

JAN 20 2023

A BILL FOR AN ACT

RELATING TO GOVERNMENT.

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

1 SECTION 1. Section 201H-12, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
3 "(b) The corporation may develop public land in an
4 agricultural district subject to the prior approval of the land
5 use commission, when developing lands greater than [~~fifteen~~
6 fifty acres in size, and public land in a conservation district
7 subject to the prior approval of the board of land and natural
8 resources. The corporation shall not develop state monuments,
9 historical sites, or parks. When the corporation proposes to
10 develop public land, it shall file with the department of land
11 and natural resources a petition setting forth the purpose for
12 the development. The petition shall be conclusive proof that
13 the intended use is a public use superior to that which the land
14 has been appropriated."

15 SECTION 2. Section 205-3.1, Hawaii Revised Statutes, is
16 amended by amending subsections (a) through (c) to read as
17 follows:



1 "(a) District boundary amendments involving lands in the
2 conservation district, land areas greater than [~~fifteen~~] fifty
3 acres, or lands delineated as important agricultural lands shall
4 be processed by the land use commission pursuant to section
5 205-4.

6 (b) Any department or agency of the State, and department
7 or agency of the county in which the land is situated, or any
8 person with a property interest in the land sought to be
9 reclassified may petition the appropriate county land use
10 decision-making authority of the county in which the land is
11 situated for a change in the boundary of a district involving
12 lands less than [~~fifteen~~] fifty acres presently in the rural and
13 urban districts and lands less than [~~fifteen~~] fifty acres in the
14 agricultural district that are not designated as important
15 agricultural lands.

16 (c) District boundary amendments involving land areas of
17 [~~fifteen~~] fifty acres or less, except as provided in subsection
18 (b), shall be determined by the appropriate county land use
19 decision-making authority for the district and shall not require
20 consideration by the land use commission pursuant to section
21 205-4; provided that such boundary amendments and approved uses



1 are consistent with this chapter. The appropriate county land
2 use decision-making authority may consolidate proceedings to
3 amend state land use district boundaries pursuant to this
4 subsection, with county proceedings to amend the general plan,
5 development plan, zoning of the affected land, or such other
6 proceedings. Appropriate ordinances and rules to allow
7 consolidation of such proceedings may be developed by the county
8 land use decision-making authority."

9 SECTION 3. Section 205-4, Hawaii Revised Statutes, is
10 amended by amending its title and subsection (a) to read as
11 follows:

12 "§205-4 Amendments to district boundaries involving land
13 areas greater than [~~fifteen~~] fifty acres. (a) Any department
14 or agency of the State, any department or agency of the county
15 in which the land is situated, or any person with a property
16 interest in the land sought to be reclassified, may petition the
17 land use commission for a change in the boundary of a district.
18 This section applies to all petitions for changes in district
19 boundaries of lands within conservation districts, lands
20 designated or sought to be designated as important agricultural
21 lands, and lands greater than [~~fifteen~~] fifty acres in the



1 agricultural, rural, and urban districts, except as provided in
2 section 201H-38. The land use commission shall adopt rules
3 pursuant to chapter 91 to implement section 201H-38."

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

6 "§205-6 Special permit. (a) Subject to this section, the
7 county planning commission may permit certain unusual and
8 reasonable uses within agricultural and rural districts other
9 than those for which the district is classified. Any person who
10 desires to use the person's land within an agricultural or rural
11 district other than for an agricultural or rural use, as the
12 case may be, may petition the planning commission of the county
13 within which the person's land is located for permission to use
14 the person's land in the manner desired. Each county may
15 establish the appropriate fee for processing the special permit
16 petition. Copies of the special permit petition shall be
17 forwarded to the land use commission, the office of planning and
18 sustainable development, and the department of agriculture for
19 their review and comment.

20 (b) The planning commission, upon consultation with the
21 central coordinating agency, except in counties where the



1 planning commission is advisory only in which case the central
2 coordinating agency, shall establish by rule or regulation, the
3 time within which the hearing and action on petition for special
4 permit shall occur. The county planning commission shall notify
5 the land use commission and such persons and agencies that may
6 have an interest in the subject matter of the time and place of
7 the hearing.

