

JAN 15 2025

A BILL FOR AN ACT

RELATING TO PUBLIC NOTICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. The legislature finds that the State's
3 construction permitting process should be more transparent. In
4 some cases, affected neighborhoods and communities have not been
5 adequately informed about a project's impacts on health and
6 safety, cultural practices, wildlife, the ecosystem, or the
7 environment. The protests that occurred in response to the
8 Kahuku windmill project, Thirty Meter Telescope, and other
9 construction projects demonstrated the consequences of foregoing
10 community involvement and input.

11 Accordingly, the purpose of this Act is to encourage
12 transparency by requiring the department of Hawaiian home lands,
13 department of land and natural resources, and university of
14 Hawaii to inform and obtain the approval of affected
15 neighborhoods and cultural communities before proceeding with
16 certain construction projects.



PART II

SECTION 2. Hawaiian Homes Commission Act, 1920, as amended, is amended by adding a new section to read as follows:

"§ Land use; enhanced public notice requirements; referendum. (a) For each project involving a change in land use by the commission, the commission shall:

(1) Within thirty days of filing a permit application, provide public notice pursuant to subsection (b) and as otherwise required by law;

(2) Within four months of filing a permit application, conduct no fewer than three public meetings or hearings. Notice of the public meetings or hearings shall be made pursuant to subsection (b) and as otherwise required by law; and

(3) Before proceeding with the project, obtain the community's approval of the project through a referendum. Notice of the referendum shall be made pursuant to subsection (b) and as otherwise required by law. All adult residents of parcels within five miles of any portion of the proposed project shall be eligible to vote on the referendum. Any proposed



1 project that does not receive approval by a majority
2 of the votes cast shall be denied; provided that any
3 blank, spoiled, or invalid ballot shall not be tallied
4 as a vote cast. The office of elections shall assist
5 the commission in conducting the referendum and may
6 adopt rules pursuant to chapter 91, Hawaii Revised
7 Statutes, to effectuate the purposes of this section.
8 The rules may authorize referendum voting to be
9 conducted by mail. All costs associated with the
10 referendum shall be borne by the commission.

11 (b) In addition to any other requirements provided by law
12 or rule, public notice for purposes of subsection (a) shall be
13 provided by:

- 14 (1) Publishing once a week for four successive weeks in a
15 newspaper of general circulation serving areas within
16 five miles of the proposed project;
17 (2) Mailing notice to each residence within five miles of
18 the proposed project;
19 (3) Posting notice in multiple publicly accessible
20 locations at the proposed project site, if any; and



1 by law. All adult residents of parcels within five
2 miles of any portion of the proposed project shall be
3 eligible to vote on the referendum. Any proposed
4 project that does not receive approval by a majority
5 of the votes cast shall be denied; provided that any
6 blank, spoiled, or invalid ballot shall not be tallied
7 as a vote cast. The office of elections shall assist
8 the department in conducting the referendum and may
9 adopt rules pursuant to chapter 91, Hawaii Revised
10 Statutes, to effectuate the purposes of this section.
11 The rules may authorize referendum voting to be
12 conducted by mail. All costs associated with the
13 referendum shall be borne by the department.

14 (b) In addition to any other requirements provided by law
15 or rule, public notice for purposes of subsection (a) shall be
16 provided by:

- 17 (1) Publishing once a week for four successive weeks in a
18 newspaper of general circulation serving areas within
19 five miles of the proposed project;
20 (2) Mailing notice to each residence within five miles of
21 the proposed project;



- 1 (3) Posting notice in multiple publicly accessible
- 2 locations at the proposed project site, if any; and
- 3 (4) Posting notice on an easily accessible page of the
- 4 department's website."

