

DAVID Y. IGE
GOVERNOR



LAND USE COMMISSION

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

DANIEL ORODENKER
EXECUTIVE OFFICER

235 S. Beretania Street, RM 406, Honolulu, Hawai'i 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawai'i 96804
Email Address: dbedt.luc.web@hawaii.gov

Telephone: (808) 587-3822
Fax: (808) 587-3827
Website: luc.hawaii.gov

March 29, 2022

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

Before the
**House Committee on
Finance**

Thursday March 31, 2022
1:30 PM
State Capitol, Room 308 Virtual Video Conference

In consideration of
SB 2766 SD1
RELATING TO LAND USE

Chair Luke; Vice Chair Yamashita; and members of the House Committee on Finance:

The Land Use Commission (“LUC”) opposes SB 2766 SD1. The proposed SD1 requires the Office of Planning and Sustainable Development (“OPSD”) to perform a study to refine Rural District policies and make recommendations to facilitate the reclassification of lands from the State Agricultural District to the State Rural District.

The LUC has long been on the forefront of trying to resolve issues associated with State Agricultural lands that are de-facto rural. The LUC believes that it would be more productive and cost effective to have the counties make recommendations to the LUC with regard to what lands should be re-designated rather than have OPSD perform an unnecessary study. The counties are better suited to undertake an examination of this type and its recommendations are more likely to be consistent with general plans and community expectations. In this way, planned rural growth boundaries can be maintained by the counties and they can better assess where to spend time and money on infrastructure.

Having OPSD, which is not grounded in the community, re-invent the wheel does not make fiscal or practical sense.

Thank you for the opportunity to testify on this matter.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 2766, S.D. 1

**March 31, 2022
1:30 p.m.
Room 308 and Videoconference**

RELATING TO LAND USE

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2766, S.D. 1, requires the Office of Planning and Sustainable Development (OPSD) to conduct a study to refine rural district policies and make recommendations to facilitate the reclassification of lands from the agricultural district to the rural district; requires OPSD to provide a report to the Legislature; and appropriates an unspecified amount of general funds for FY 23 to conduct the study.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and

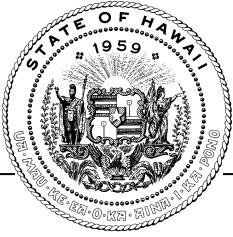
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



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

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <https://planning.hawaii.gov/>

Statement of
MARY ALICE EVANS
Director, Office of Planning and Sustainable Development
before the
HOUSE COMMITTEE ON FINANCE
Thursday, March 31, 2022
1:30 PM
State Capitol, Conference Room 308 and via Videoconference

in consideration of
SB 2766 SD1
RELATING TO LAND USE.

Chair Luke, Vice Chair Yamashita, and Members of the House Committee on Finance.

The Office of Planning and Sustainable Development (OPSD) **strongly supports** SB 2766 SD1 which requires the OPSD to perform a study to refine Rural District policies and make recommendations to facilitate the reclassification of lands from the State Agricultural District to the Rural District.

The Act 278 Subdivision and CPR on Agricultural Lands stakeholders group which was authorized by the Legislature in 2019 concluded its meetings this past year. During the discussions, many members expressed the need to make better use of the State Rural District. Currently, there are only 10,454 acres in the Rural District, amounting to only 0.3 percent of all lands in the State, and there are no Rural District lands on Oahu. A subsequent meeting with the county planning departments confirmed this need.

Importantly, greater use of the Rural District would distinguish rural communities and subsistence farms from working or commercial agricultural lands and allow better protection of productive agricultural lands. Redefinition and expansion of the Rural District would promote better land use management of existing rural settlements and rural centers and residential dwellings engaged in subsistence or family agriculture, which are not explicitly permitted in the Agricultural District.

OPSD recommends that \$400,000 be appropriated to undertake the Rural District study, provided that the bill's passage does not replace or adversely impact priorities indicated in our Executive Budget. We envision this study to involve GIS analysis of potential Rural areas, Rural policy research and formulation including best practices from elsewhere, extensive stakeholder group consultations, and legal analysis of options to facilitate redistricting, including the Hawaii Supreme Court's Town case, due process, and quasi-legislative decision-making.

Thank you for this opportunity to testify.

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
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON FINANCE

**THURSDAY, MARCH 31, 2022
1:30 P.M.
VIA VIDEOCONFERENCE**

**SENATE BILL NO. 2766, SD1
RELATING TO LAND USE**

Chairperson Luke and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2766, SD1 that requires the Office of Planning and Sustainable Development to perform a study to refine Rural District policies and make recommendations to facilitate the reclassification of lands from the Agricultural District to the Rural District.

The Department of Agriculture supports this measure that seeks to enable better protection of productive agricultural lands from “lifestyle farms” and rural-like community development. We look forward to assisting the Office of Planning and Sustainable Development in undertaking this important study.

Thank you for the opportunity to testify on this important measure.



SB-2766-SD-1

Submitted on: 3/31/2022 9:47:21 AM

Testimony for FIN on 3/31/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Scott Derrickson	State Land Use Commission	Oppose	Remotely Via Zoom

Comments:

The LUC has submitted written testimony previously and will be available for questions.



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

March 31, 2022

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON SB 2766, SD1
RELATING TO LAND USE

Room 308 & Videoconference
1:30 PM

Aloha Chair Luke, Vice-Chair Yamashita, and Members of the Committee:

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

The Hawai'i Farm Bureau supports SB 2766, SD1, which requires the office of planning and sustainable development to perform a study to refine rural district policies and make recommendations to facilitate the reclassification of lands from the agricultural district to the rural district.

