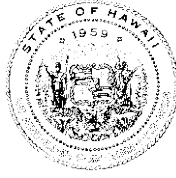


**DAVID Y. IGE**  
Governor

**SHAN S. TSUTSUI**  
Lieutenant Governor

**LUIS P. SALAVERIA**  
Director

**MARY ALICE EVANS**  
Acting Deputy Director



**LAND USE COMMISSION**  
Department of Business, Economic Development & Tourism  
State of Hawai'i

**DANIEL ORODENKER**  
Executive Officer

**Bert K. Saruwatari**  
Planner  
**SCOTT A.K. DERRICKSON AICP**  
Planner

**RILEY K. HAKODA**  
Chief Clerk/Planner

**FRED A. TALON**  
Drafting Technician

---

Statement of  
**Daniel E. Orodenker**  
**Executive Officer**  
Land Use Commission  
Before the  
**House Committee on Water and Land**  
Friday February 5, 2016  
8:30 AM  
State Capitol, Conference Room 325

In consideration of  
**HB 2617**  
**RELATING TO LAND USE**

Chair Yamane, Vice Chair Cullen, and members of the Committee on Water and Land:

The Land Use Commission (LUC) is strongly opposed to this measure. The improperly formatted measure makes it unclear as to the statutory changes it is seeking to make.

Assuming we are accurate in our reading of the measure this bill would effectively strip the LUC of most of its discretionary authority and requires the LUC to approve boundary amendments a county has put in its general plans and development/community plans. This does not leave room for the adjudication or handling of State concerns: including public trust doctrine issues; environment, health, and cultural and archeological concerns; including constitutionally protected gathering rights. County-level proceedings for approving general plans and development/community plans are legislative rather than quasi-judicial; the proposed change may be a violation of established case law and constitutional due process rights.

While the measure does not outright abolish the LUC, it severely restricts its power and makes it somewhat superfluous. Most of the LUC's discretionary decision making power is removed. From a public policy standpoint one of the greatest areas of concern is that it allows changes in land use designation and density increases without environmental review and cultural resource assessment.

It should be noted that some of the changes are subtle and are in the nature of "Trojan Horses" that on their face seem innocuous but in light of the current situation on Maui with HC&S especially, are cause for concern. Sections of the bill would allow, through either the County planning process or through provisions changing the requirements or characteristics of land placed in the agricultural and rural districts, the development of property currently designated

agricultural land without approval from the LUC and without public input or a contested case hearing.

The remainder of this testimony is an in-depth analysis of the key sections of the bill which lay bare the implications of the changes to Chapter 205, Hawai'i Revised Statutes (HRS) and the land use process.

Section 2 of the bill seeks to institute regional boundary amendments. A county petitions the LUC to reclassify lands to conform to county general and/or development/community plans adopted by the county. Amended boundaries "shall" be adopted by LUC between 45 – 90 days after the hearing. The LUC then provides maps of amendments to the county.

Significantly, this section requires the LUC to adopt the county plans and adjust the boundaries accordingly. There is no opportunity for an evidentiary hearing, just public testimony, and there is no opportunity for impacted landowners to present their case. As a result, this portion off the bill may in fact be unconstitutional under various Supreme Court decisions.

There is no mention of how State Plan conformance, State Land Use District criteria, implications to public trust and cultural resources, important agricultural lands (IAL), constitutional issues (traditional and customary rights, etc.), or due process issues are to be addressed.

Part (f) uses the word "shall" which removes any LUC discretion. This effectively negates the LUC's role in district boundary amendments or limits it to a ministerial function. In a nutshell, if the County chooses to change its general plan, which it can do legislatively at any time, land is automatically re-classified.

Section 3 amends the Section 165-2, HRS, definition of "farming operation" only with respect to agricultural-based commercial operations as currently defined in Section 205-2(d)(15), HRS. That section currently focuses on making sure that such operations are legitimately connected to bona fide farming operations and make use of Hawai'i farm products in the goods offered for sale. While the motivation for the proposed changes is unclear it generally makes things more confusing and uncertain.

Section 4 amends Section 201N-14, HRS, which allows renewable energy projects to be exempt from subdivision requirements.

Section 5 seeks to amend Section 205-1, HRS, to define Commission duties. This section generally reiterates what we already do but returns the 5 year boundary review process to the LUC. While the intent of this section is worthwhile it may be inconsistent with amendments proposed from Section 2 of the bill with respect to regional boundary amendments. Section 2 purports to give everything over to the county, but this section requires the LUC to use its discretion and re-emphasizes the State Plan rather than County plans.

Section 6 seeks to amend Section 205-2, HRS, which lays out the definition of, standards for, and criteria of, the four different land use districts. The proposal deletes the requirement that the LUC set standards for district boundary amendments, turning the process into a completely discretionary one. This section changes the nature of LUC proceedings from quasi-judicial to

legislative. This is likely unconstitutional pursuant to various Supreme Court Decisions. In addition, deleting standards will most likely result in an explosion of appeals from LUC decisions for lack of clear findings and allegations of arbitrary conclusions.

Also, the insertion of the word “shall” to this section removes LUC discretion in reclassifying lands. The process would therefore be ministerial and non-discretionary if basic criteria are met. This section could also be read to require the LUC, based on a 5-Year boundary review, to reclassify lands found to meet the remaining limited criteria. Again, there are constitutional concerns with mandating re-classification. These changes pave a path to automatically moving significant lands currently in the Agricultural District into the Rural or Urban districts without benefit of any impact analysis, public improvement or public trust issues assessment.

The proposed 205-2(c)(2) appears to give landowners who have created agricultural subdivisions with a guaranteed reclassification to Rural district if a 5-Year boundary review is conducted. This would in effect be rewarding aggressive developers who seek to create large subdivisions under the guise of agricultural uses (gentleman farms) with a change to Rural regardless of impacts to infrastructure, cultural resources, and the environment. Mitigation would then be the burden of the State and could require significant State expenditures. There are other changes that may be of concern from a policy standpoint:

- Proposed 205-2(c)(4) would reclassify land used for public and quasi-public facilities. However utility lines are linear features. Reclassifying and describing these features may result in confused overlapping boundaries.
- Under proposed 205-2(c)(5) significant open space areas would be moved into the Rural designation making them open for development, no longer retaining the very features described. These areas are designated Agricultural now and are therefore granted significant protection.
- Proposed 205-2(c)(6) would eliminate any process for review or requirements to receive a Special Permit. This would open the door to all sorts of potential problems such as rock quarries and other non-agricultural activities on agricultural land without review.
- Proposed 205-2(c)(8) would make Rural those areas where plantation agriculture was not feasible like gulches, sloped lands, and coastal areas opening them for development. However, experience has shown that these are highly sensitive areas from an environmental and cultural standpoint and are key to the nearshore environment. Such areas might more appropriately be in the Conservation district rather than be required to go into the Rural district and opened for development.
- Automatic changes to Rural district descriptions may mean that no impact analysis, public improvement issues, or public trust issues would be addressed.
- Proposed 205-2(d) inexplicably removes a sentence that comes out of the LUC’s constitutional mandate to protect important agricultural lands; limiting protection of A and B rated lands to those already irrigated; limits protection of C and D rated lands to those in production or that could be in production with irrigation. This essentially takes away the protection for Agricultural district lands that are not in production, giving a landowner, such as HC&S the ability to have former agricultural lands moved into Rural for development without going through a

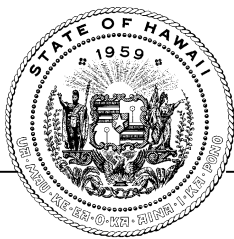
DBA process or EIS process. When combined with the mandate that the LUC adopt county general plans, this change will make development of agricultural lands much easier.

