting. This bill does not ensure that State concerns and interests would be adequately considered or protected. We concur with the State Office of Planning in requesting that this bill be held.

Thank you for the opportunity to testify on this matter.

**HB 828
RELATING TO LAND USE**

**PAUL OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

FEBRUARY 13, 2015

Chair Yamane and Members of the House Committee on Water & Land:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 828, “A BILL FOR AN ACT RELATING TO LAND USE.” We support this bill.

The purpose of this bill is to authorize district boundary amendments in accordance with General, Development, Community, or Sustainable Community Plans upon concurrence by the State Land Use Commission. We believe that this bill will enhance efficiencies and lessen duplication between the State and the Counties in land use planning. Areas of responsibility for land use decision making will be determined, with an integrated and collaborative land use planning system established by this bill. With the Counties presently equipped with land use planning systems and procedures along with numerous opportunities for public participation and input, this bill will further empower County officials with the overall responsibility and authority to assess and fashion land use planning decisions for the future.

Based on the aforementioned, we respectfully request your favorable consideration on this bill. Thank you for the opportunity to testify.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

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Testimony to the House Committee on Water and Land Friday, February 13, 2015 10:00 a.m. State Capitol - Conference Room 325

RE: HOUSE BILL NO. 828 RELATING TO LAND USE

Chair Yamane, Vice-Chair Cullen, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii **strongly supports** H.B. 828, which proposes to amend Chapter 205-4 HRS to allow for automatic boundary amendments, upon approval by county land use decision-making authority, and with concurrence from Land Use Commission, reflected in certain plans to be adopted in accordance with such approved plans. Prioritizes funding for public infrastructure in areas of planned growth.

The State of Hawaii needs a more comprehensive plan to increase the supply of housing at all price points. The existing inclusionary zoning requirements, which have been imposed on new residential developments for decades, has caused the overall lack of supply of housing and median prices of a single-family home upwards of \$700,000 we are experiencing today. This belief is validated by the University of Hawaii Economic Research Organization (UHERO) in their report on Inclusionary Zoning, which states, "*Inclusionary Zoning policies have failed in other jurisdictions, and are failing on Oahu. It reduces the number of "affordable" housing units and raises prices and reduces the quantity of "market-priced" housing units.*"

In addition, there doesn't appear to be any coordination between the government land use planning efforts to reclassify lands for future growth and the government's responsibility to provide infrastructure capacity required to support the planned growth. The bill also will require agencies responsible for infrastructure to prioritize funding to provide infrastructure required to support areas of planned growth.

Many of the exactions and approvals for housing occur at the county level and, thus, are difficult to effectuate change at the State level. However, the State does play a significant role in the land use entitlement process.

This bill proposes to amend Chapter 205-4 HRS by eliminating the current duplicative reviews by the Land Use Commission (LUC) and the County zoning authorities. The bill does this by eliminating the redundant and overly restrictive two-tier land use regulatory system which presently exists, while preserving a constitutionally mandated role for the LUC in land use decision-making.

The LUC would essentially participate and provide comments to the County during the County's planning process. Similar efforts to improve the land use entitlement system have been made in the past based on recommendations from various legislative initiated Task Forces (i.e. Affordable Housing TaskForce, convened in response to S.C.R. 135 SD1 (2004)).

In addition, the bill preserves the due process protections afforded to property owners, which would now be held only once, by the appropriate County authority, for any land use change requiring a district boundary amendment.

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



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Water & Land
Friday, February 13, 2015 at 10:00 A.M.
Conference Room 325, State Capitol**

RE: HOUSE BILL 828 RELATING TO LAND USE

Chair Yamane, Vice Chair Cullen, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **strongly supports** HB 828, which proposes to amend Chapter 205-4 HRS to allow for automatic boundary amendments, upon approval by county land use decision-making authority, and with concurrence from Land Use Commission, reflected in certain plans to be adopted in accordance with such approved plans. Also prioritizes funding for public infrastructure in areas of planned growth.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The State of Hawaii needs a more comprehensive plan to increase the supply of housing at all price points. The existing inclusionary zoning requirements, which have been imposed on new residential developments for decades, has caused the overall lack of supply of housing and median prices of a single-family home upwards of \$700,000.00 that we are experiencing today. This belief is validated by the University of Hawaii Economic Research Organization (UHERO) in their report on Inclusionary Zoning, which states, "Inclusionary Zoning policies have failed in other jurisdictions, and are failing on Oahu. It reduces the number of 'affordable' housing units and raises prices and reduces the quantity of 'market-priced' housing units."

The real problem is the "overall lack of supply of housing at all price points." A healthy housing market allows people to step-up to larger homes as their income improves over time. This allows for entry level units to remain competitive for entry level buyers. The overall lack of supply restricts people's choices and prevents people from moving up as their income improves.

In addition, there doesn't appear to be any coordination between the government land use planning efforts to reclassify lands for future growth and the government's responsibility to provide infrastructure capacity required to support the planned growth.

Many of the exactions and approvals for housing occur at the county level and are thus difficult to effectuate change from the State Legislature. However, the State does play a significant role in the land use entitlement process.



Chamber of Commerce HAWAII

The Voice of Business

This bill proposes to amend Chapter 205-4 HRS by eliminating the current duplicative reviews by the Land Use Commission and the County zoning authorities. The bill does this by eliminating the redundant and overly restrictive two-tier land use regulatory system which presently exists, while preserving a constitutionally mandated role for the LUC in land use decision-making. The LUC would essentially participate and provide comments to the County during the County's planning process. Similar efforts to improve the land use entitlement system have been made in the past based on recommendation from various legislative initiated Task Force (i.e. Affordable Housing Task Force, convened in response to S.C.R. 135 SD1 (2004)). In addition, the bill preserves the due process protections afforded to property owners, which would now be held only once, by the appropriate County authority, for any land use change requiring a district boundary amendment.

The bill will also require agencies responsible for infrastructure to prioritize funding to provide infrastructure required to support areas of planned growth.

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



**Conservation Council
for Hawai'i**

Hawai'i's voice for wildlife

Kō Hawai'i leo no nā holoholona lōhiu



Testimony Submitted to the
House Committee on Water and Land

Hearing: Friday, February 13, 2015 10 am, Room 325

In Opposition to HB 828 Relating to Land Use

Aloha, Chair Yamane, Vice Chair Cullen, and Members of the Committee. The Conservation Council for Hawai'i opposes HB 828, which, upon approval by county land use decision-making authority, and with concurrence from Land Use Commission, requires boundary amendments reflected in certain plans to be adopted in accordance with such approved plans, and prioritizes funding for public infrastructure in areas of planned growth.