PART IV

6 SECTION 4. Section 205-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§205-4 Amendments to district boundaries involving land**
9 **areas greater than fifteen acres.** (a) Any department or agency
10 of the State, any department or agency of the county in which
11 the land is situated, or any person with a property interest in
12 the land sought to be reclassified, may petition the land use
13 commission for a change in the boundary of a district. This
14 section applies to all petitions for changes in district
15 boundaries of lands within conservation districts, lands
16 designated or sought to be designated as important agricultural
17 lands, and lands greater than fifteen acres in the agricultural,
18 rural, and urban districts, except as provided in section
19 201H-38. The land use commission shall adopt rules pursuant to
20 chapter 91 to implement section 201H-38.



1 (b) Upon proper filing of a petition pursuant to
2 subsection (a) the commission shall, within not less than sixty
3 and not more than one hundred and eighty days, conduct a hearing
4 on the appropriate island in accordance with the provisions of
5 sections 91-9, 91-10, 91-11, 91-12, and 91-13, as applicable.

6 (c) Any other provision of law to the contrary
7 notwithstanding, notice of the hearing together with a copy of
8 the petition shall be served on the county planning commission
9 and the county planning department of the county in which the
10 land is located and all persons with a property interest in the
11 land as recorded in the county's real property tax records. In
12 addition, notice of the hearing shall be mailed to all persons
13 who have made a timely written request for advance notice of
14 boundary amendment proceedings[~~, and public~~] and each residence
15 within five miles of the land sought to be reclassified. Public
16 notice shall be given at least once in the county in which the
17 land sought to be [~~redistricted~~] reclassified is situated as
18 well as once statewide at least thirty days in advance of the
19 hearing. Notice shall also be posted in multiple publicly
20 accessible locations on the land sought to be reclassified, if
21 any, and on an easily accessible page of the commission's



1 website. The notice shall comply with section 91-9, shall
2 indicate the time and place that maps showing the proposed
3 district boundary may be inspected, and further shall inform all
4 interested persons of their rights under subsection (e).

5 (d) Any other provisions of law to the contrary
6 notwithstanding, prior to hearing of a petition the commission
7 and its staff may view and inspect any land [~~which~~] that is the
8 subject of the petition.

9 (e) Any other provisions of law to the contrary
10 notwithstanding, agencies and persons may intervene in the
11 proceedings in accordance with this subsection.

12 (1) The petitioner, the office of planning and sustainable
13 development, and the county planning department shall
14 in every case appear as parties and make
15 recommendations relative to the proposed boundary
16 change;

17 (2) All departments and agencies of the State and of the
18 county in which the land is situated shall be admitted
19 as parties upon timely application for intervention;

20 (3) All persons who have some property interest in the
21 land, who lawfully reside on the land, or who



1 otherwise can demonstrate that they will be so
2 directly and immediately affected by the proposed
3 change that their interest in the proceeding is
4 clearly distinguishable from that of the general
5 public shall be admitted as parties upon timely
6 application for intervention;

7 (4) All other persons may apply to the commission for
8 leave to intervene as parties. Leave to intervene
9 shall be freely granted; provided that the commission
10 or its hearing officer, if one is appointed, may deny
11 an application to intervene when in the commission's
12 or hearing officer's sound discretion it appears that:

13 (A) The position of the applicant for intervention
14 concerning the proposed change is substantially
15 the same as the position of a party already
16 admitted to the proceeding; and

17 (B) The admission of additional parties will render
18 the proceedings inefficient and unmanageable.

19 A person whose application to intervene is denied may
20 appeal the denial to the circuit court pursuant to
21 section 91-14; and



1 (5) The commission, pursuant to chapter 91, shall adopt
2 rules governing the intervention of agencies and
3 persons under this subsection. The rules shall
4 without limitation establish:

5 (A) The information to be set forth in any
6 application for intervention;

7 (B) The limits within which applications shall be
8 filed; and

9 (C) Reasonable filing fees to accompany applications.

10 (f) Together with other witnesses that the commission may
11 desire to hear at the hearing, it shall allow a representative
12 of a citizen or a community group to testify who indicates a
13 desire to express the view of [~~such~~] that citizen or community
14 group concerning the proposed boundary change.