The combined effect of these changes, among other things, may to open the door to “Dillingham Ranch” style subdivisions to be designated as Urban or Rural in subsequent Boundary Reviews, or automatically approved by county petition. This allows backdoor development of large parcels without Chapter 343 analysis and impact mitigation of cultural, environmental and social issues. It also would throw the burden of infrastructure back on the State without any contribution by the landowner.

Section 7 seeks to amends 205-3.1 by giving counties jurisdiction over reclassifications for all parcels of 15 acres or less including Conservation lands and Important Agricultural Lands. Re-classification would be handled by the counties using a quasi-legislative process during General Plan amendments. This effectively puts small areas of conservation land, such as marshes and streams in jeopardy of destruction without adequate public or State input. Such reclassifications on our most important and high quality resource lands would be done in a quasi-legislative process with minimal public involvement and in many cases without environmental review or assessment for areas of State interest.

Section 8 seeks to amend Section 205-4.5 to broaden the description of agricultural-based commercial operations to include employee housing. This is very broad and could be used to justify almost any use that would be permissible if it supported the activities of the fee or leasehold owner including building housing.

Thank you for the opportunity to testify on this measure and to the Chair, Vice Chair and members of the Committee for their understanding with regard to the length of this testimony. We did feel it necessary to fully explain the important implications of this complex and confusing measure.



# OFFICE OF PLANNING STATE OF HAWAII

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: <http://planning.hawaii.gov/>

DAVID Y. IGE  
GOVERNOR

LEO R. ASUNCION  
DIRECTOR  
OFFICE OF PLANNING

Statement of  
**LEO R. ASUNCION**  
Director, Office of Planning  
before the  
**HOUSE COMMITTEE ON WATER AND LAND**  
Friday, February 5, 2016  
8:30 AM  
State Capitol, Conference Room 325

in consideration of  
**HB 2617**  
**RELATING TO LAND USE.**

Chair Yamane, Vice Chair Cullen, and Members of the House Committee on Water and Land.

The Office of Planning (OP) has concerns regarding HB 2617, and cannot support the bill in its current form. HB 2617 makes numerous amendments to Hawaii Revised Statutes (HRS) Chapter 205, both substantive as well as housekeeping, including the following: (1) clarifying the counties' authority to petition the State Land Use Commission (LUC) for regional district boundary amendments that conform to adopted county general or development plans; (2) eliminating redundant provisions defining uses permissible in the State Rural and Agricultural Districts; (3) clarifying some of the provisions for county land use district boundary amendments that are less than 15 acres and special permits; and (4) transferring responsibility for the five-year boundary review from OP to the LUC.

OP has been involved in many efforts over the years to improve the policies, standards, and process that constitute and guide the State's statewide land use management pursuant to HRS Chapter 205. HB 2617 offers several proposals that address some of the concerns raised

about the State Land Use Law. In particular, OP supports amendments that consolidate permissible use standards for districts into one section to end confusion caused by existing circular references. We also support the clarification of the counties' existing authority to petition the LUC for regional district boundary amendments.

However, we believe that further discussion and refinement of the proposals contained in the bill is required, with particular attention to the following concerns:

1. County regional boundary amendments. This section requires clarification as to whether the LUC proceeding is conducted as a contested case hearing or a quasi-legislative hearing; additional amendments may then be needed to assure a fair and open decision making process for all parties. The language could also be interpreted to require strict conformance of district boundaries with county plans, when this might not be in the State's interest if there are significant impacts on State facilities, resources, or policy goals that are not addressed.
2. Five year boundary review. The bill would transfer authority for the district boundary review from OP to the LUC. OP believes the decision making process is more objective when the responsibilities for conducting the boundary review and for approval of subsequent boundary amendments are kept separate as they currently are. Additional resources for the conduct of the boundary review would ensure more timely reviews. Although OP lacks the funding to undertake the intensive studies typically conducted in prior reviews, OP is currently performing an analysis of the district boundaries statewide utilizing the State's Geographic

Information System and data layers from a number of agencies, including the respective counties. A report on this initiative is expected within the month.

OP is available to work with the Committee to discuss and address our concerns and to clarify other inconsistencies in the bill.

Thank you for the opportunity to testify on this measure.



**HB2617**  
**RELATING TO LAND USE**  
House Committee on Water & Land

February 5, 2016

8:30 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend to the Board of Trustees a position of **OPPOSE** on HB2617, which seeks to constrain the Land Use Commission's discretion for district boundary amendment (DBAs) approvals; attempts to eliminate state review of DBAs for areas less than 15 acres within the conservation district; and weakens procedural safeguards for Native Hawaiians.

**This Bill Erodes Protections for Cultural & Natural Resources that Provide Significant Environmental Benefits and Ecosystem Services Statewide**

**This bill substantially increases the risk of losing important land use protections for large areas within the conservation district, as well as the cultural and natural resources, environmental benefits, and ecosystem services that these lands provide.** Currently, state land use rules for the conservation district ensure consistent and transparent regulatory oversight, that reflects the importance of these lands in maintaining the health of our watersheds, mountains, and forests; preventing flooding and soil erosion; and hosting the natural resources and cultural sites essential to Native Hawaiian cultural practices. By eliminating the state's exclusive authority to amend the boundaries of the conservation district, this bill would open the door to new permitted land uses and development activities on former conservation lands that may permanently impact the benefits these lands would otherwise provide.

**It is Unclear How State Interests and Native Hawaiian Constitutional Rights Will Be Adequately Protected**

HB2617 significantly undermines Hawai'i's land use system and the authority of the Land Use Commission (LUC) by removing much of the LUC's discretion, by weakening the protections for statutory and constitutional rights, and by limiting opportunities for public input.

By mandating that the LUC ensure state land use designations conform to county general and development plans, this bill elevates these plans over the LUC's own discretion, Hawai'i Revised Statutes (HRS) chapter 205 statutory criteria, and the State's constitutional obligations. **Elevating these county planning documents above statutory and constitutional mandates removes existing procedural safeguards that have historically ensured the**



**protection of Native Hawaiian constitutional rights and adequate consideration of impacts to cultural, environmental, and agricultural resources.**

Aside from encouraging the counties to petition the LUC for regional district boundary amendments for potentially massive areas of non-contiguous land with diverse characteristics and uses, this bill eliminates meaningful opportunities for public input. The hearing process in section 2, on pages 2-3, appears to make the standard hearing process established in HRS § 205-4 inapplicable. In doing so, this bill attempts to replace the quasi-judicial process with an abridged quasi-legislative process, making it unclear how Native Hawaiian constitutional rights will be protected.

The quasi-legislative process called for in HB2617 may not meet the statutory and constitutional mandates required of this type of decision-making. First, under the existing criteria in HRS § 205-17, the LUC must consider the impact of a proposed DBA on the maintenance of valued cultural, historical, and natural resources and the maintenance of other natural resources relevant to Hawai'i's economy, including agricultural resources. **Second, the State has an affirmative duty to preserve and protect Native Hawaiian traditional and customary practices, while reasonably accommodating competing private interests pursuant to the State Constitution.** It is unclear how the constitutional rights of someone who would be entitled to a contested case hearing under the current law will be protected through the changes proposed in HB2617.