We oppose HB 828 because it is not in the public's best interest to politicize the Land Use Commission's process for amending state land use classification boundaries. HB 828 requires the LUC to approve any district boundary amendment that is approved by a county council in any county general plan, development plan, or community plan. HB 828 will gut the LUC, making it a rubber-stamp body for narrow county and private interests. Developers cannot contribute money to Land Use Commissioners, but developers can – and do – contribute regularly to county council members, who would have authority over many boundary amendments if HB 828 passes.

HB 828 could also result in the immediate, rapid urbanization of thousands of acres of conservation and agricultural land across the state because there are large tracts of land already approved for urbanization in plans that have not been approved by the LUC.

HB 828 would interfere with the LUC's affirmative duty to protect constitutionally recognized Native Hawaiian traditional and customary rights and public trust resources. Many special places have been protected by the independent LUC and its fair process, including La'au Point on west Moloka'i, 'O'oma near Kaloko-Honokohau National Historical Park, Pohue Bay on the Big Island, and Keopuka next to Kealakekua Bay. Here is a photo of Pohue Bay – a gem!



Conservation Council for Hawai'i is a nonprofit, environmental membership organization dedicated to protecting native Hawaiian plants, animals, and ecosystems for future generations.

Established in 1950 and based in Honolulu, CCH is one of the largest and most effective wildlife organizations in Hawai'i with more than 5,000 members and supporters, including concerned citizens, educators, scientists, government agencies, and elected officials.

Through research, education, service, organizing, and legal advocacy, CCH works to stop the destruction of native wildlife and wild places in Hawai'i.

Since 1973, CCH has served as the Hawai'i state affiliate of the National Wildlife Federation.

**Telephone/Fax: 808.593.0255 | email: info@conservehi.org | web: www.conservehi.org
P.O. Box 2923 | Honolulu, HI 96802 | Office: 250 Ward Ave., Suite 220 | Honolulu, HI 96814**

**President: Hannah Kihalani Springer | Vice-President: Julie Leialoha | Treasurer: Bianca Isaki | Secretary: Wayne Tanaka
Directors: Rick Barboza | Ryan Belcher | Maka'ala Ka'auomoana | Koalani Kaulukukui
Executive Director: Marjorie Ziegler | Administrator: Jonnetta Peters**



HB 828 will eliminate the deliberative, quasi-judicial process – sometimes referred to as contested case hearings – for many important boundary amendments that would come before the LUC. Contested case hearings are the LUC's most important power. Contested case hearings are also one of the most valuable tools citizens, agencies, and businesses have to protect public trust resources.

HB 828 appears to impose a duty on state and county agencies to provide funding for infrastructure (water, sewer, schools, roads, etc.) to support the new development without requiring the beneficiaries of the new infrastructure to pay any of the costs they are imposing on other taxpayers. The bill would result in effectively taking away much-needed funds to repair aging infrastructure in existing areas where residents live and work by requiring the funding of infrastructure for areas of new growth.

Please kokua. Mahalo for the opportunity to testify.

Sincerely,

A handwritten signature in cursive script that reads "Marjorie Ziegler".

Marjorie Ziegler



25 Malunui Ave., Suite 102., PMB 282 • Kailua, HI 96734 • Phone/Fax: (808) 262-0682 E-mail: htf@lava.net

February 13, 2015

COMMITTEE ON WATER & LAND

Rep. Ryan Yamane, Chair

Rep. Ty Cullen, Vice Chair

HB 828 RELATING TO LAND USE

Chair Yamane and committee members;

Hawaii's Thousand Friends, a statewide nonprofit organization dedicated to comprehensive planning and reasonable, responsible and appropriate land use, opposes HB 828 that weakens the Land Use Commission oversight of state concerns in the land use decision-making process.

Because HB 828 seeks the LUC concurrence on district boundary amendments that have been approved by county and city councils HB 828 makes the LUC reactive and not proactive thus weakening its role in protecting the states interests in land use decisions.

HB 828 denies citizens the right to a contested case because decisions made at the county level and only seeking LUC concurrence does not allow for citizen involvement.

HB 828 makes infrastructure decisions for the county and state by requiring "all agencies responsible for providing public infrastructure" to support "planned growth" in county general plans, development plans, community plans and sustainable community plans. This mandate would divert money allocated for other much needed and anticipated infrastructure projects.

HB 828 must be held in committee because it circumvents the LUC's responsibility to preserve and protect Hawaii's lands and encourage those uses to which lands are best suited.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 12:35 AM
To: waltestimony
Cc: nimo1767@gmail.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Petricci	Puna Pono Alliance	Oppose	No

Comments: Chair Yamane, Vice Chair Cullen, and Members of the Committee. - Puna Pono Alliance opposes HB 828. We believe the bill is contrary to the public interest. - Requiring the LUC to approve any district boundary amendment that is approved by a county council in any county general plan, development plan, or community plan as HB828 does directly conflicts with the public interest responsibilities of the LUC. - Developers cannot contribute money to Land Use Commissioners, but developers can – and do – contribute regularly to county council members, who would have authority over many boundary amendments if HB 828 passes. - Large tracts of land have already been approved for urbanization by the various counties that have not been approved by the LUC. HB 828 if enacted could result in rapid urbanization of thousands of acres of conservation and agricultural land across the state of Hawaii. PPA has particular concerns that HB 828 eliminates the deliberative, quasi-judicial process – contested case hearings – for many important boundary amendments that would come before the LUC. - We have personal experience here in Puna with the impacts of being denied due process (contested case). Act 96 eliminated the contested case process for geothermal development. PPA hopes the ongoing conflict between geothermal developers and the community over siting of the geothermal developments is considered when voting on HB 828. Twenty years later PPA, the Puna Community, and the state along with Hawaii County are still dealing with the problems (lawsuits, public outcry, health studies, relocation, etc) created in siting a geothermal power plant in the middle of a pre existing residential community. That would have never happened if the community had been afforded a contested case on the land use wisdom of the decision. PPA believes lawmakers should tread carefully here as HB 828 opens the door to similar problems but on a much broader scale. - Contested case hearings are the LUC’s most important power. Contested case hearings are also one of the most valuable tools citizens, agencies, and businesses have to protect public trust resources. As the geothermal controversy so clearly illustrates. - HB 828 appears to impose a duty on state and county agencies to provide funding for infrastructure (water, sewer, schools, roads, etc.) to support the new development without requiring the beneficiaries of the new infrastructure to pay any of the costs they are imposing on other taxpayers. - HB 828 would interfere with the LUC’s affirmative duty to protect constitutionally recognized Native Hawaiian traditional and customary rights and public trust resources. - Many special places have been protected by the independent LUC and its fair process, including La’au Point on west Moloka’i, ‘O’oma near Kaloko-Honokohau National Historical Park, Pohue Bay on the Big Island, and Keopuka next to Kealakekua Bay to name a few. Mahalo for your consideration Robert Petricci Representing Puna Pono Alliance