15 (g) If at any time prior to or during the hearing, a
16 representative of a citizen or community group, the petitioner,
17 a party, or an intervenor requests that the commission obtain
18 the community's approval of the proposed boundary change, the
19 commission shall conduct a referendum. Notice of the referendum
20 shall be mailed to any person, entity, or residence entitled to
21 receive notice pursuant to subsection (c) and shall be posted in



1 the same manner as notices pursuant to subsection (c). All
2 adult residents of parcels within five miles of any portion of
3 the land sought to be reclassified shall be eligible to vote on
4 the referendum. Any proposed boundary change that does not
5 receive approval by a majority of votes cast shall be denied;
6 provided that any blank, spoiled, or invalid ballot shall not be
7 tallied as a vote cast. The office of elections shall assist
8 the commission in conducting the referendum and may adopt rules
9 pursuant to chapter 91 to effectuate the purposes of this
10 section. The rules may authorize referendum voting to be
11 conducted by mail. All costs associated with the referendum
12 shall be borne by the commission.

13 [~~(g)~~] (h) Within a period of not more than three hundred
14 sixty-five days after the proper filing of a petition, unless
15 otherwise ordered by a court, or unless a time extension, which
16 shall not exceed ninety days, is established by a two-thirds
17 vote of the members of the commission, the commission, by filing
18 findings of fact and conclusions of law, shall act to approve
19 the petition, deny the petition, or to modify the petition by
20 imposing conditions necessary to uphold the intent and spirit of
21 this chapter or the policies and criteria established pursuant



1 to section 205-17 or to assure substantial compliance with
2 representations made by the petitioner in seeking a boundary
3 change. The commission may provide by condition that absent
4 substantial commencement of use of the land in accordance with
5 such representations, the commission shall issue and serve upon
6 the party bound by the condition an order to show cause why the
7 property should not revert to its former land use classification
8 or be changed to a more appropriate classification. [~~Such~~] The
9 conditions, if any, shall run with the land and be recorded in
10 the bureau of conveyances.

11 [~~(h)~~] (i) No amendment of a land use district boundary
12 shall be approved unless the commission finds upon the clear
13 preponderance of the evidence that the proposed boundary is
14 reasonable, not violative of section 205-2 and part III of this
15 chapter, and consistent with the policies and criteria
16 established pursuant to sections 205-16 and 205-17. Six
17 affirmative votes of the commission shall be necessary for any
18 boundary amendment under this section.

19 [~~(i)~~] (j) Parties to proceedings to amend land use
20 district boundaries may obtain judicial review thereof in the
21 manner set forth in section 91-14, provided that the court may



1 also reverse or modify a finding of the commission if [~~such~~] the
 2 finding appears to be contrary to the clear preponderance of the
 3 evidence.

4 [~~(j)~~] (k) At the hearing, all parties may enter into
 5 appropriate stipulations as to findings of fact, conclusions of
 6 law, and conditions of reclassification concerning the proposed
 7 boundary change. The commission may but shall not be required
 8 to approve [~~such~~] the stipulations based on the evidence
 9 adduced."

10 PART V

11 SECTION 5. Chapter 304A, Hawaii Revised Statutes, is
 12 amended by adding a new section to part VI, subpart D, to be
 13 appropriately designated and to read as follows:

14 "§304A- Land use; enhanced public notice requirements;
 15 referendum. (a) For each project involving a change in land use
 16 by the university or the construction of a new project, execution
 17 of a new lease, or extension of an existing lease within the Mauna
 18 Kea science reserve, the university shall:

19 (1) Within thirty days of filing a permit application,
 20 provide public notice pursuant to subsection (b) and
 21 as otherwise required by law;



1 (2) Within four months of filing a permit application,
2 conduct no fewer than three public meetings or
3 hearings. Notice of the public meetings or hearings
4 shall be made pursuant to subsection (b) and as
5 otherwise required by law; and