**Significantly, the process in HB2617 may not permit the LUC to conduct the degree of inquiry required to make the minimum findings under *Ka Pa'akai O Ka 'Āina v. Land Use Commission*.** In *Ka Pa'akai*, the Hawai'i Supreme Court stated that the LUC must *at a minimum* make specific findings and conclusions as to 1) the identity and scope of "valued, cultural, historical, or natural resources," 2) the extent to which those resources – including Native Hawaiian traditional and customary rights – will be affected, and 3) the feasible action that the LUC can take to reasonably protect Native Hawaiian rights. Through the *Ka Pa'akai* analysis, the LUC is able to place conditions on DBAs to mitigate impacts to Native Hawaiian traditional and customary practices and the resources they rely upon. Further, because the hearing process in HB2617 is truncated, does not permit witnesses or experts to testify, and does not allow for cross-examination, it is unclear how the limited hearing process in HB2617 will protect the rights of Native Hawaiians specifically.

**The State Land Use System Review Report Should be Finalized Before Significant Changes are Instituted**

Finally, after significant public and stakeholder input, including from state agencies, the counties, and development and environmental groups, the Office of Planning completed a Land Use Review Draft Report last May. **Before this Report and its findings and recommendations are finalized, any significant changes to the state's land use system lack sufficient community, county, and state input, and are premature.**

Accordingly, OHA urges the Committee to **HOLD** HB2617. Mahalo for the opportunity to testify on this measure.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honolulu.dpp.org](http://www.honolulu.dpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

KIRK CALDWELL  
MAYOR



GEORGE I. ATTA, FAICP  
DIRECTOR

ARTHUR D. CHALLACOMBE  
DEPUTY DIRECTOR

February 5, 2016

The Honorable Ryan I. Yamane, Chair  
and Members of the Committee on Water and Land  
Hawaii House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Yamane and Committee Members:

Subject: House Bill No. 2617  
Relating to Land Use

The Department of Planning and Permitting (DPP) offers **comments** on House Bill No. 2617, which proposes significant changes to Chapter 205, the State Land Use Law, including updating the purposes of the districts, allowing increased county participation, and streamlining entitlement processes.

We have not had sufficient time to study the Bill in detail, and therefore, these are preliminary comments:

- Generally, we are encouraged by the overall tone of the Bill, which "freshens" the purposes of the State Land Use Law and the State Land Use Commission (LUC).
- We support the proposed option of county-initiated regional district boundary amendments. Similar bills in the past made explicit provisions regarding conditions of approval. If the county is the applicant, it cannot require landowners to accept decisions imposed by the LUC. As drafted, House Bill No. 2617 implies that action by the LUC does not include approval with conditions. The Bill may need to make this explicit.
- This Bill lacks a funding provision. It will be no small task for the LUC to shift to a more proactive role envisioned by this Bill, as stewards of the land, rather than reviewers of projects.

The Honorable Ryan I. Yamane, Chair  
and Members of the Committee on Water and Land  
Hawaii House of Representatives  
Hawaii State Capitol  
Re: House Bill No. 2617  
February 5, 2016  
Page 2

- While the Bill takes a big step in determining that residual lands may be better placed in the conservation district and not in the agricultural district, it makes no new reference to constitution-mandated Important Agricultural Lands (IAL) or subsistence farming, which has long been an issue. Perhaps IAL should replace references to the land study bureau's rating system.
- The Bill updates permitted uses in the rural district, referring to places where "city-like" characteristics are absent, but it does not take a clear position on whether commercial uses or rural towns would be permitted.
- We remain concerned about allowing commercial uses in the agricultural district (e.g., roadside stands, food establishments) as permitted uses. As drafted, there are insufficient provisions to curb speculation and abuse.

We will continue to study this bill, and will share additional comments as appropriate. Thank you for the opportunity to testify.

Very truly yours,



George I. Atta, FAICP  
Director

**Bernard P. Carvalho, Jr.**  
Mayor



**Michael A. Dahilig**  
Director of Planning

**Nadine K. Nakamura**  
Managing Director

**Ka'āina S. Hull**  
Deputy Director of Planning

**PLANNING DEPARTMENT**  
**County of Kaua'i, State of Hawai'i**

4444 Rice Street  
Kapule Building, Suite A-473  
Līhu'e, Hawai'i 96766-1326  
TEL (808) 241-4050 FAX (808) 241-6699

**Testimony before the House Committee on Water and Land**  
**HOUSE BILL 2617 Relating to Land Use**

February 5, 2016 at 8:30 am  
House Conference Room 325

By Michael A. Dahilig  
Director of Planning, County of Kauai

Honorable Members of the Committee:

On behalf of the County of Kaua'i Planning Department, I offer testimony in **STRONG SUPPORT** of this measure.

The County's inability to petition the LUC to reclassify lands without landowner approval truncates its home rule authority to implement its zoning policies consistent with police power authority granted pursuant to Section 46-4, Hawaii Revised Statutes.

Standards for reclassification already include consistency with the Counties' general plans – plans developed and required for zoning implementation under HRS 46-4.

Landowners should not have the sole discretion to inhibit the Counties from exercising their police power to regulate land use and implement their general plans because they do not consent to an application being presented before the Land Use Commission. This creates a loophole in our land use regulatory process that weakens the government's ability to realize the community's vision.

We respectfully request the committee **APPROVE** the measure. Mahalo for your consideration.

**Testimony to the House Committee on Water and Land  
Friday, February 5, 2016 at 8:30 A.M.  
Conference Room 325, State Capitol**

**RE: HOUSE BILL 2617 RELATING TO LAND USE**

Chair Yamane, Vice Chair Cullen, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **strongly supports** HB 2617, which proposes to amend Chapter 205 HRS as follows:

1. Authorizes the counties to petition the LUC directly to reclassify lands;
2. Requires LUC to group contiguous lands, set land boundary standards, ensure land use descriptions conform to the state plan and county plans;
3. Establishes criteria and guidelines for districting and classification of urban, rural, agricultural, and conservation districts;
4. Clarifies jurisdiction of the counties for amendments to district boundaries for lands 15 acres and less;
5. Establishes requirements for special use permit applications;
6. Requires LUC to conduct the five year regional boundary change review;
7. Repeals section relating to real property tax assessment where the State administered the property tax.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The proposed amendments to Chapter 205 HRS removes some of the overlapping land use entitlement jurisdiction and procedural issues that have created unnecessary and redundant processes in reclassifying and rezoning lands in Hawaii.

We applaud the efforts to streamline the process, not by eliminating important steps, but by removing the overlap and duplication. We also strongly support the effort to provide more policy direction to the Counties on allowable land uses and activities in each of the four (4) state land use districts. We also are encouraged by the proposal to provide the counties with more direct oversight and responsibility to manage land use activities within the agricultural district.

The proposed amendments to Chapter 205 HRS are long overdue. We strongly support H.B. 2617.

Thank you for the opportunity to testify.