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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cullen4-Rachele

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Sent: Thursday, February 12, 2015 8:34 AM
To: waltestimony
Cc: soysprout@yahoo.com
Subject: *Submitted testimony for HB828 on Feb 13, 2015 10:00AM*

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Cynthia King	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
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To: waltestimony
Cc: palmtree7@earthlink.net
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
janice palma-glenie	Individual	Oppose	No

Comments: Aloha, HB 828 and all bills related to deconstructing the State Land Use Commission must be opposed by this committee and all state legislators who believe in the public's right to take meaningful part in the land use permitting process. The LUC provides a critical forum for public input into permitting processes that would severely, and often negatively, affect the lives of all our state's people and those who visit. Without the LUC, a huge tract of conservation land in North Kona (O`oma II) would not have been protected as a County park, saved now for future generations who will benefit from it far more righteously than had speculators and developers would have. My community has benefited hugely from the protective process of the LUC -- a process that has helped insure that Hawaii's constitution is protected and its rules followed. Mahalo for opposing this bad bill. sincerely, janice palma-glennie kailua-kona

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cullen4-Rachele

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 12:40 PM
To: waltestimony
Cc: jeannine@hawaii.rr.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jeannine Johnson	Individual	Oppose	No

Comments: I strongly oppose HB828 because it will gut the LUC, making it a rubber-stamp body for large landowners and developers. I guess those that put for the PLDC haven't learned their lesson yet. Aue!

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Sent: Thursday, February 12, 2015 9:13 AM
To: waltestimony
Cc: ahmai@hawaii.rr.com
Subject: *Submitted testimony for HB828 on Feb 13, 2015 10:00AM*

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Ah Mai	Individual	Oppose	No

Comments:

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To: waltestimony
Cc: bondma@cs.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Bond	Individual	Oppose	No

Comments: Please completely oppose HB 828. Hawaii without a strong Land Use Commission would look like southern California, and all its beauty and lifestyle destroyed. Please keep the developers and crooks out of our land use planning process. Mike Bond P.O. Box 511 Kaunakakai 96748 for all the Bond Ohana on the Big Island, Oahu, Molokai and elsewhere

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cullen4-Rachele

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 11:47 AM
To: waltestimony
Cc: natalie.mckinney@gmail.com
Subject: *Submitted testimony for HB828 on Feb 13, 2015 10:00AM*

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Natalie McKinney	Individual	Oppose	No

Comments:

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cullen4-Rachele

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To: waltestimony
Cc: paulakomarajr@yahoo.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

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

Comments: i OPPOSE HB828. The State has no legal right to make laws concerning Hawaiian Kingdom Land. This law violates international laws of occupation.

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cullen4-Rachele

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To: waltestimony
Cc: makikirandy@yahoo.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Randy Ching	Individual	Oppose	No

Comments: The LUC must be saved. Please do not pass HB 828. Land use decisions must have a statewide perspective. County permitting agencies do not have that global view. Also, counties are more likely to allow development since much of their revenue comes from property taxes.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 12:46 PM
To: waltestimony
Cc: scoleman@surfrider.org
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Stuart Coleman	Individual	Oppose	No

Comments: Aloha, Chair Yamane, Vice Chair Cullen, and Members of the Committee. I'm writing to oppose HB 828 because it is not in the public's best interest to politicize the Land Use Commission's process for amending state land use classification boundaries. HB 828 requires the LUC to approve any district boundary amendment that is approved by a county council in any county general plan, development plan, or community plan. Basically, the bill will gut the LUC, making it a rubber-stamp body for narrow county and private interests. Developers cannot contribute money to Land Use Commissioners, but developers can – and do – contribute regularly to county council members, who would have authority over many boundary amendments if it passes. HB 828 could result in the immediate, rapid urbanization of thousands of acres of conservation and agricultural land across the state because there are large tracts of land already approved for urbanization in plans that have not been approved by the LUC. HB 828 would interfere with the LUC's affirmative duty to protect constitutionally recognized Native Hawaiian traditional and customary rights and public trust resources. Many special places have been protected by the independent LUC and its fair process, including La'au Point on west Moloka'i, 'O'oma near Kaloko-Honokohau National Historical Park, Pohue Bay on the Big Island, and Keopuka next to Kealakekua Bay to name a few. HB 828 will eliminate the deliberative, quasi-judicial process – sometimes referred to as contested case hearings – for many important boundary amendments that would come before the LUC. Contested case hearings are the LUC's most important power and also one of the most valuable tools citizens, agencies, and businesses have to protect public trust resources. HB 828 would result in effectively taking away much-needed funds to repair aging infrastructure in existing areas where residents live and work by requiring the funding of infrastructure for areas of new growth. HB 828 appears to impose a duty on state and county agencies to provide funding for infrastructure (water, sewer, schools, roads, etc.) to support the new development without requiring the beneficiaries of the new infrastructure to pay any of the costs they are imposing on other taxpayers. Mahalo for your consideration and opposition to this bad bill. Aloha, Stuart Coleman 2121 Algaroba St. Hon., HI 96826

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cullen4-Rachele

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 12:59 PM
To: waltestimony
Cc: vsc@hawaiiantel.net
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Victoria Cannon	Individual	Oppose	No

Comments: Please do not remove authority from Land Use Commission and give it to county councils.

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cullen4-Rachele

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 11, 2015 9:49 PM
To: waltestimony
Cc: waynetakamine@hawaii.rr.com
Subject: *Submitted testimony for HB828 on Feb 13, 2015 10:00AM*

HB828

Submitted on: 2/11/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Wayne Takamine	Individual	Oppose	No

Comments:

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Chair Yamane, Vice Chair Cullen, and Members of the Committee.

I oppose HB 828 because it is not in the public's best interest to politicize the Land Use Commission's process for amending state land use classification boundaries.

HB 828 requires the LUC to approve any district boundary amendment that is approved by a county council in any county general plan, development plan, or community plan.

HB 828 will gut the LUC, making it a rubber-stamp body for narrow county and private interests.

Developers cannot contribute money to Land Use Commissioners, but developers can – and do – contribute regularly to county council members, who would have authority over many boundary amendments if HB 828 passes.

HB 828 could result in the immediate, rapid urbanization of thousands of acres of conservation and agricultural land across the state because there are large tracts of land already approved for urbanization in plans that have not been approved by the LUC.

HB 828 would interfere with the LUC's affirmative duty to protect constitutionally recognized Native Hawaiian traditional and customary rights and public trust resources.