8 (c) The county planning commission may, under such
9 protective restrictions as may be deemed necessary, permit the
10 desired use, but only when the use would promote the
11 effectiveness and objectives of this chapter; provided that a
12 use proposed for designated important agricultural lands shall
13 not conflict with any part of this chapter. A decision in favor
14 of the applicant shall require a majority vote of the total
15 membership of the county planning commission.

16 (d) Special permits for land the area of which is greater
17 than [~~fifteen~~] fifty acres or for lands designated as important
18 agricultural lands shall be subject to approval by the land use
19 commission. The land use commission may impose additional
20 restrictions as may be necessary or appropriate in granting the



1 approval, including the adherence to representations made by the
2 applicant.

3 (e) A copy of the decision, together with the complete
4 record of the proceeding before the county planning commission
5 on all special permit requests involving a land area greater
6 than [~~fifteen~~] fifty acres or for lands designated as important
7 agricultural lands, shall be transmitted to the land use
8 commission within sixty days after the decision is rendered.

9 Within forty-five days after receipt of the complete record
10 from the county planning commission, the land use commission
11 shall act to approve, approve with modification, or deny the
12 petition. A denial either by the county planning commission or
13 by the land use commission, or a modification by the land use
14 commission, as the case may be, of the desired use shall be
15 appealable to the circuit court of the circuit in which the land
16 is situated and shall be made pursuant to the Hawaii rules of
17 civil procedure.

18 (f) Special permits for housing that include workforce or
19 affordable housing units with a minimum twenty-five per cent of
20 market units on land the area of which is greater than fifty
21 acres or for lands designated as important agricultural lands



1 shall be subject only to additional restrictions or disapproval
2 of the petition by the land use commission. The land use
3 commission may impose additional restrictions as may be
4 necessary or appropriate, including the adherence to
5 representations made by the applicant.

6 Land use commission procedures for imposing additional
7 restrictions or disapproving the county planning commission's
8 approval of special permits shall run concurrently with the
9 county planning commission's action, which shall begin on
10 receipt of notice of action from the county planning commission.
11 The land use commission's decision shall be completed within
12 forty-five days of the county planning commission's decision.

13 [~~f~~] (g) Land uses substantially involving or supporting
14 educational ecotourism, related to the preservation of native
15 Hawaiian endangered, threatened, proposed, and candidate
16 species, that are allowed in an approved habitat conservation
17 plan under section 195D-21 or safe harbor agreement under
18 section 195D-22, which are not identified as permissible uses
19 within the agricultural district under sections 205-2 and
20 205-4.5, may be permitted in the agricultural district by
21 special permit under this section, on lands with soils



1 classified by the land study bureau's detailed land
2 classification as overall (master) productivity rating class C,
3 D, E, or U."

4 SECTION 5. Section 225M-2, Hawaii Revised Statutes, is
5 amended by amending subsection (d) to read as follows:

6 "(d) The office of planning and sustainable development
7 and the land use commission shall establish procedures and
8 safeguards to avoid actual or perceived conflicts of interest
9 that may otherwise arise as a result of any proceedings before
10 the land use commission to which the office of planning and
11 sustainable development is a party, including but not limited to
12 petitions for amendments to district boundaries involving land
13 areas greater than [~~fifteen~~] fifty acres pursuant to section
14 205-4, and contested case proceedings pursuant to section
15 205-19. These procedures and safeguards shall include a
16 reporting structure for the land use commission and its
17 executive director and employees that is separate from the
18 reporting structure for the land use division of the office."

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



S.B. NO. 1094

1 SECTION 7. This Act shall take effect upon its approval.

2

INTRODUCED BY: ~~AD~~ AC. Fickler



S.B. NO. 1094

Report Title:

District Boundaries; Land Use Commission; Special Permits;
Workforce Housing

Description:

Expands the jurisdiction of county land use decision-making authorities, enabling them to amend the district boundaries of lands less than fifty acres, from lands less than fifteen acres. Limits the Land Use Commission's authority over special permits for housing that includes workforce or affordable housing units with a minimum twenty-five per cent of market units on land the area of which is greater than fifty acres or for lands designated as important agricultural lands, by providing that the Land Use Commission shall only add additional restrictions or disapprove a petition. Requires the Land Use Commission to run its special permit process concurrently with the appropriate county Land Use Commission for these special permits.

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