February 5, 2016

**The Honorable Ryan I. Yamane, Chair**  
House Committee on Water & Land  
State Capitol, Room 325  
Honolulu, Hawaii 96813

**RE: H.B. 2617, Relating to Land Use**

**HEARING: Friday, February 5, 2016 at 8:30 a.m.**

Aloha Chair Yamane, Vice Chair Cullen, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,800 members. HAR **supports** H.B. 2617 which:

1. Authorizes the counties to petition the Land Use Commission ("LUC") to reclassify lands;
2. Requires the LUC to group contiguous lands, set land boundary standards, ensure land use descriptions conform to the state plan and county plans;
3. Establishes criteria and guidelines for districting and classification of urban, rural, agricultural, and conservation districts;
4. Clarifies jurisdiction of the counties for amendments to district boundaries for lands 15 acres and less;
5. Establishes requirements for special use permit applications;
6. Requires LUC to conduct the five year regional boundary change review; and
7. And repeals section relating to real property tax assessment where the State administered the property tax.

The proposed amendments to Hawai'i Revised Statutes, Chapter 205 removes some of the overlapping land use entitlement jurisdiction and procedural issues that have created unnecessary and redundant processes in reclassifying and rezoning lands in Hawai'i. As such, HAR applaud the efforts to streamline the process by removing processes that overlap, while not eliminating important steps or oversight.

Additionally, HAR support the efforts to provide more policy direction to the Counties on allowable land uses and activities in each of the four state land use districts and providing the counties with more direct oversight and responsibility to manage land use activities within the agricultural district. Often, the counties have unique agricultural needs that differ between counties.

Mahalo for the opportunity to testify.



**Conservation Council  
for Hawai'i**

*Hawai'i's voice for wildlife*

*Kō Hawai'i leo no nā holoholona lōhiu*



Testimony Submitted to the House Committee on Water and Land

Hearing: Friday, February 5, 2016 8:30 am  
Conference Room 325

In Opposition to HB 2617 Relating to Land Use

Chair Yamane, Vice Chair Cullen, and Members of the Committee.

Aloha. Conservation Council for Hawai'i opposes HB 2617, which authorizes the counties to petition Land Use Commission to reclassify lands; requires the LUC to group contiguous lands, set land boundary standards, ensure land use descriptions conform to the state plan and county plans; establishes criteria and guidelines for districting and classification of urban, rural, agricultural, and conservation districts; clarifies jurisdiction of the counties for amendments to district boundaries for lands 15 acres and less; establishes requirements for special use permit applications; requires the LUC to conduct the five year regional boundary change review; and repeals section relating to real property tax assessment where the State administered the property tax.

HB 2617 may appear as if it is making the land use classification process more efficient and clarifying existing procedures. However, the bill weakens the land use classification process in favor of land development.

The statewide land use classification process was established because development was rampant. The legislature determined that a lack of adequate controls had caused the development of Hawai'i's limited and valuable land for short-term gain for a few. One of the main reasons for establishing the statewide zoning system was that development of scattered subdivisions resulted in expensive, yet reduced public services, and prime agricultural land was converted to residential use.

The legislature established the LUC to administer the statewide zoning law, which is responsible for preserving and protecting our land and encouraging those uses to which the land is best suited.

HB 2617 is not in the public's best interest. HB 2617 would do the following:

- strip the LUC of most of its discretionary authority;
- change land use designation and increase density without environmental review and cultural resources assessments;
- eliminate the contested case process by giving decision-making authority to the counties;
- eliminate the LUC's ability to handle state interests in the public trust doctrine, environment, health, culture, and constitutionally protected gathering rights;

Telephone/Fax: 808.593.0255 | email: [info@conservehi.org](mailto:info@conservehi.org) | web: [www.conservehi.org](http://www.conservehi.org)  
P.O. Box 2923 | Honolulu, HI 96802 | Office: 250 Ward Ave., Suite 220 | Honolulu, HI 96814

President: Julie Leialoha | Vice President: Koalani Kaulukukui | Secretary: Wayne Tanaka

Treasurer: Ryan Belcher | Directors: Rick Barboza | Anne Huggins Walton

Executive Director: Marjorie Ziegler | Administrator: Jonnetta Peters



- eliminate any process for review or requirements to be granted a special permit;
- eliminate LUC oversight of reclassification of all proposals 15 acres or less, including conservation lands and Important Agricultural Land;
- designate wind energy infrastructure as a permitted exemption from subdivision requirements;
- limit protection of A and B rated agricultural lands to those already irrigated; and
- limit protection of C and D rated agricultural lands to those in production or those that could be in production with irrigation.

Please protect our land and natural resources by supporting our existing statewide land-use planning process – not gutting it. Please oppose HB 2617.

Mahalo nui loa for the opportunity to testify.

A handwritten signature in cursive script that reads "Marjorie Ziegler". The ink is black and the signature is fluid and legible.

Marjorie Ziegler



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 8:19 PM  
**To:** waltestimony  
**Cc:** sundownertoni@yahoo.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/3/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Toni Withington	Individual	Comments Only	No

Comments: Here we go again. Every session there is a bill to gut the protections on unlimited development and the killing of the Land Use Commission, the only protection between the people and unlimited development. Please kill this bill early. We, the people, want our land use protections preserved. This bill will: \* Strip the LUC of most of its discretionary authority \* Change land use designation and density increases without environmental review (Chapter 343) and cultural resources assessment \* Eliminate the contested case process by giving decision-making authority to the counties \* Eliminate LUC's ability to handle State issues such as the public trust doctrine, environment, health, cultural, archeological and constitutionally protected gathering rights \* Eliminate any process for review or requirements to be granted a special permit \* Eliminate any state LUC oversight on reclassification of all proposals of 15 acres or less including conservation lands and Important Ag Lands (IAL) \* Make wind a permitted exemption from subdivision requirements \* Limit protection of A & B rated ag lands to those already irrigated \* Limit protection of C & D rated ag lands to those in production or those that could be in production with irrigation \* Require the LUC to approve boundary amendments the counties have put in their general plans and development/community plans \* Require automatic approval of county-recommended boundary changes within 90 days of final public hearing \* Lead to unregulated and unrestricted growth of renewable energy facilities on ag lands without public trust, cultural and environmental review \* Automatically, after 5-year boundary review, convert ag land with subdivisions to the rural designation, which allows greater density and does not require farming . Kill this bill. mahalo, Toni Withington, Hawi, Hawaii

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 8:47 AM  
**To:** waltestimony  
**Cc:** lynn@samesmallboat.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lynn B. Wilson, PhD	Individual	Comments Only	No

Comments: I oppose this measure mostly because it will eliminate any process for review or requirements to be granted a special permit and will lead to unregulated and unrestricted growth of renewable energy facilities on ag lands without public trust, cultural and environmental review. Mahalo for voting AGAINST this measure.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 4:23 PM  
**To:** waltestimony  
**Cc:** hlbpalmer@gmail.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/3/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Hillary Palmer	Individual	Oppose	No

Comments: I vehemently oppose this bill! This puts too much power and authority into the hands of the LUC and allows for wholesale redistricting without community input. This is an end run around the people plain and simple. Let's stick with and actually implement our community plans.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 3:38 PM  
**To:** waltestimony  
**Cc:** tampaltin@gmail.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/3/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tamara Paltin	Individual	Oppose	No