Many special places have been protected by the independent LUC and its fair process, including La'au Point on west Moloka'i, 'O'oma near Kaloko-Honokohau National Historical Park, Pohue Bay on the Big Island, and Keopuka next to Kealakekua Bay to name a few.

HB 828 will eliminate the deliberative, quasi-judicial process – sometimes referred to as contested case hearings – for many important boundary amendments that would come before the LUC.

Contested case hearings are the LUC's most important power. Contested case hearings are also one of the most valuable tools citizens, agencies, and businesses have to protect public trust resources.

HB 828 would result in effectively taking away much-needed funds to repair aging infrastructure in existing areas where residents live and work by requiring the funding of infrastructure for areas of new growth.

HB 828 appears to impose a duty on state and county agencies to provide funding for infrastructure (water, sewer, schools, roads, etc.) to support the new development without requiring the beneficiaries of the new infrastructure to pay any of the costs they are imposing on other taxpayers.

This testimony was written by the Conservation Council of Hawaii, but I agree with it 100%.

Lois Crozer
Kailua

House Committee on Water and Land
Re: House Bill 828 Relating to Land Use

Chair Yamane, Vice Chair Cullen, and Members of the Committee,

I oppose HB 828 for the following reasons:

1. It requires the taxpayer to support future infrastructure requirements related to boundary amendments. This could include the building or widening of roads, the expansion of wastewater/sewer systems, and the building of dams to maintain water availability.
2. Since the majority of land in the counties is designated conservation, conservation lands will be targeted for boundary changes. HB 828 is not clear on how conservation land, once transferred to the county councils, will be administered or protected. Presently the Office of Conservation and Coastal Lands (OCCL) oversees lands and beaches within the state and engages in permit processing, prosecution of land use violations, resolution of shoreline encroachments, administration of contested cases involving CDUP's etc. It is not clear that the transfer of decision making to the county councils would assure the continuation of these services.
3. HB 828 is similar to SB 1238 which abolishes the Land Use Commission and transfers its functions to the counties. By streamlining the reclassification of land, these bills, if passed, would promote the urbanization of state lands and allow for public/private partnerships such as transit oriented development (TOD) where zoning restrictions such as height and density limitations may not apply and the public has little input.

Sincerely,
Pauline Mac Neil

Chair Yamane, Vice Chair Cullen, and Committee Members:

I oppose HB 828 because:

- It would interfere with the LUC's duty to protect constitutionally recognized Native Hawaiian traditional and customary rights and public trust resources.
- It could result in immediate urbanization of thousands of acres of conservation and agricultural lands across the state because there are already large tracts of land already approved for urbanization in plans not yet approved by the LUC.
- It would essentially gut the LUC, making it a rubber stamp body for narrow county and private interests.

Please oppose this bill. Mahalo

William G. Gilmartin

11-3888 Sixth St.

Volcano, HI 96785

cullen4-Rachele

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 8:21 AM
To: waltestimony
Cc: MSMatson@hawaii.rr.com
Subject: *Submitted testimony for HB828 on Feb 13, 2015 10:00AM*

Follow Up Flag: Follow up
Flag Status: Flagged

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Matson	Individual	Oppose	No

Comments:

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LATE



HB828
RELATING TO LAND USE
House Committee on Water and Land

February 13, 2015

10:00 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB828. HB828 undermines Hawai'i's land use system and weakens the safeguards that protect our cultural and natural resources while permitting smart, planned growth. Any significant changes to our land use should be based upon supported needs and solutions should be narrowly targeted at addressing such needs, using processes already in place, rather than overhauling our land use system entirely. By almost entirely removing statewide oversight, and requiring only concurrence from the Land Use Commission, this bill would deprive the community of a meaningful opportunity for input in the reclassification of large parcels of land (more than 15 acres) and conservation land, and make it difficult for the Land Use Commission (LUC) to fulfill its affirmative duty to protect constitutionally-recognized Native Hawaiian traditional and customary rights.

Established Processes Exist to Review Land Use Classifications and Our Land Use System

OHA notes there are processes in place for the Office of Planning (OP) to re-evaluate both state land use districts, and the land use system more generally. **These inclusive, accessible, and transparent processes, discussed below, have the potential to address the policy concerns behind this measure, without abruptly overhauling our fundamental land use and planning laws:**

- **Periodic District Boundary Review:** Pursuant to Hawai'i Revised Statutes (HRS) Section 205-18, OP is tasked with periodically reviewing land classifications and districting, which includes review of applicable state, county, development, and community plans. OP is required to submit its findings to the LUC, and the LUC may then initiate boundary amendments as appropriate.
- **State Land Use Review Task Force:** OP is currently conducting a comprehensive review of Hawai'i's land use system, which includes soliciting input from the State, counties, developers, environmental groups, the legislature, and the general public by 1) holding regular meetings with the State Land Use Review Task Force, which includes state and county agencies as well as OHA; and 2) holding additional stakeholder meetings. **Before OP completes its written report of this comprehensive review, scheduled to be complete by the middle of 2015, any significant changes are premature and lack sufficient community, county, and state input.**

More Information Is Needed Before a Wholesale Abandonment of Our Land Use System

Opportunities to improve Hawai'i's critical land use system may exist, but should be targeted to the challenges identified through informed and reliable processes. In order to ensure that discussions related to proposed changes are supported by facts, comprehensive

information should be gathered about what is and is not working, for specific and identified challenges. **If, for instance, the state land use process is identified as limiting the development of affordable housing, then changes to the state land use system, if necessary, should be targeted to that particular challenge.** With regards to this particular issue, OHA notes that when developers partner with the Hawai‘i Housing Finance and Development Corporation, housing can be developed under HRS Section 201H-38 that may be exempt from statutes, ordinances, and rules relating to planning and zoning, in addition to other regulations. If the minimum requirements under HRS Chapter 201H are too burdensome to attract developers, then information should be gathered about possible amendments to administrative rules¹ and applicable statutes.

Statewide Oversight was Implemented for Important Reasons

Hawai‘i’s land use law was enacted in 1961 in response to population growth, rising land values, and the development of urban areas on prime agricultural land—realities that continue to challenge our state today. This bill significantly disrupts our two-tiered land use system by transferring the authority to reclassify large parcels of land (over 15 acres) and conservation land from the state to the counties. Under this bill, if a county plan includes a new area of urban growth, large tracks of land, including land in the conservation district, could be reclassified by county ordinance which, as discussed below, does not provide the same degree of public participation as the state level district boundary amendment process.

