

DAVID Y. IGE  
GOVERNOR



# LAND USE COMMISSION

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM  
OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT

DANIEL ORODENKER  
EXECUTIVE OFFICER

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February 4, 2022

Statement of  
**Daniel E. Orodenker**  
**Executive Officer**  
State Land Use Commission

Before the  
**House Committee on**  
**Water and Land**

Tuesday February 8, 2022  
9:00 AM  
State Capitol, Room 430 Virtual Video Conference

In consideration of  
**HB 1671**  
**RELATING TO LSB CLASSIFICATIONS AND RATINGS**

Chair Tarnas; Vice Chair Branco; and members of the House Committee on Water and Land:

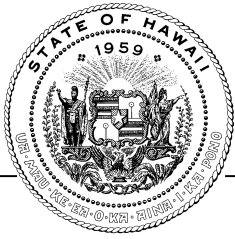
The Land Use Commission (“LUC”) supports HB 1671. The proposed measure establishes a temporary Land Study Bureau (“LSB”) classifications and ratings review subcommittee within the LUC to review and amend LSB classifications and ratings of agricultural lands.

Currently, there is no method to contest LSB ratings on specific parcels of land. In some instances, the LSB ratings have been proven inaccurate or outdated. This measure would provide a much needed mechanism for landowners to contest the LSB rating of their land and provide significant equity in the land use process.

The proposed committee is intended to be temporary and a “stop-gap” measure to handle the inequities in the LSB system until a new, more modern and comprehensive study can be performed and new ratings system adopted.

Thank you for the opportunity to testify on this matter





**STATE OF HAWAII  
OFFICE OF PLANNING  
& SUSTAINABLE DEVELOPMENT**

**DAVID Y. IGE**  
GOVERNOR

**MARY ALICE EVANS**  
DIRECTOR

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Statement of  
**MARY ALICE EVANS**  
Director, Office of Planning and Sustainable Development  
before the  
**HOUSE COMMITTEE ON WATER & LAND**  
Tuesday, February 8, 2022  
9:00 AM  
State Capitol, Conference Room 430 and Videoconference

in consideration of  
**HB 1671**  
**RELATING TO LAND STUDY BUREAU CLASSIFICATIONS AND RATINGS.**

Chair Tarnas, Vice Chair Branco, and Members of the House Committee on Water & Land.

The Office of Planning and Sustainable Development (OPSD) offers **comments** on HB 1671, which establishes a subcommittee within the Land Use Commission (LUC) to process petitions from State departments or agencies, county departments or agencies and any property owner to change or review all or a portion of the land study bureau (LSB) classification and rating of its agricultural lands, including lands designated or sought to designated as important agricultural lands.

OPSD understands the urgency of finding a way to accommodate changing agricultural needs, especially since the LSB system is outdated and imperfect. We also note that the subcommittee in HB 1671 would serve as a temporary measure until a new comprehensive agricultural classification and rating study can be undertaken.

However, OPSD prefers and recommends instead HB 1668, which would require OPSD to conduct a study of the LSB and other agricultural rating systems in consultation with the Department of Agriculture, College of Tropical Agriculture and Human Resources, the Land Use Commission, and with USDA. OPSD believes that a comprehensive review of the soils rating system is preferable and can be done efficiently based on current soil classification systems. This would help meet the State's food sustainability goals and enhance meeting current challenges in agricultural land usage and cultivation to preserve the best agricultural lands in the State for future generations.

Thank you for the opportunity to testify on this measure.

**HB-1671**

Submitted on: 2/6/2022 5:32:56 PM

Testimony for WAL on 2/8/2022 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Lorene Maki	Office of Planning and Sustainable Development	Comments	Yes

Comments:

Available for questions along with Rodney Funakoshi with OPSD.

**DAVID Y. IGE**  
Governor

**JOSH GREEN**  
Lt. Governor



**PHYLLIS SHIMABUKURO-GEISER**  
Chairperson, Board of Agriculture

**MORRIS M. ATTA**  
Deputy to the Chairperson

State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
1428 South King Street  
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**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON WATER AND LAND**

**TUESDAY, FEBRUARY 8, 2022  
9:00 A.M.  
VIA VIDEOCONFERENCE**

**HOUSE BILL NO. 1671  
RELATING TO LAND STUDY BUREAU CLASSIFICATIONS AND RATINGS**

Chairperson Tarnas and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 1671 that temporarily establishes the Land Study Bureau Classifications and Ratings Review Subcommittee within the Land Use Commission to review and amend Land Study Bureau (LSB) classifications and ratings of agricultural lands on a petition-by-petition basis. The Subcommittee is to be repealed at the end of a calendar year to be determined. The Department of Agriculture offers comments, concerns, and a recommendation.

This measure establishes a procedure wherein public and private landowners may seek to have their LSB ratings reviewed and amended based on current conditions. The Department anticipates a considerable number of petitions arising from the recent Land Use Commission decision to remand the petition identifying Oahu's potential Important Agricultural Lands back to the City and County of Honolulu. The Department does not have the professional staff resources to accommodate the procedural requirements described in the measure.