Comments: I am strongly opposed to this bill. First of all the format is not written in the proper format mixing old and new language while deleting entire sections making it all the more confusing. I do not support it because it effectively strips the LUC of most of its discretionary authority. As Representative Yamashita of Maui should be aware of we are decades behind in our county General Plan process as well as community plans, there is no tracking and implementation and it is basically a broken process that lacks real leadership. Forcing the LUC to approve boundary amendments based on this broken process is wrong. This bill does not leave room for the LUC to address State's concerns such as cultural and archaeological concerns, public trust issues, including constitutionally protected gathering rights as well as health and environmental issues. I believe that this bill is a violation of existing case law as county proceedings are legislative and not quasi-judicial. My biggest concern is that it allows changes in land-use designation and density increases WITHOUT environmental review or cultural resource assessment! In light of the current situation with HC&S and the multitudes of folks on Maui that DO NOT want to see the central plain developed this bill is particularly concerning! Please do not pass this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 12:05 PM  
**To:** waltestimony  
**Cc:** scoleman@surfrider.org  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Stuart Coleman	Individual	Oppose	No

Comments: I am writing in opposition to this bill because it would undermine the LUC and those entrusted to oversee the proper use of our lands. Sincerely, Stuart Coleman  
2127 Hibiscus Pl. Hon., HI 96815

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email  
webmaster@capitol.hawaii.gov

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 11:18 AM  
**To:** waltestimony  
**Cc:** kyle.kajihiro@gmail.com  
**Subject:** \*Submitted testimony for HB2617 on Feb 5, 2016 08:30AM\*

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kyle Kajihiro	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 10:57 AM  
**To:** waltestimony  
**Cc:** blakemcelheny@yahoo.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Blake McElheny	Individual	Oppose	No

Comments: Aloha Representatives. I respectfully request that you reject this radical proposal to undermine the State Land Use Law. For decades the State Land Use Law has assisted in successfully managing Hawaii's growing economy while simultaneously preventing rural communities from being paved over with urbanization. Since the State Land Use Law was enacted, Hawaii's resident population has more than doubled, from 630,000 in 1960 to 1,431,000 in 2015. The visitor industry has grown tremendously, from 250,000 visitors in 1960 to nearly 9 million today. Therefore, we need a comprehensive land use management system more than ever to protect the quality of life for our residents and to efficiently utilize limited land areas and resources. Unfortunately, HB 2617 is based on a misunderstanding of the purpose of the law and its practical effects. Detractors of the law are wrong when they claim that the State Land Use Law needs to be dismantled because of their allegations that the Law prohibits or inappropriately slows growth. For instance, please note that the LUC has no authority over the tens of thousands of acres already designated "Urban" in the State of Hawaii. It should be noted that the Office of State Planning recently found that Oahu already has over 25,000 acres in the Urban classification that are undeveloped. In addition, the LUC has no authority over projects less than 15 acres seeking Urban reclassification. When the LUC does act it typically approves reclassifications. Approximately 56,880 acres were reclassified from the Agricultural and Conservation Districts to the Urban District since 1975. Moreover, you must consider that the Land Use Law does allow over 21 different types of uses in the State "Agricultural" district. In addition, you must focus on the facts that: since 1975 only 6% of the petitions for reclassification were denied by the LUC; the average time for the processing of a large reclassification by the LUC was just over a year; and individuals and organizations intervened in less than 20% of the reclassification proceedings. If anything the State Land Use Law needs greater protections and the Land Use Commission needs more resources to effectively perform its functions. We are fortunate that the State Land Use Law is functioning well and I urge you to focus on the facts and not be swayed by the misinformed perspectives of the development community that repeatedly and greedily attempts to undermine this successful law and the public interest so that there could be a development "free for all" throughout the State. Thank you very much. Sincerely, Blake McElheny Pupukea

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 10:38 AM  
**To:** waltestimony  
**Cc:** palmtree7@earthlink.net  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
janice palma-glenie	Individual	Oppose	No

Comments: Aloha, As happens almost every legislative session, legislation is put forth to attack the State Land Use Commission on behalf of developers who would rather do their business with the least amount of oversight possible. I have seen this first-hand in the Kona region. i have also personally, as a community land use advocate, seen how valuable the State Land Use commission process can be in protecting valuable lands and natural resources in our region and state. This bill would emasculate a necessary ingredient of our land use process, one that our Kona community depended upon in the fight to protect conservation-designated Coastal land at O`oma. This bill would have stripped the public of its ability to take part in that process fairly. in fact, without the State Land Use Commission having "teeth", that land would now be another urban asphalt jungle which is the last thing Kona residents want for sensitive, valuable, finite coastal lands. In its wisdom, the first state legislature determined that a lack of adequate controls had caused the development of Hawaii's limited and valuable land for short-term gain for a few. So they helped establish a state-wide zoning system to help correct the damaging "non-planning" of scattered subdivisions that were creating problems like expensive yet reduced public services, and the converted prime ag land to residential use. It was also established the Land Use Commisson (LUC) would administer this state-wide zoning law, which is responsible for preserving and protecting Hawaii's lands and encouraging those uses to which lands are best suited. Most important, by adding a public-inclusive layer of land use permitting, the legislature helped insure that our State Constitutional mandates would be upheld. As per Thousand Friends TEstimony and my own experience, HB 2617 will \*

- \* Strip the LUC of most of its discretionary authority
- \* Change land use designation and density increases without environmental review (Chapter 343) and cultural resources assessment
- \* Eliminate the contested case process by giving decision-making authority to the counties
- \* Eliminate LUC's ability to handle State issues such as the public trust doctrine, environment, health, cultural, archeological and constitutionally protected gathering rights
- \* Eliminate any process for review or requirements to be granted a special permit
- \* Eliminate any state LUC oversight on reclassification of all proposals of 15 acres or less including conservation lands and Important Ag Lands (IAL)
- \* Make wind a permitted exemption from subdivision requirements
- \* Limit protection of A & B rated ag lands to those already

irrigated \* Limit protection of C & D rated ag lands to those in production or those that could be in production with irrigation \* Require the LUC to approve boundary amendments the counties have put in their general plans and development/community plans \* Require automatic approval of county-recommended boundary changes within 90 days of final public hearing \* Lead to unregulated and unrestricted growth of renewable energy facilities on ag lands without public trust, cultural and environmental review \* Automatically, after 5-year boundary review, convert ag land with subdivisions to the rural designation, which allows greater density and does not require farming  
Please use your integrity to vote "no" on this dangerous bill. Mahalo and sincerely,  
janice palma-glennie kailua-kona

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 8:00 AM  
**To:** waltestimony  
**Cc:** svickery@hawaii.rr.com  
**Subject:** \*Submitted testimony for HB2617 on Feb 5, 2016 08:30AM\*

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Susan Vickery	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 7:15 AM  
**To:** waltestimony  
**Cc:** Tree@hawaii.rr.com  
**Subject:** \*Submitted testimony for HB2617 on Feb 5, 2016 08:30AM\*

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Stephen Luksic	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 6:31 AM  
**To:** waltestimony  
**Cc:** gkvierra@gmail.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
George Vierra	Individual	Oppose	No

Comments: I stand in strong opposition to this bill this is a developers bill and not a people's bill. Our county general plan process and community plan process is a big mess Maui County mayor and council will agree that there is no implementation plans and the community's voice has been neglected to the point it has become a developer's road map. Our County is legislative only not quasi judicial like the land use commission is intended to be. If this bill passes as is there is no reason to even continue to have a land use commission. One of the most repeated refrains after the closing of HC&S is that we don't want to see central Maui turn into Oahu, or turn into a concrete jungle by passing this bill that is exactly what you will be enabling. Representative Yamashita should be ashamed of himself for introducing this, the people will not stand for these underhanded tactics!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 5:12 AM  
**To:** waltestimony  
**Cc:** akamaimom@gmail.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Felicia Cowden	Individual	Oppose	No

Comments: Please do not gut the Land Use Commission. We need to preserve our open spaces, agricultural lands for food farming, and not allow our limited land resources to be used for short-term gain.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 2:14 AM  
**To:** waltestimony  
**Cc:** orchid6128@aol.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Mader	Individual	Oppose	No

Comments: Aloha, I am opposed to HB2617. We need the LUC to evaluate environmental and cultural impacts! Here on Maui, our county council (many who receives generous contributions from developers) is doing all they can to gut our community plan. This is quite scary, considering A&B's announcement to end cane production. A&B is a development corporation, as I'm sure many of you know. So if the LUC is crippled, and our community plan is made worthless, then all that's left is the county zoning- the majority is all too happy to build where ever the luxury market can sustain more off island owners. We need the brains of both the county and the state to decide land issues and zoning. I feel this bill causes more confusion and appears to be written for the benefit of developers, instead of the people and resources. Mahalo for opposing! Deborah Mader Kihei HI

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

SB 2617 RELATING TO LAND USE  
(Representatives YAMASHITA, LUKE, YAMANE)

I am opposed to this bill.