The rural land use classification district was developed to serve as the interface between agriculture and urban land uses. In rural, agriculture is a choice, not a requirement and those who live in the area are expected to accept the nuisance aspects of agriculture while having the advantages of lower taxes. In most areas of the country, rural classification also translates to reduced infrastructure e.g. sidewalks or street lights. After all, you are in a rural area ...not a residential city.

Hawai'i's use of rural is limited across the state and frowned upon by some. This leads to difficulties as it forces agriculture to directly interface with the urban district resulting in conflicts. It also results in people creatively farming to ensure that they can retain their reduced property tax rates and counties needing to spend time inspecting properties to check if legitimate farming was being conducted.

The intent of this measure seeks to reduce the incidence of "fake farms". We should not forget agriculture was a default land use classification. It did not intentionally classify lands as agriculture that were suitable for production. Hence, wide expanses of lava lands or hilly and rocky lands are classified as agriculture. To address this problem, a

one-time reclassification of agricultural lands to rural seems reasonable. On these lands, agriculture is a choice, not a requirement. Lands can be dedicated to agricultural use for agricultural benefits. However, agriculture is not a requirement and residents can have larger lots without going through the effort of pretending to farm.

Thank you for the opportunity to provide testimony on this measure.



March 30, 2022

Representative Sylvia Luke, Chair
Representative Kyle T. Yamashita, Vice Chair
House Committee on Finance

Comments in Support Amendments to SB 2766, SD1, RELATING TO RURAL DISTRICTS (Requires the Office of Planning and Sustainable Development to perform a study to refine rural district policies and make recommendations to facilitate the reclassification of lands from the agricultural district to the rural district. Requires reports to the Legislature. Appropriates funds. Takes effect 7/1/2050. [SD1])

**Wednesday, March 17, 2022, 8:30 am
VIA VIDEOCONFERENCE; Conference Room 430**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, and utility companies. LURF's mission is to advocate for reasonable, rational, and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to express its **comments in support of SB 2766, SD1 and a proposed amendment to establish a rural lands advisory group.**

SB 2766, SD1. This measure requires the Office of Planning and Sustainable Development to perform a study to refine rural district policies and make recommendations to facilitate the reclassification of lands from the agricultural district to the rural district; requires reports to the Legislature; and appropriates funds for OPSD to complete the study.

LURF's Position. LURF supports SB 2766, SD1, **with a proposed amendment to establish a rural lands advisory group.** While SB 2766, SD1 already requires OPSD to engage community stakeholders, we respectfully recommend the **following amendment to create and formalize a working group to include relevant stakeholders:**

SECTION 3. In performing the study required by this Act, the office of planning and sustainable development shall coordinate its efforts with the land use commission, department of agriculture, and county planning departments. The office of planning and sustainable development shall establish and engage an advisory group, which may consist of relevant state, county and federal agencies, and community stakeholders, including farming, ranching, and agricultural interests, agricultural landowners, business, environmental organizations, native Hawaiian organizations, planning organizations, and community groups [~~and interested members of the general public~~], in the development of study recommendations.

Background. LURF members include agricultural property owners, farming, ranching, and agricultural operators who own, maintain, and engage in agricultural enterprises, and who consider efforts to protect and support agriculture significant to the continued conduct of their operations and to help sustain and preserve farming and ranching businesses into the future. In 2005, the Hawaii Farm Bureau and LURF were the principal proponents of the Important Agricultural Lands (IAL) law, which allowed the identification and designation of IAL to support the viability of agricultural uses on good agricultural lands as a long-term way to ensure that those lands remain in agricultural use. The objective of IAL is to identify and plan for the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income, job opportunities, and increase agricultural self-sufficiency for current and future generations.

Also in 2005, recognizing that some lands currently in the State agricultural district are not suitable for agricultural production, the Farm Bureau and LURF also supported Act 205 (SLH 2005), which facilitated the redefining, expansion, and enhancement of uses in the rural district by allowing the counties to work with the Land Use Commission to recommend rural district amendments; and to form an advisory group to review the processes for redefining rural districts and creating appropriate rural standards for boundary reviews.

LURF **supports SB 2766, SD1** this measure because it will promote better land use management by allowing rural dwellings, family and subsistence farming, and rural communities on lands that are not IAL, and are not suitable for commercial agricultural production; and respectfully urges your favorable consideration of the **proposed amendment to establish a rural lands advisory group.**

Thank you for the opportunity to provide comments in support of this measure.

SB-2766-SD-1

Submitted on: 3/28/2022 9:12:17 PM

Testimony for FIN on 3/31/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

We the people want the clasification to Remain AG. We will not Accept any thing Else we do not want to be Rural. We are ths nes that will be affected not You. We know who you are and Elections are right around the Corner!!

SB-2766-SD-1

Submitted on: 3/29/2022 10:37:48 AM

Testimony for FIN on 3/31/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
James McCully	Individual	Support	Written Testimony Only

Comments:

Chair Luke and House Committee Finance

Aloha Sylvia,

I write in Strong Support of SB2766, Relating to Land Use and the facilitation of law and policies towards transitioning lands from the Agricultural designation to Rural. The mere fact that 0.3 % of our lands are in the Rural designation is an explicit criticism of our inability to rationalise land use boundaries to reflect actual usage.

Public policy rarely changes without a clear "client" who advocates for the change. In this instance we are requesting a legislative mandate and funding for a study to report and advise on the actual land use patterns. This will allow the Office of Planning and Sustainability to take the lead on this issue and provide a finding upon which we can begin the long overdue Boundary Amendments as required by state land use law.

Eventually, with additional statutory reform, the legislature could provide the structure so that the actual land use patterns fit within the regulatory framework. Yes, this is backwards, but here we are with a chance to get pointed in the right direction.

This would be to the benefit of the existing rural communities that were only able to come into existence (under current land use laws) as "agricultural" developments.

Mahalo, Jim McCully