Further, the Department is concerned that reviewing and amending the LSB ratings and related characteristics will require full knowledge of the data gathered and the methodologies employed by the LSB over 60 years ago. Without this knowledge, it may be difficult for the LUC Subcommittee, staff, and participating agencies such as the Department of Agriculture to objectively conclude how new data and other findings provided by the petitioners will merit a change to a petitioned parcel's existing LSB overall productivity ratings and related characteristics.

The Department of Agriculture is concerned that implementing what is proposed in this measure will result in a piecemeal approach to updating the LSB rating system. Instead, we strongly support the comprehensive review proposed in House Bill 1668 that will study Hawaii's soil quality indexes such as the Land Study Bureau which have significant roles in land use regulation, identifying what agricultural production resources need to be protected, and help to optimize public and private investments that support food sustainability and overall local agricultural production.

Thank you for the opportunity to comment on this measure.

HB1671DRAFT\_AGR\_02-08-22\_WAL,FIN – LUC SUBCOMMITTEE TO CONSIDER  
PIECEMEAL UPDATES TO THE LSB

**HB-1671**

Submitted on: 2/7/2022 11:27:00 AM

Testimony for WAL on 2/8/2022 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Morris Atta	Hawaii Department of Agriculture	Comments	Yes

Comments:

I am available to answer questions on behalf of HDOA.

**HB-1671**

Submitted on: 2/7/2022 2:34:12 PM

Testimony for WAL on 2/8/2022 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
earl yamamoto	dept. of agriculture	Comments	Yes

Comments:

I will be testifying on behalf of the Department of Agriculture



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February 4, 2022

Statement of  
**Daniel E. Orodener**  
**Executive Officer**  
State Land Use Commission

Before the  
**House Committee on**  
**Water and Land**

Tuesday February 8, 2022  
9:00 AM  
State Capitol, Room 430 Virtual Video Conference

In consideration of  
**HB 1671**  
**RELATING TO LSB CLASSIFICATIONS AND RATINGS**

Chair Tarnas; Vice Chair Branco; and members of the House Committee on Water and Land:

The Land Use Commission (“LUC”) supports HB 1671. The proposed measure establishes a temporary Land Study Bureau (“LSB”) classifications and ratings review subcommittee within the LUC to review and amend LSB classifications and ratings of agricultural lands.

Currently, there is no method to contest LSB ratings on specific parcels of land. In some instances, the LSB ratings have been proven inaccurate or outdated. This measure would provide a much needed mechanism for landowners to contest the LSB rating of their land and provide significant equity in the land use process.

The proposed committee is intended to be temporary and a “stop-gap” measure to handle the inequities in the LSB system until a new, more modern and comprehensive study can be performed and new ratings system adopted.

Thank you for the opportunity to testify on this matter



# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
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To: House Committee on Water & Land

From: Cheryl Kakazu Park, Director

Date: February 8, 2022, 9:00 a.m.  
State Capitol, Conference Room 430 and Via Videoconference

Re: Testimony on H.B. No. 1671  
Relating to Land Study Bureau Classifications and Ratings

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Thank you for the opportunity to submit testimony on this bill, which would temporarily establish a Land Study Bureau Classifications and Ratings Review Subcommittee within the Land Use Commission to review and amend Land Study Bureau classifications and ratings of agricultural lands. The Office of Information Practices (OIP) takes no position on the substance of this bill, but offers comments and **technical amendments** on a provision exempting the proposed Subcommittee members from section 92-2.5, HRS, which allows members of a board subject to the Sunshine Law (part I of chapter 92, HRS) to discuss board business outside a meeting in certain circumstances.

It appears this Subcommittee will hold hearings on contested cases regarding the classification of agricultural lands. While section 92-6 of the Sunshine Law generally exempts from the Sunshine Law the exercise of a board's adjudicatory functions, *i.e.*, its contested cases, the Land Use Commission's adjudicatory functions are nonetheless specifically required to be subject to the Sunshine Law. **The Subcommittee, as a part of the Land Use Commission,**

**would thus be required to conduct even its contested cases under the Sunshine Law unless statutorily exempted from doing so.**

Contested case hearings are already subject to a separate set of notice and access requirements as set out in chapter 91, so OIP views the question of whether to also subject specific contested cases to the Sunshine Law's standards as a policy question for the Legislature to resolve. OIP thus does not object to the proposed exemption of most of the Subcommittee's work from the Sunshine Law. However, **as a technical matter, the exemption set out in this bill would not actually exempt the Committee from the Sunshine Law, but only from the ability to use the law's permitted interactions, which are actually exceptions to the general rule that board members may only discuss board business in a Sunshine Law meeting. By exempting the Subcommittee from the permitted interactions, this proposal would arguably bar the Subcommittee members from talking about Subcommittee business outside a Sunshine Law meeting at all, which seems to be the opposite of the bill's intent.**

**If the Committee's intent is to exempt the Subcommittee's work from the Sunshine Law, subject to the proviso in the bill that final decisions must be included in a meeting notice and subject to public comment, OIP recommends amending the provision at bill page 3, lines 1-10, to instead reference section 92-6, HRS. Specifically, the reference in line 9 to "section 92-12 2.5" should instead be to "part I of chapter 92;" and bill page 3, lines 1-3 should read:**

**Notwithstanding section 92-6(b), the subcommittee members' work shall be a quasi-judicial function exempted from part I of chapter 92 by section 92-6(a); provided that any decisions are:**

House Committee on Water & Land  
February 8, 2022  
Page 3 of 3

Thank you for considering OIP's testimony.