HB 2617 is not accurate in stating that the first legislature "enacted the state land use commission law in 1961 because of the perception that inadequate controls allowed many of Hawaii's limited and valuable lands to be used for the short-term gain of a few, resulting in a long-term loss to the growth and potential of Hawaii's economy."

The reality is

- \* The first state legislature determined that a lack of adequate controls had caused the development of Hawaii's limited and valuable land for short-term gain for a few

- \* The key reasons for establishing the state-wide zoning system was because the development of scattered subdivisions created problems of expensive yet reduced public services, and the converted prime agricultural land to residential use.

- \* The legislature established the Land Use Commission (LUC) to administer this statewide zoning law, which is responsible for preserving and protecting Hawaii's lands and encouraging those uses to which lands are best suited.

HB 2617 will

- \* Strip the LUC of most of its discretionary authority

- \* Change land use designation and density increases without environmental review (Chapter 343) and cultural resources assessment

- \* Eliminate the contested case process by giving decision-making authority to the counties

- \* Eliminate LUC's ability to handle State issues such as the public trust doctrine, environment, health, cultural, archeological and constitutionally protected gathering rights

- \* Eliminate any process for review or requirements to be granted a special permit

- \* Eliminate any state LUC oversight on reclassification of all proposals of 15 acres or less including conservation lands and Important Ag Lands (IAL)

- \* Make wind a permitted exemption from subdivision requirements

- \* Limit protection of A & B rated ag lands to those already irrigated

- \* Limit protection of C & D rated ag lands to those in production or those that could be in production with irrigation

- \* Require the LUC to approve boundary amendments the counties have put in their general plans and development/community plans



- \* Require automatic approval of county-recommended boundary changes within 90 days of final public hearing
- \* Lead to unregulated and unrestricted growth of renewable energy facilities on ag lands without public trust, cultural and environmental review
- \* Automatically, after 5-year boundary review, convert ag land with subdivisions to the rural designation, which allows greater density and does not require farming.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 10:18 PM  
**To:** waltestimony  
**Cc:** MSMatson@hawaii.rr.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/3/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Matson	Individual	Oppose	No

Comments: Please let me spell this out - S-T-R-O-N-G-L-Y O-P-P-O-S-E !!!!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 10:08 PM  
**To:** waltestimony  
**Cc:** laluz@maui.net  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/3/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
lucienne de naie	Individual	Oppose	No

Comments: This bill is confusing and its purpose is not beneficial to the people of Hawaii. The LUC was created to take a big picture view of Ag land conversion. Our counties do not take this view. The are obligated to ok most projects regardless of adequacy of infrastructure or community opinion. Mahalo for standing for the people and voting no.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 8:30 PM  
**To:** waltestimony  
**Cc:** PelesGrrl@gmail.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/3/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Trinette Furtado	Individual	Oppose	No

Comments: Aloha Chair Yamane, Vice Chair Cullen and Committee Members, 'O Trinette Furtado ko'u inoa. No Hamakualoa mai au, am ka mokupuni o Mauinuiakama. I OPPOSE HB2617 and strongly urge you to do the same. The legislature established the Land Use Commission (LUC) to administer a state-wide zoning system, which is responsible for preserving and protecting Hawaii's lands. This bill proposes to change the way the LUC would be able to review projects, instead allowing Counties to make decisions on State concerns, including public trust doctrine issues, cultural and archaeological concerns (constitutionally protected gathering rights) and environmental and health concerns. This bill would severely restrict the power of the LUC and could allow changes in land use designation without environmental review and/or cultural assessment. This bill would open the door to development of large parcels without Chapter 343 analysis, impact mitigation measures for cultural, environmental and social issues, would allow landowners who currently have former agricultural lands not in use, the opportunity to re-zone/re-classify those lands for rural development without going through a DBA or EIS process. Further, it could mean that NO impact analysis, public improvement issues or public trust issues would have to be addressed by the landowner/developer. To conclude, County proceedings are legislative; not quasi-judicial and as such, could open the door to questions of whether or not this bill and what it proposes, might be a violation of established case law. Who will be the liable party? For these reasons I OPPOSE this bill HB2617 and urge you to do the same. It strips the LUC of any authority and discretionary decision making power that is vital in ensuring the state upholds its kuleana to the people. Mahalo for your time.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

E. Yadao  
POB 861  
LIHUE, HI 96766

February 3, 2016

**TESTIMONY IN OPPOSITION TO 2617**  
**RELATING TO LAND USE**

**Description:**

Authorizes the counties to petition LUC to reclassify lands. Requires LUC to group contiguous lands, set land boundary standards, ensure land use descriptions conform to the state plan and county plans. Establishes criteria and guidelines for districting and classification of urban, rural, agricultural, and conservation districts. Clarifies jurisdiction of the counties for amendments to district boundaries for lands 15 acres and less. Establishes requirements for special use permit applications. Requires LUC to conduct the five year regional boundary change review. Repeals section relating to real property tax assessment where the State administered the property tax.

Committee Members,

I **OPPOSE** this bill in its entirety. I see this as an abuse of your authority to protect and preserve these lands and it is nothing more than a sneaky attempt at grabbing more land for unintended purposes and stealing area for developers and private enterprise.

PLEASE - DO - NOT make the mistake of eliminating the LUC as it is there for purpose, to manage and protect finite land resources; granted its purpose is inconvenient to developers but just look around, open your eyes and see what they've done to these islands: Hawaii looks like a dump, and that is a common observation by visitors and residents. You may think myopically approved developments do no damage but cumulatively all those myopic little approvals have turned the entire island chain into an appalling eyesore: one approval at a time.

The language in HB 2617 stating that the first legislature "enacted the state land use commission law in 1961 because of the perception that inadequate controls allowed many of Hawaii's limited and valuable lands to be used for the short-term gain of a few, resulting in a long-term loss to the growth and potential of Hawaii's economy." is flat out false and it is disheartening that the public has to fight you, our legislators, that are supposed to be acting as a control mechanism against resource abuses.

### **The reality is:**

- \* The first state legislature determined that a lack of adequate controls had caused the development of Hawaii's limited and valuable land for short-term gain for a few
  
- \* The key reasons for establishing the state-wide zoning system was because the development of scattered subdivisions created problems of expensive yet reduced public services, and the converted prime ag land to residential use.
  