Importance of Public Participation to Native Hawaiian Rights

Although county planning processes provide opportunities for public input, such processes do not afford the same level of public participation as decision-making by the LUC. At LUC hearings on a district boundary amendment, people are specifically invited to provide information about an area’s history, resources, and prior land and water use. LUC proceedings also permit intervening parties to present their own arguments, experts, evidence, and witnesses, as well as the opportunity to cross-examine witnesses and experts of other parties. In the past, Native Hawaiian rights have been protected and asserted through these participation opportunities.

Under the Hawai‘i Constitution, the State has an affirmative duty to preserve and protect Native Hawaiian traditional and customary rights, while reasonably accommodating competing private interests. In *Ka Pa‘akai O Ka ‘Āina v. Land Use Commission*, the Hawai‘i Supreme Court stated that the LUC must *at a minimum* make specific findings and conclusions as to 1) the identity and scope of “valued, cultural, historical, or natural resources,” 2) the extent to which those resources – including Native Hawaiian traditional and customary rights – will be affected, and 3) the feasible action that the LUC can take to reasonably protect Native Hawaiian rights. While counties are also subject to the requirements of *Ka Pa‘akai*, it is not clear how such analyses will inform mitigation, conditions, and other feasible action to reasonably protect Native Hawaiian interests, if the final decision making authority rests with the county councils, which are legislative bodies. Moreover, a county council’s final decision on a petition for a boundary amendment is done by ordinance, and not subject to recourse if the boundary amendment substantially adversely affects Native Hawaiian traditional gathering, religious, and cultural practices. **The protection of Native Hawaiian cultural practices and cultural sites will be significantly diminished if Native Hawaiians are unable to bring claims to court as a last resort.**

In authorizing the “county land use decision-making authority” (*i.e.*, the county councils) to amend district boundaries by ordinance, HB828 essentially removes the LUC from the district boundary amendment process, except for its mere concurrence. **Without criteria in place to ensure that the LUC’s concurrence and the passing of county ordinances are conducted in a manner that satisfies the State’s affirmative duty to preserve and protect Native Hawaiian traditional and customary rights, this bill may substantially inhibit the LUC from fulfilling its constitutional obligations.** Particularly in cases where counties do not understand or fulfill their own obligations to protect such rights, and where public participation opportunities in county council processes are not as clearly defined or accessible, this may significantly increase the risk that Native Hawaiian traditional and customary practices will not be adequately protected.

Finally, the bill appears to impose duties on the State to automatically fund new development-related infrastructure without providing for alternative funding, as may be required in the LUC’s Decision and Order on a particular district boundary amendment petition. Accordingly, OHA urges the Committee to **HOLD** HB828. Mahalo for the opportunity to testify on this measure.

ⁱ Hawai‘i Administrative Rules § 15-307-26 provides that at least 50 per cent of total dwelling units shall be for very low, low, low-moderate, and moderate-income households to qualify as “primarily designed for lower income housing” under Hawai‘i Revised Statutes 201H-41.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

LATE

KIRK CALDWELL
MAYOR



GEORGE I. ATTA, FAICP
DIRECTOR
ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

February 13, 2015

The Honorable Ryan I. Yamane, Chair
and Members of the Committee on Water & Land
Hawaii House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Yamane and Committee Members:

Subject: House Bill No. 828
Relating to the Land Use Commission

The Department of Planning and Permitting (DPP) **supports the intent** of House Bill No. 828, which authorizes a new process for boundary amendments and calls for infrastructure agencies to prepare a prioritized budget for supporting infrastructure improvements within one year of the approval of the amendments. Although we support the intent of the Bill, we do have reservations as outlined below.

We support the streamlining of the boundary amendment process. However, the language of the Bill lacks necessary provisions on how the State Land Use Commission (LUC) takes a "concurrence" position. Can it concur with conditions? Can it offer "partial concurrence?" On what criteria does the LUC make its decision? Without these provisions, the boundary amendment process could remain the same quasi-judicial process as it is now.

There is some value in having a prioritized list of infrastructure improvements for land development projects associated with a boundary amendment. It would be helpful to know what the purpose is, as this is a problematic proposal. It would be difficult for infrastructure agencies to develop the requested budgets, since much of the information is not known at the time of boundary amendments. Critical subsequent approvals that will influence the specific improvements include county zone changes and subdivision approval. As part of these county approvals, master infrastructure plans are required, which would be finalized after the boundary amendment, not before. Moreover, the agencies would have to guess on the timing of the infrastructure against the developer's schedule, which could have a build-out schedule of many years.

The Honorable Ryan I. Yamane, Chair
and Members of the Committee on Water & Land
Hawaii House of Representatives
Hawaii State Capitol
RE: House Bill No. 828
February 13, 2015
Page 2

Other concerns include:

- The Bill does not differentiate between improvement projects to be constructed by an agency and those to be constructed by the private developer.
- Clarification on prioritization. Is this the prioritization, as viewed by the respective agency, or as preferred by the associated private development, or as adopted by county ordinance? If prioritization is defined as being adopted by the ordinance, then the one-year deadline will be extremely challenging.
- As each agency is required to file a separate report, the assumptions used by each agency in preparing the report may differ. This may lead to inconsistent and inappropriate cumulative findings.
- Who receives the prepared budgets and for what purpose?

In short, we support improvements to the boundary amendment process, but we have reservations with this Bill as written. We would be happy to work with you and help craft a bill that will meet the needs of both the City and the State.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in blue ink that reads "George I. Atta".

George I. Atta, FAICP
Director

GIA:ks



LATE

49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lww-hawaii.com | 808.531.7448 | voters@lwwhawaii.com

COMMITTEE ON WATER AND LAND

Friday, February 13, 2015 10:00 a.m., Room 325
HB 828 RELATING TO LAND USE

TESTIMONY

Karen Ah Mai, Legislative Committee, League of Women Voters of Hawaii

Chair Yamane, Vice-Chair Cullen, and Committee Members:

The League of Women Voters of Hawaii opposes HB828, relating to land use and changes to the role of the Land Use Commission

The League of Women Voters of Hawaii supports comprehensive planning as the basis for land use decisions and a device to insure coordination and cooperation between state and county planning. HB828 effectively subjugates State goals to county and community desires, eliminates State concerns, eliminates Native Hawaiian traditional and customary rights, and denies contested case hearings. Putting county and community plans in the priority position without State standards and guidelines leads to inconsistent implementation of land use policies and vulnerability of the process to developer pressure and local whims which may not serve the long-term good.

We urge you to hold this bill. Thank you for the opportunity to submit testimony.