HOUSE COMMITTEE ON WATER AND LAND

Tuesday, February 8, 2022, 9 am, Conference Room 430 & Videoconference  
HB 1671

Relating to Land Study Bureau Classifications and Ratings

**TESTIMONY**

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Tarnas and Committee Members:

The League takes no position concerning the HB 1671 proposal to create a “subcommittee” of the State Land Use Commission to make decisions on petitions to change or review Land Study Bureau classification and rating of agricultural lands. However, because the proposed “subcommittee” will not function as an over-sized “permitted interaction group” under §92-2.5, Hawaii Revised Statutes, the League strongly recommends amending HB 1671 so that normal Chapter 92 requirements for board meeting (i.e. meeting notice, agenda, board packets, quorum, public testimony, minutes) clearly apply to “subcommittee” meetings.

Thank you for the opportunity to submit testimony.



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February 8, 2022

HEARING BEFORE THE  
HOUSE COMMITTEE ON WATER & LAND

**TESTIMONY ON HB 1671**  
RELATING TO LAND STUDY BUREAU CLASSIFICATIONS AND RATINGS

Conference Room 430 & Videoconference  
9:00 AM

Aloha Chair Tarnas, Vice-Chair Branco, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

**The Hawaii Farm Bureau provides comments on HB 1671**, which temporarily establishes the land study bureau classifications and ratings review subcommittee within the land use commission to review and amend land study bureau classifications and ratings of agricultural lands.

HFB recognizes that in the land category system used today, agriculture was originally the catchall land classification and that some lands included within the agricultural district were not necessarily considered optimal for agriculture.

However, agriculture has significantly evolved. Soil classification is no longer the only determinant of land good for agriculture. Greenhouses, hydroponics, aquaculture, and aquaponics are just a few of the many types of agriculture that can occur on *all* classes of land (A, B, C, D, E). Some of the best floriculture and hydroponic operations in Hawaii are on C, D, and E lands. The total environment, including rainfall amount and timing, day and night-time temperatures, wind, and humidity each contribute to whether a particular region is suitable for a specific crop. In many cases, the soil type and even the existing terrain are not determinative of whether farming can exist and thrive.

Thank you for this opportunity to testify on this important subject.

**HB-1671**

Submitted on: 2/7/2022 7:56:09 AM

Testimony for WAL on 2/8/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Hunter Heavilin	Supersistence	Support	Yes

Comments:

Aloha Chair Tarnas, Vice Chair Branco, and committee members,

My name is Hunter Heavilin and I am a food and agriculture system consultant working across the state. My firm focuses on data driven planning and policy for government, non-profit, and market actors. I am **testifying in support of HB1671 and providing comments.**

As this bill notes, the existing LSB productivity classifications are 50 years old and, due to their importance in state and county land use decisions, are certainly due for an update.

Previous update efforts, such as [HB1120 \(2014\)](#), sought also to asses ‘potential alternative systems of classifying and regulating agricultural lands’.

Adding to such analysis **I ask that this bill be amended to also require investigation of classification approaches that consider multifunctional capacity of our working lands.**

As climate change impacts are becoming acute, frequent, and disruptive, we need to court ideas at the scale of our problems. Coordinated multifunctional agricultural landscape planning is one such approach.

An agricultural land assessment for the 21st century needs to articulate the multiple visions of local farming, outline the manifold services agriculture can provide and enable defining key areas for agricultural protection and development. Environmental factors like soil and climate should be paired with modeled outputs from climate change crop suitability, fire patterns, critical hydrological function areas, etc. Beyond soil capacity for agricultural output, a robust classification approach needs to consider various land traits and capacities.

Assessment that considers these facets will further the ability of land use decision-making to weigh social, environmental, and economic outcomes and goals. A downstream potential of such a revision to our land use considerations is that state land acquisition and leasing can weigh the values of a proposed use against manifold public benefits.

In short, to persevere and maintain our working lands, we need mechanisms that consider not just productive capacity but the potential outcomes of use. Leasing state lands for the agricultural equivalent of strip-mining reduces our collective capacity to meet our articulated food self-



sufficiency goals. Any review of LSB classifications should consider the complexity of land function beyond that of just agricultural output.

Mahalo for the opportunity to testify.

-Hunter Heavilin

Food & Agricultural Systems Planner, Supersistence