- \* The legislature established the Land Use Commission (LUC) to administer this state-wide zoning law, which is responsible for

preserving and protecting Hawaii's lands and encouraging those uses to which lands are best suited.

**HB 2617 will:**

- \* Strip the LUC of most of its discretionary authority
- \* Change land use designation and density increases without environmental review (Chapter 343) and cultural resources assessment
- \* Eliminate the contested case process by giving decision-making authority to the counties
- \* Eliminate LUC's ability to handle State issues such as the public trust doctrine, environment, health, cultural, archeological and constitutionally protected gathering rights
- \* Eliminate any process for review or requirements to be granted a special permit
- \* Eliminate any state LUC oversight on reclassification of all proposals of 15 acres or less including conservation lands and Important Ag Lands (IAL)
- \* Make wind a permitted exemption from subdivision requirements

- \* Limit protection of A & B rated ag lands to those already irrigated
- \* Limit protection of C & D rated ag lands to those in production or those that could be in production with irrigation
- \* Require the LUC to approve boundary amendments the counties have put in their general plans and development/community plans
- \* Require automatic approval of county-recommended boundary changes within 90 days of final public hearing
- \* Lead to unregulated and unrestricted growth of renewable energy facilities on ag lands without public trust, cultural and environmental review
- \* Automatically, after 5-year boundary review, convert ag land with subdivisions to the rural designation, which allows greater density and does not require farming



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 7:59 PM  
**To:** waltestimony  
**Cc:** prentissc001@hawaii.rr.com  
**Subject:** \*Submitted testimony for HB2617 on Feb 5, 2016 08:30AM\*

**HB2617**

Submitted on: 2/3/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Prentiss	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 6:46 PM  
**To:** waltestimony  
**Cc:** anthuriumz@hotmail.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/3/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
wynn timer	Individual	Oppose	No

Comments: Not a good idea for keeping ag lands safe from becoming subdivided for people who probably won't farm.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 6:46 PM  
**To:** waltestimony  
**Cc:** joyamarshall0416@gmail.com  
**Subject:** \*Submitted testimony for HB2617 on Feb 5, 2016 08:30AM\*

**HB2617**

Submitted on: 2/3/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Joy Marshall	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 6:21 PM  
**To:** waltestimony  
**Cc:** lisamarten@hawaii.rr.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/3/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Marten	Individual	Oppose	No

Comments: Dear Senators, I oppose SB 2617 which would strip protection of our lands against short sighted profit for the few. Loopholes are already exploited by developers, do not take away all controls. We need sound policy to be enforced to make sure our resources are used in a sustainable way for the greater good. Mahalo, Lisa Marten

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 03, 2016 5:49 PM  
**To:** waltestimony  
**Cc:** bill@puna.us  
**Subject:** \*Submitted testimony for HB2617 on Feb 5, 2016 08:30AM\*

**HB2617**

Submitted on: 2/3/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Smith	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 12:31 PM  
**To:** waltestimony  
**Cc:** laurenelaide721@yahoo.com  
**Subject:** \*Submitted testimony for HB2617 on Feb 5, 2016 08:30AM\*

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lauren Ampolos	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 12:17 PM  
**To:** waltestimony  
**Cc:** terez.amato@yahoo.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Terez Amato Lindsey	Individual	Oppose	No

Comments: Aloha Chair and Vice Chair, There are many reasons to oppose this bill, but some of the stand out issues highlighting just how damaging this bill would be are as follows: First and foremost, HB 2617 strips the LUC of regulatory, enforcement, and decision making power. Second, it allows developers easy exemptions from regulations. Third, it requires the automatic conversion of ag lands to rural designations with no safeguards to prevent increased density nor requirements that agriculture continue to be produced on those lands. Fourth, it demands automatic approval of all county recommended boundary changes within 90 days of the final public hearing. Please protect our current LUC requirements rather than stripping the commissions authority to do its job. Please vote no on this measure. With appreciation, Terez Amato Lindsey

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 1:33 PM  
**To:** waltestimony  
**Cc:** jennahia@yahoo.com  
**Subject:** \*Submitted testimony for HB2617 on Feb 5, 2016 08:30AM\*

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Noelani Ahia	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

SCOTT E. ENRIGHT  
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER  
Deputy to the Chairperson

**LATE**

TESTIMONY OF SCOTT E. ENRIGHT  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON WATER AND LAND

February 5, 2016  
8:30 A.M.  
CONFERENCE ROOM 325

HOUSE BILL NO. 2617  
RELATING TO LAND USE

Chairperson Yamane and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2617 that amends Chapter 205 (State land use law) to "...resolve confusion, eliminate conflicts between sections, establish clear jurisdictional lines between the counties and State, and prevent disputes over permissible uses allowed by special use permit in land use districts." We offer comments on the amendments affecting agricultural resources and activities. Otherwise, we defer to the Land Use Commission and the Office of Planning.

Regarding the proposed authority of the counties to petition the Commission for "regional district boundary amendments" (page 2, line 7 to page 3, line 9), we envision these amendments to involve primarily the Agricultural District. We are uncertain whether agricultural resources and activities will be better represented in the proposed process. We note there is no limit on acreage of the amendments.

The Department of Agriculture believes the proposed characteristics of lands for inclusion in the Agricultural District (page 12 line 13, to page 13, line 20) is a positive start as it considers existing agricultural use, irrigation, soil potential productivity



(including ranching), unique crops and soils, indirectly recognizes the beneficial infrastructure assets of the former sugarcane and pineapple plantations, and commodities grown for home and abroad. The Department of Agriculture believes there may be other characteristics to consider. Should this bill move forward, we recommend that the phrase “classified as agricultural;” on page 13, line 12 be clarified.

The Department of Agriculture appreciates the effort made to reduce the duplication of permitted uses and activities in the Agricultural District as currently found in Chapter 205. We are aware of at least one error regarding solar energy facilities:

Section 205-2(d)(6) currently permits “Solar energy facilities;” (page 17, line 14). As originally enacted (Act 31, 2008 Session Laws of Hawaii) solar energy is a permitted use without restriction on “D” and “E” agricultural land. Subsequent amendments have been appended to allow solar facilities on “C”, “B”, and “A” rated lands. The Department of Agriculture recommends that new language be added to Section 205-4.5(a) to capture the original intent found in Section 205-2 regarding solar energy facilities. This is important because the Department continues to recommend that any solar energy facilities on Agricultural District land consider “D” and “E” rated lands before considering more productive lands.

Thank you for the opportunity to present our testimony.



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 05, 2016 5:32 AM  
**To:** waltestimony  
**Cc:** darakawa@lurf.org  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/5/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
David Z. Arakawa	Land Use Research Foundation of Hawaii	Support	No

Comments: The Land Use Research Foundation of Hawaii SUPPORTS HB 2617, with amendments which could provide more efficient processing of State Land Use district boundary amendments in collaboration with the counties' land use process. HB 2617 authorizes the counties to petition LUC to reclassify lands; requires LUC to group contiguous lands, set land boundary standards, ensure land use descriptions conform to the state plan and county plans; establishes criteria and guidelines for districting and classification of urban, rural, agricultural, and conservation districts; clarifies jurisdiction of the counties for amendments to district boundaries for lands 15 acres and less; establishes requirements for special use permit applications; requires LUC to conduct the five year regional boundary change review; and repeals section relating to real property tax assessment where the State administered the property tax. LURF is willing to work with this Committee and the proponents of this bill to provide further amendments.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

2016 OFFICERS

PRESIDENT  
CRAIG WASHOFSKY  
SERVCO HOME & APPLIANCE  
DISTRIBUTION

PRESIDENT-ELECT  
EVAN FUJIMOTO  
GRAHAM BUILDERS, INC.