LATE

**TESTIMONY OF MARTHA TOWNSEND
Executive Director of The Outdoor Circle**

**IN SUPPORT TO HB 828
relating to Land Use**

**before the
HOUSE COMMITTEE ON WATER AND LAND
Friday February 13, 2015 10 AM room 325**

Dear Chairman Yamane and members of the WAL Committee,

The Outdoor Circle strongly opposed HB 828, which weakens the Land Use Commission. Since 1912, The Outdoor Circle has worked tirelessly to keep Hawai'i "clean, green and beautiful" for all of our residents and visitors.

HB 828 should not be passed because it would politicize the Land Use Commission's process for amending state land use classification boundaries, which is not in the public's best interest.

HB 828 would require the LUC to approve any district boundary amendment that is approved by a county council in any county general plan, development plan, or community plan.

While developers cannot contribute money to Land Use Commissioners, developers can – and do – contribute regularly to county council members, who would have authority over many boundary amendments if HB 828 passes.

HB 828 could result in the immediate, rapid urbanization of thousands of acres of conservation and agricultural land across the state because there are large tracts of land already approved for urbanization in plans that have not been approved by the LUC.

HB 828 would interfere with the LUC's affirmative duty to protect constitutionally recognized Native Hawaiian traditional and customary rights and public trust resources.

Many special places have been protected by the independent LUC and its fair process, including Ka'olae in Lualualei Valley, La'au Point on west Moloka'i, 'O'oma near Kaloko-Honokohau National Historical Park, Pohue Bay on the Big Island, and Keopuka next to Kealakekua Bay to name a few.

HB 828 would eliminate the deliberative, quasi-judicial process – sometimes referred to as contested case hearings – for many important boundary amendments that would come before the LUC.

- MORE -

Contested case hearings are the LUC's most important power. Contested case hearings are also one of the most valuable tools citizens, agencies, and businesses have to protect public trust resources.

Because HB 828 appears to impose a requirement on state and county agencies to provide funding for infrastructure (water, sewer, schools, roads, etc.) to support new developments without requiring the beneficiaries of the new infrastructure to pay any of the costs they are imposing on other taxpayers.

HB 828 would result in effectively taking away much-needed funds to repair aging infrastructure in existing areas where residents live and work by requiring the funding of infrastructure for areas of new growth.

LATE

Kristin Stahl-Johnson
OceanPeople Resources
S. Judd Street
Honolulu, Hawaii 96817

February 12, 2015

House Committee on Water and Land
Hawaii State Legislature
Capitol Building
Beretania Street
Honolulu, Hawaii 96817

Chair Yamane, Vice Chair Cullen, and Members of the Committee.

I oppose HB 828 because it is not in the public's best interest to politicize the Land Use Commission's process for amending state land use classification boundaries. This is a critical public process.

HB 828 requires the LUC to approve any district boundary amendment that is approved by a county council in any county general plan, development plan, or community plan.

HB 828 will gut the LUC, making it a rubber-stamp body for narrow county and private interests.

Developers cannot contribute money to Land Use Commissioners, but developers can – and do – contribute regularly to county council members, who would have authority over many boundary amendments if HB 828 passes.

HB 828 could result in the immediate, rapid urbanization of thousands of acres of conservation and agricultural land across the state because there are large tracts of land already approved for urbanization in plans that have not been approved by the LUC.

HB 828 would interfere with the LUC's affirmative duty to protect constitutionally recognized Native Hawaiian traditional and customary rights and public trust resources.

Many special places have been protected by the independent LUC and its fair process, including La'au Point on west Moloka'i, 'O'oma near Kaloko-Honokohau National Historical Park, Pohue Bay on the Big Island, and Keopuka next to Kealakekua Bay to name a few.

HB 828 will eliminate the deliberative, quasi-judicial process – sometimes referred to as contested case hearings – for many important boundary amendments that would come before the LUC.

Contested case hearings are the LUC's most important power. Contested case hearings are also one of

the most valuable tools citizens, agencies, and businesses have to protect public trust resources.

HB 828 would result in effectively taking away much-needed funds to repair aging infrastructure in existing areas where residents live and work by requiring the funding of infrastructure for areas of new growth. We need adequate maintenance of current assets before new infrastructure.

HB 828 appears to impose a duty on state and county agencies to provide funding for infrastructure (water, sewer, schools, roads, etc.) to support the new development without requiring the beneficiaries of the new infrastructure to pay any of the costs they are imposing on other taxpayers. Absolutely no new development should ever be approved without imposing adequate fees on the investors to pay for the increased need for public services.

Thank you for eliminating HB 828 for any further consideration by the Legislature.

Sincerely,

Kristin L. Stahl-Johnson

LATE

cullen2-Sheila Marie

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 9:56 PM
To: waltestimony
Cc: kaloli.pt@gmail.com
Subject: *Submitted testimony for HB828 on Feb 13, 2015 10:00AM*

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ann Strong	Individual	Oppose	No

Comments:

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cullen2-Sheila Marie

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 13, 2015 1:03 AM
To: waltestimony
Cc: bdshafer@gmail.com
Subject: *Submitted testimony for HB828 on Feb 13, 2015 10:00AM*

HB828

Submitted on: 2/13/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ben Shafer	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 3:26 PM
To: waltestimony
Cc: bianca@kahea.org
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bianca Isaki	Individual	Oppose	No

Comments: I oppose HB 828 because it: Requires the LUC to agree to district boundary amendments that are in a county general plan, development plan, or community plan that has been approved by a county or city council Prevents the LUC from fulfilling its obligation to preserve and protect Hawaii's lands to ensure that state concerns are addressed and considered in the land use decision-making process Requires the LUC to ignore its obligation to protect public trust resources and constitutionally recognized Native Hawaiian traditional and customary rights Denies citizens the right to ask for a contested case hearing on county proposed and approved boundary amendments Requires "all agencies responsible for providing public infrastructure" to "prioritize funding" to support "planned growth" in county general plans, development plans, community plans and sustainable community plans

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cullen2-Sheila Marie

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 5:56 PM
To: waltestimony
Cc: evernw@aol.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Evern Williams	Individual	Oppose	No

Comments: I strongly oppose this bill. The Land Use Commission was put there to protect our precious aina. It is morally wrong for elected representatives of the people to take this important responsibility away by watering down the LUC's effectiveness.

