

Honolulu, Hawaii

MAR 03 2016

RE: S.B. No. 2355  
S.D. 2

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2016  
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Ways and Means, to which was referred S.B. No. 2355, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE LAND USE COMMISSION,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Define "substantial commencement" as that term is used in section 205-4(g), Hawaii Revised Statutes;
- (2) Authorize the Land Use Commission to amend, modify, or vacate boundary amendment approvals, special permit approvals, and conditions of direct state concern granted pursuant to section 205-4, Hawaii Revised Statutes, by the motion of the Commission or of any interested party;
- (3) Require conditions of direct state concern relating to boundary amendments and special permits to include but not be limited to conditions that relate to or require the installation of state infrastructure, promote or protect specific state policies, and relate to the public trust doctrine; and
- (4) Authorize the Land Use Commission to fine parties who fail to comply with conditions of direct state concern after they have been notified of violations of the conditions.



Your Committees received testimony in support of this measure from the Office of Planning, Land Use Commission, Conservation Council for Hawai'i, and three individuals. Your Committees received testimony in opposition to this measure from the Land Use Research Foundation of Hawaii and Building Industry Association of Hawaii. Your Committees received comments on this measure from the Department of Planning and Permitting of the City and County of Honolulu.

Your Committees find that the only remedy currently available to the Land Use Commission when a petitioner fails to perform according to the conditions and requirements of a land use district boundary amendment is to grant an order to show cause pursuant to section 15-15-93, Hawaii Administrative Rules, and potential reversion to the original land use classification or change to a more appropriate classification; however, these remedies are not always effective or practical. Your Committees find that additional tools are necessary for the Land Use Commission to enforce conditions and requirements of land use district boundary amendments and special permits in a manner that ensures that the interests of the State, counties, and public are protected.

Your Committees have amended this measure by inserting an effective date of January 7, 2059, to encourage further discussion.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2355, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 2355, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committees on Judiciary and  
Labor and Ways and Means,



JILL N. TOKUDA, Chair



GILBERT S.C. KEITH-AGARAN, Chair



The Senate  
Twenty-Eighth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary and Labor**  
**JDL**

Bill / Resolution No.:* <b>SB 2355 SD1</b>	Committee Referral: <b>WLA, JDL/WAM</b>	Date: <b>2/24/16</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between;"> <div><input type="checkbox"/> Pass, unamended 2312</div> <div><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div><input type="checkbox"/> Hold 2310</div> <div><input type="checkbox"/> Recommit 2313</div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	/			
SHIMABUKURO, Maile S.L. (VC)	/			
GABBARD, Mike	/			
KAHELE, Kaiali'i	/			
KIM, Donna Mercado	/			
THIELEN, Laura H.	/			
SLOM, Sam	/			
<b>TOTAL</b>	<b>7</b>			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> <div style="display: flex; justify-content: space-between; font-size: small;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

\*Only one measure per Record of Votes

The Senate  
Twenty-Eighth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.: <b>SB 2355, SDL</b>	Committee Referral: <b>WLA, SDL/WAM</b>	Date: <b>2/24/10</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TOKUDA, Jill N. (C)	/			
DELA CRUZ, Donovan M. (VC)	/			
CHUN OAKLAND, Suzanne	/			
ENGLISH, J. Kalani	/			
GALUTERIA, Brickwood	/			
HARIMOTO, Breene				/
INOUE, Lorraine R.	/			
RIVIERE, Gil	/			
TANIGUCHI, Brian T.	/			
WAKAI, Glenn	/			
SLOM, Sam	/			
<b>TOTAL</b>	<b>10</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report   Clerk's Office   Drafting Agency   Committee File Copy				

\*Only one measure per Record of Votes