

JAN 20 2017

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)-]~~ (g).

20 (d) Any other provisions of law to the contrary
21 notwithstanding, upon approval by ordinance by the appropriate

1 county land use decision-making authority, and with concurrence
2 from the land use commission, boundary amendments reflected in a
3 county general plan, development plan, community plan, or
4 sustainable community plan shall be adopted in accordance with
5 the applicable approved plans. The land use commission shall
6 not be required to take further action.

7 (e) Any other provisions of law to the contrary
8 notwithstanding, all agencies responsible for providing public
9 infrastructure to areas of planned growth subject to boundary
10 amendments adopted pursuant to subsection (d) shall prepare a
11 budget within one year of the effective date of the boundary
12 amendments, and the budget shall prioritize funding for all
13 infrastructure required to support the planned growth reflected
14 in the applicable approved county general plan, development
15 plan, community plan, or sustainable community plan.

16 [~~(d)~~] (f) Any other provisions of law to the contrary
17 notwithstanding, prior to hearing of a petition the commission
18 and its staff may view and inspect any land which is the subject
19 of the petition.



1 ~~(e)~~ (g) Any other provisions of law to the contrary
2 notwithstanding, agencies and persons may intervene in the
3 proceedings in accordance with this subsection.

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

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

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

19 (4) All other persons may apply to the commission for
20 leave to intervene as parties. Leave to intervene
21 shall be freely granted, provided that the commission



1 or its hearing officer if one is appointed may deny an
2 application to intervene when in the commission's or
3 hearing officer's sound discretion it appears that:

4 (A) the position of the applicant for intervention
5 concerning the proposed change is substantially the
6 same as the position of a party already admitted to
7 the proceeding; and (B) the admission of additional
8 parties will render the proceedings inefficient and
9 unmanageable. A person whose application to intervene
10 is denied may appeal such denial to the circuit court
11 pursuant to section 91-14.

12 (5) The commission shall pursuant to chapter 91 adopt
13 rules governing the intervention of agencies and
14 persons under this subsection. Such rules shall
15 without limitation establish: (A) the information to
16 be set forth in any application for intervention; (B)
17 time limits within which such applications shall be
18 filed; and (C) reasonable filing fees to accompany
19 such applications.

20 [~~f~~] (h) Together with other witnesses that the
21 commission may desire to hear at the hearing, it shall allow a



1 representative of a citizen or a community group to testify who
2 indicates a desire to express the view of such citizen or
3 community group concerning the proposed boundary change.

4 ~~[(g)]~~ (i) Within a period of not more than three hundred
5 sixty-five days after the proper filing of a petition, unless
6 otherwise ordered by a court, or unless a time extension, which
7 shall not exceed ninety days, is established by a two-thirds
8 vote of the members of the commission, the commission, by filing
9 findings of fact and conclusions of law, shall act to approve
10 the petition, deny the petition, or to modify the petition by
11 imposing conditions necessary to uphold the intent and spirit of
12 this chapter or the policies and criteria established pursuant
13 to section 205-17 or to assure substantial compliance with
14 representations made by the petitioner in seeking a boundary
15 change. The commission may provide by condition that absent
16 substantial commencement of use of the land in accordance with
17 such representations, the commission shall issue and serve upon
18 the party bound by the condition an order to show cause why the
19 property should not revert to its former land use classification
20 or be changed to a more appropriate classification. Such



1 conditions, if any, shall run with the land and be recorded in
2 the bureau of conveyances.

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

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

17 ~~[(j)]~~ (l) At the hearing, all parties may enter into
18 appropriate stipulations as to findings of fact, conclusions of
19 law, and conditions of reclassification concerning the proposed
20 boundary change. The commission may but shall not be required
21 to approve such stipulations based on the evidence adduced."



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

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

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S.B. NO. 585

Report Title:

Land Use; Boundary Amendments

Description:

Requires boundary amendments reflected in certain county plans to be approved by a county land use decision-making authority, with concurrence but without further action of the Land Use Commission. For all areas of planned growth subject to such boundary amendments, requires agencies responsible for providing public infrastructure to prepare budgets that prioritize funding for public infrastructure in those areas of planned growth.

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