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 8:55 PM
To: waltestimony
Cc: akamaimom@gmail.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Felicia Cowden	Individual	Oppose	No

Comments: I oppose HB8282 because it is an important speed bump in the taking of lands by developers. The removal of the LUC can result in rapid development. This is particularly important as the DLNR is potentially going to be headed by a developer. The LUC is a step further from the influences of donations. We need more restraint not less. Felicia Cowden Kilauea, Kauai

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 8:38 PM
To: waltestimony
Cc: jwjw9976@gmail.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jill S Williams	Individual	Oppose	No

Comments: Chair Yamane, Vice Chair Cullen, and Members of the Committee. I oppose HB 828 because it is not in the public’s best interest to politicize the Land Use Commission’s process for amending state land use classification boundaries. HB 828 requires the LUC to approve any district boundary amendment that is approved by a county council in any county general plan, development plan, or community plan. HB 828 will gut the LUC, making it a rubber-stamp body for narrow county and private interests. Developers cannot contribute money to Land Use Commissioners, but developers can – and do – contribute regularly to county council members, who would have authority over many boundary amendments if HB 828 passes. HB 828 could result in the immediate, rapid urbanization of thousands of acres of conservation and agricultural land across the state because there are large tracts of land already approved for urbanization in plans that have not been approved by the LUC. HB 828 would interfere with the LUC’s affirmative duty to protect constitutionally recognized Native Hawaiian traditional and customary rights and public trust resources. Many special places have been protected by the independent LUC and its fair process, including La’au Point on west Moloka’i, ‘O’oma near Kaloko-H onokohau National Historical Park, Pohue Bay on the Big Island, and Keopuka next to Kealakekua Bay to name a few. HB 828 will eliminate the deliberative, quasi-judicial process – sometimes referred to as contested case hearings – for many important boundary amendments that would come before the LUC. Contested case hearings are the LUC’s most important power. Contested case hearings are also one of the most valuable tools citizens, agencies, and businesses have to protect public trust resources. HB 828 would result in effectively taking away much-needed funds to repair aging infrastructure in existing areas where residents live and work by requiring the funding of infrastructure for areas of new growth. HB 828 appears to impose a duty on state and county agencies to provide funding for infrastructure (water, sewer, schools, roads, etc.) to support the new development without requiring the beneficiaries of the new infrastructure to pay any of the costs they are imposing on other taxpayers.

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LATE

cullen2-Sheila Marie

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 8:27 PM
To: waltestimony
Cc: ja@malu-aina.org
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jim Albertini	Malu 'Aina	Oppose	No

Comments: Our organization opposes HB 828. This bill would gut the LUC which is designed to protect the public interest and public trust resources. Mahalo. Jim Albertini

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LATE

HB 828
RELATING TO
LAND USE.

Report Title: Land Use; Boundary Amendments

Description: Upon approval by county land use decision-making authority, and with concurrence from Land Use Commission, requires boundary amendments reflected in certain plans to be adopted in accordance with such approved plans. Prioritizes funding for public infrastructure in areas of planned growth.

Chair Yamane, Vice Chair Cullen, and Members of the Committee.

I oppose HB 828 as the bill could result in the immediate, rapid urbanization of thousands of acres of conservation and agricultural land across the state - there are large tracts of land already approved for urbanization in plans that have not been approved by the LUC.

HB 828 appears to impose a duty on state and county agencies to provide funding for infrastructure (water, sewer, schools, roads, etc.) to support the new development without requiring the beneficiaries of the new infrastructure to pay any of the costs they are imposing on other taxpayers.

Eliminating the LUC would give a strong nod to rampant development and no voice to the community.

Malama aina,

Kathleen M. Pahinui
Waialua Resident

cullen2-Sheila Marie

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2015 6:31 PM
To: waltestimony
Cc: kshimata@hawaiiantel.net
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kathy Shimata	Individual	Oppose	No

Comments: Land is a very precious commodity in Hawaii. Please do not make it easier to develop our land. The L.U.C. serves a valuable & important purpose. Please oppose this bill. Thank you.

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cullen2-Sheila Marie

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Cc: 2kalkout@gmail.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kenneth A Likout	Individual	Oppose	No

Comments: HB 828 would interfere with the LUC's affirmative duty to protect constitutionally recognized Native Hawaiian traditional and customary rights and public trust resources.

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HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Kelly	Individual	Oppose	No

Comments: Chair Yamane, Vice Chair Cullen, and Members of the Committee. I submit testimony in opposition to HB 828. The LUC fulfills a public interest that is not a priority for county government and this bill does not serve the public interest. HB 828 would result in the immediate, rapid urbanization of thousands of acres of conservation and agricultural land across the state because there is no motivation for the counties to preserve agricultural and conservation lands, only increase the county tax base. Contested case hearings are the LUC's most important power. Contested case hearings are also one of the most valuable tools citizens, agencies, and businesses have to protect public trust resources. Thank you for the opportunity to testify and for your deferral of this damaging legislation

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cullen2-Sheila Marie

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Cc: hokuokekai50@msn.com
Subject: *Submitted testimony for HB828 on Feb 13, 2015 10:00AM*

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Lacques	Individual	Oppose	No

Comments:

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To: waltestimony
Cc: islandeyesvideo@yahoo.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/13/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Marvin Porter	Individual	Oppose	No

Comments: Aloha House Committee on Water & Land, I am opposed to HB 828. It would result in developers having too much control over the process and over development of the islands is more and more a problem. Mahalo, Mary Marvin Porter Island Eyes Video Hawai'i Island

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Sent: Thursday, February 12, 2015 3:31 PM
To: waltestimony
Cc: shannonkona@gmail.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Oppose	No

Comments: Oppose. A lot of things in this bill make me wary. What happened to the idea of writing bills in simple language that the average taxpayer can understand? Wasn't that a bill from previous years, that passed? It looks to me that this is a bill that would weaken the LUC and also somewhat limit public participation in important land use decisions that affect us all. I certainly hope any legislator who signs onto this bill understands the full implications of what it is trying to achieve, instead of blindly signing on to it.

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LATE

Testimony of
Sharon Y. Moriwaki

Before the

House Committee on Water and Land
Friday, February 13, 2015 at 10:00 a.m.
Conference Room 325

In Opposition of SB HB 828, Relating to Land Use

Chair Yamane, Vice Chair Cullen, and Members:

My name is Sharon Moriwaki. I am the associate director of the UH Mānoa Public Policy Center and was the principal investigator of the Hawai'i 2050 Sustainability Plan project, which supported the work of the task force that developed the vision, goals, and priorities for our state as it looked to ensuring Hawai'i's long-term sustainable future.

HB 828 amends chapter 205-4, HRS, to override long-standing state law and practice of land use decision-making relating to the state's public trust lands, including the infrastructure to preserve Hawai'i's precious lands for the long-term future of our island state. Specifically, it will require (by concurrence rather than by careful review as currently occurs) the Land Use Commission (LUC) to approve any district boundary amendment that is approved by a county council in any county general plan, development plan, or community plan thereby superseding the statewide long-range planning of our state's resources.

The proposed amendments undermine the sustainability policy adopted by the Legislature in 2011. Act 61 (2011) endorsed the sustainability of the state as a priority in chapter 226, HRS -- the Hawai'i State Plan, specifically, "encouraging planning that respects and promotes living within the natural resources and limits of the state."