6 (3) Before proceeding with the project, obtain the
7 community's approval of the project through a
8 referendum. Notice of the referendum shall be made
9 pursuant to subsection (b) and as otherwise required
10 by law. All adult residents of parcels within five
11 miles of any portion of the proposed project shall be
12 eligible to vote on the referendum. For referendums
13 concerning the Mauna Kea science reserve, all adult
14 residents of the county in which the Mauna Kea science
15 reserve is located shall be eligible to vote on the
16 referendum. Any proposed project that does not
17 receive approval by a majority of the votes cast shall
18 be denied; provided that any blank, spoiled, or
19 invalid ballot shall not be tallied as a vote cast.
20 The office of elections shall assist the university in
21 conducting the referendum and may adopt rules pursuant



1 to chapter 91, Hawaii Revised Statutes, to effectuate
2 the purposes of this section. The rules may authorize
3 referendum voting to be conducted by mail. All costs
4 associated with the referendum shall be borne by the
5 university.

6 (b) In addition to any other requirements provided by law
7 or rule, public notice for purposes of subsection (a) shall be
8 provided by:

9 (1) Publishing once a week for four successive weeks in a
10 newspaper of general circulation serving areas within
11 five miles of the proposed project;

12 (2) Mailing notice to each residence within five miles of
13 the proposed project; provided that this paragraph
14 shall not apply to referendums concerning the Mauna
15 Kea science reserve;

16 (3) Posting notice in multiple publicly accessible
17 locations at the proposed project site, if any; and

18 (4) Posting notice on an easily accessible page of the
19 university's website."



1 PART VI

2 SECTION 6. There is appropriated out of the general
3 revenues of the State of Hawaii the sum of \$ or so much
4 thereof as may be necessary for fiscal year 2025-2026 and the
5 same sum or so much thereof as may be necessary for fiscal year
6 2026-2027 to fund the enhanced public notice requirements
7 established by this Act.

8 The sums appropriated shall be expended by the department
9 of Hawaiian home lands for the purposes of this Act.

10 SECTION 7. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so much
12 thereof as may be necessary for fiscal year 2025-2026 and the
13 same sum or so much thereof as may be necessary for fiscal year
14 2026-2027 to fund the enhanced public notice requirements
15 established by this Act.

16 The sums appropriated shall be expended by the department
17 of land and natural resources for the purposes of this Act.

18 SECTION 8. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so much
20 thereof as may be necessary for fiscal year 2025-2026 and the
21 same sum or so much thereof as may be necessary for fiscal year



1 2026-2027 to fund the enhanced notice requirements established
2 by this Act.

3 The sums appropriated shall be expended by the land use
4 commission for the purposes of this Act.

5 SECTION 9. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so much
7 thereof as may be necessary for fiscal year 2025-2026 and the
8 same sum or so much thereof as may be necessary for fiscal year
9 2026-2027 to fund the enhanced notice requirements established
10 by this Act.

11 The sums appropriated shall be expended by the university
12 of Hawaii for the purposes of this Act.

13 PART VII

14 SECTION 10. This Act does not affect rights and duties
15 that matured, penalties that were incurred, and proceedings that
16 were begun before its effective date.

17 SECTION 11. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.



1 SECTION 12. This Act shall take effect on July 1, 2025.

2

INTRODUCED BY: Kurt Fevella



S.B. NO. 197

Report Title:

LUC; DHHL; DLNR; UH; Public Notice; Land Use; Appropriations

Description:

Establishes enhanced public notice requirements for changes in land use by the Department of Hawaiian Home Lands, Department of Land and Natural Resources, or University of Hawaii and boundary changes by the Land Use Commission. Requires approval of the project by the community through a referendum of nearby adult residents except for projects within the Mauna Kea science reserve, which require a referendum by all adult residents of the country in which the Mauna Kea science reserve is located. Appropriates moneys.

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