It is not in the public's best interest nor in the long-term benefit to the state to have decisions on the use of public lands be made by narrow county and private interests rather than broader community and statewide public deliberation. Further, HB 828 would impede LUC's affirmative duty to protect constitutionally recognized Native Hawaiian traditional and customary rights and public trust resources, eliminate LUC's current fair and public procedures to determine land uses for public benefit, and effectively reduce funding for repairing aging existing infrastructure by redirecting funding instead to new areas of growth.

Based on the foregoing, I oppose HB 823 and respectfully request that the bill be filed.

Thank you for the opportunity to testify.

LATE

2801-N2 La-I Road
Honolulu, HI 96816
February 12, 2015

Re: Opposition to the Disgraceful HB 828

Chair Yamane, Vice Chair Cullen, and Members of the Committee:

I oppose HB 828 because it is not in the public's best interest to politicize the Land Use Commission's process for amending state land use classification boundaries. **HB 828 is an obvious breach of your fiscal responsibility, and a shameful, thinly veiled attempt by developers to co-opt the State's administrative processes for their own financial benefit.**

HB 828 requires the LUC to approve any district boundary amendment that is approved by a county council in any county general plan, development plan, or community plan.

HB 828 will gut the LUC, making it a rubber-stamp body for narrow county and private interests.

Developers cannot contribute money to Land Use Commissioners, but developers can – and do – contribute regularly to county council members, who would have authority over many boundary amendments if HB 828 passes.

HB 828 could result in the immediate, rapid urbanization of thousands of acres of conservation and agricultural land across the state because there are large tracts of land already approved for urbanization in plans that have not been approved by the LUC.

HB 828 would interfere with the LUC's affirmative duty to protect constitutionally recognized Native Hawaiian traditional and customary rights and public trust resources.

Many special places have been protected by the independent LUC and its fair process, including La'au Point on west Moloka'i, 'O'oma near Kaloko-Honokohau National Historical Park, Pohue Bay on the Big Island, and Keopuka next to Kealakekua Bay to name a few.

HB 828 will eliminate the deliberative, quasi-judicial process – sometimes referred to as contested case hearings – for many important boundary amendments that would come before the LUC.

Contested case hearings are the LUC's most important power. Contested case hearings are also one of the most valuable tools citizens, agencies, and businesses have to protect public trust resources.

HB 828 would result in effectively taking away much-needed funds to repair aging infrastructure in existing areas where residents live and work by requiring the funding of infrastructure for areas of new growth.

HB 828 appears to impose a duty on state and county agencies to provide funding for infrastructure (water, sewer, schools, roads, etc.) to support the new development without requiring the beneficiaries of the new infrastructure to pay any of the costs they are imposing on other taxpayers.

Sincere thanks,



cullen2-Sheila Marie

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Cc: verno@hawaii.rr.com
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HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Vernon Hinsvark	Individual	Oppose	No

Comments: I oppose HB 828. It is important to have State input to protect State assets. It is better to have delays that may be incurred to assure protection than risk harm to State assets that can be promoted by local interests.

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Cc: pohuku@yahoo.com
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HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Walter Rees	Individual	Oppose	No

Comments:

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To: waltestimony
Cc: anthuriumz@hotmail.com
Subject: Submitted testimony for HB828 on Feb 13, 2015 10:00AM

HB828

Submitted on: 2/12/2015

Testimony for WAL on Feb 13, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
wynnie hee	Individual	Oppose	No

Comments: please KILL this bill. Among other things it Prevents the LUC from fulfilling its obligation to preserve and protect Hawaii's lands to ensure that state concerns are addressed and considered in the land use decision-making process Requires the LUC to ignore its obligation to protect public trust resources and constitutionally recognized Native Hawaiian traditional and customary rights Denies citizens the right to ask for a contested case hearing on county proposed and approved boundary amendments

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LATE

February 13, 2015

Dear Chair Yamane, Vice Chair Cullen, and Members of the House Committee on Water and Land,

I am opposed to HB 828 “Relating to Land Use.” I am concerned about the ways in which this bill eviscerates the Land Use Commission as a layer of environmental protection. This reduction of the Land Use Commission to a rubber-stamping body has implications for conservation and agricultural lands, Hawaiian sacred places, and Kanaka ‘Ōiwi traditional and customary practices. This provision below is of particular concern to me:

(d) Any other provisions of law to the contrary notwithstanding, upon approval by ordinance by the appropriate county land use decision-making authority, and with concurrence from the land use commission, boundary amendments reflected in a county general plan, development plan, community plan, or sustainable community plan shall be adopted in accordance with the applicable approved plans. The land use commission shall not be required to take further action.

It is in the Land Use Commission contested case hearings that important work is done to protect public trust resources. If we rely only on the county land use decision-making authorities, we can see that that process is deeply flawed. First of all, developers cannot contribute money to Land Use Commissioners, but developers contribute regularly to county council members, who would have authority over many boundary amendments if HB 828 passes. Second, we can review the process of county land use decision-making: we know that for the City and County of Honolulu, the Director of the Department of Planning and Permitting can, by executive decision, select a map that promotes development over a map that promotes agricultural integrity for any sustainable communities plan. This has already happened in the case of the “Purple Spot” representing development in the middle of green agricultural land in the Wai‘anae Sustainable Communities Plan (WSCP). In this case, a former Director of the Planning Commission inserted a map into the Plan that supports the Nānākuli Community Baseyard (Tropic Land, LLC), which was opposed by a majority of the residents in Wai‘anae. When Tropic Land applied for a boundary amendment, the LUC denied the petition because the developer did not have a long-term easement for the road owned by the U.S. Navy that leads to the property. In this case and many others, including La‘au Point on west Moloka‘i, ‘O‘oma near Kaloko-Honokohau National Historical Park, Pohue Bay on the Big Island, and Keopuka next to Kealakekua Bay, the Land Use Commission has protected lands from poor planning and development proposals.

This bill tries to fast-track development projects and bypass important environmental review processes in ways that sounds all too much like the Public Land Development Corporation (PLDC), which provoked tremendous public opposition and was eventually abolished. We need the Land Use Commission to provide a review process that would

otherwise be lacking if the decisions are left to county land use decision-making authorities with the public having no recourse to quasi-judicial hearings in contested cases.

People in Hawai‘i need to be able to challenge proposed development projects that are harmful to their communities. Please kill HB 828.

Thank you for your consideration,

Candace Fujikane

Associate Professor of English at the University of Hawai‘i

KAHEA: The Hawaiian-Environmental Alliance, Board Member