VICE PRESIDENT  
DEAN UCHIDA  
SSFM INTERNATIONAL, INC.

TREASURER  
MICHAEL WATANABE  
JW, INC.

SECRETARY  
PETER ELDRIDGE  
RAYNOR OVERHEAD DOORS &  
GATES, INC.

SPECIAL APPOINTEE-BUILDER  
PAUL D. SILEN  
HAWAIIAN DREDGING  
CONSTRUCTION CO, INC

SPECIAL APPOINTEE-BUILDER  
MARK KENNEDY  
HASEKO CONSTRUCTION  
MANAGEMENT GROUP, INC.

SPECIAL APPOINTEE-ASSOCIATE  
GARY T. OKIMOTO  
HONOLULU WOOD TREATING, LLC

IMMEDIATE PAST PRESIDENT  
RICHARD HOBSON, JR.  
GENTRY HOMES, LTD.

CHIEF EXECUTIVE OFFICER  
GLADYS MARRONE  
BIA-HAWAII

2016 DIRECTORS

ANTHONY BORGE  
RMA SALES

BEAU NOBMANN  
HPM BUILDING SUPPLY

DOUGLAS E. PEARSON  
CASTLE & COOKE HOMES  
HAWAII, INC.

CHRIS CHEUNG  
CC ENGINEERING &  
CONSTRUCTION, INC.

CLIFTON CRAWFORD  
C&J CONTRACTING, INC.

CURT KIRIU  
CK INDEPENDENT LIVING BUILDERS

DWIGHT MITSUNAGA  
DM PACIFIC, INC.

JACKSON PARKER  
D.R. HORTON, SCHULER DIVISION

JENNIFER ANDREWS  
COLDWELL BANKER PACIFIC  
PROPERTIES

MARK HERTEL  
INTER-ISLAND SOLAR SUPPLY,  
OAHU-MAUI-HAWAII-KAUAI

MARSHALL HICKOX  
HOMWORKS CONSTRUCTION, INC.

SARAH LOVE  
BAYS LUNG ROSE & HOLMA

MAILING  
P.O. BOX 970967  
WAIPAHU, HAWAII  
96797-0967

STREET  
94-487 AKOKI STREET,  
WAIPAHU, HAWAII 96797

P 808.847.4666  
F 808.440.1198  
E INFO@BIAHAWAII.ORG

WWW.BIAHAWAII.ORG

**Testimony to the House Committee on Water & Land**  
**The Honorable Ryan Yamane, Chair**  
**The Honorable Ty Cullen, Vice-Chair**  
**Members of the Committee**  
**Friday, February 5, 2016**

**LATE**

**RE: HB 2617: Relating to Land Use.**

Dear Chair Yamane, Vice-Chair Cullen, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-HAWAII is in strong support of H.B. 2617 which proposes to amend Chapter 205 HRS as follows:

1. Authorizes the counties to petition the LUC directly to reclassify lands;
2. Requires LUC to group contiguous lands, set land boundary standards, ensure land use descriptions conform to the state plan and county plans;
3. Establishes criteria and guidelines for districting and classification of urban, rural, agricultural, and conservation districts;
4. Clarifies jurisdiction of the counties for amendments to district boundaries for lands 15 acres and less;
5. Establishes requirements for special use permit applications;
6. Requires LUC to conduct the five year regional boundary change review;
7. Repeals section relating to real property tax assessment where the State administered the property tax.

The proposed amendments to Chapter 205 HRS removes some of the overlapping land use entitlement jurisdiction and procedural issues that have created unnecessary and redundant processes in reclassifying and rezoning lands in Hawaii.

We applaud the efforts to streamline the process, not by eliminating important steps, but by removing the overlap and duplication. We also strongly support the effort to provide more policy direction to the Counties on allowable land uses and activities in each of the four (4) state land use districts. We are also encouraged by the proposal to provide the counties with more direct oversight and responsibility to manage land use activities within the agricultural district.

The proposed amendments to Chapter 205 HRS are long overdue. We strongly support H.B. 2617.

Thank you for the opportunity to express our views on this matter.

**LATE**



*Hawaii's Thousand Friends*

25 Malunui Ave., Suite 102., PMB 282 • Kailua, HI 96734 • Phone/Fax: (808) 262-0682 E-mail: htf@lava.net

COMMITTEE ON WATER & LAND

Rep. Ryan I. Yamane, Chair  
Rep. Ty J.K. Cullen, Vice Chair

HB 2617  
RELATING TO LAND USE

February 5, 2016

Hawaii's Thousand Friends opposes HB 2617 that significantly changes HRS 205 Hawaii's Land Use Law.

HRS 2617 is incorrect when stating that the "legislature enacted the state Land Use Commission law in 1961 due to the *perception* that *inadequate controls* allowed many of Hawaii's limited and valuable lands to be used for the short-term gain of a few"

In 1961 the legislators did not perceive that this was happening they **determined** that a **lack of adequate controls** caused the loss of Hawaii's limited and valuable land for short-term for a few. Their answer to this lack of adequate control was to adopt Hawaii's Land Use Law HRS 205, which created an overall framework of land use management.

The changes proposed in HB 2617 eliminates review or management of State concerns such as the public trust doctrine, environmental or health issues, endangered species habitat, cultural and archeological concerns including constitutionally protected gathering rights.

HB 2617 allows changes in land use designation and density increases without environmental review and cultural resource assessment.

While HB 2617 proposes sweeping changes to our state land use-planning system there is no explanation as to why these changes are needed nor how the proposed changes will better protect Hawaii's finite land, cultural and natural resources and fulfill the States public trust responsibilities.

HB 2617 is confusing, vague and lacks **adequate controls** and big picture comprehensive statewide land use planning and should be held in committee.





# SIERRA CLUB OF HAWAI'I

## MĀLAMA I KA HONUA. *Cherish the Earth.*

House COMMITTEE ON WATER AND LAND

Friday February 5, 2016 8:30AM Room 325

In Opposition **HB2617** Relating to Land Use

**LATE**

Aloha Chairman Yamane and members of the House WAL Committee,

The Sierra Club of Hawai'i strongly OPPOSES HB2617 relating to land use because it will undermine the efficacy of the Land Use Commission. We stand with the many organizations and individuals testifying in support of keeping the Land Use Commission as an effective enforcer of the state's public policy goals related to protecting the environment, preventing urban sprawl, encouraging proper development.

HB 2617 is not accurate when it says the first legislature "enacted the state land use commission law in 1961 because of **the perception** that inadequate controls allowed many of Hawaii's limited and valuable lands to be used for the short-term gain of a few, resulting in a long-term loss to the growth and potential of Hawaii's economy."

The reality is in the wave of construction that overtook Hawaii in the 1960's the regulatory controls were insufficient to protect the public's interest in preserving agricultural lands and encouraging a well-designed, well-constructed urban environment. Much of Hawaii's limited and valuable land was urbanized for short-term profit of a few powerful entities.

The key reason for establishing the state-wide zoning system was to reign in the unfettered development of scattered subdivisions, control the rising cost of increasingly insufficient public services, and prevent the conversion of prime agricultural land to residential use. The legislature established the Land Use Commission (LUC) to administer this state-wide zoning law, which is responsible for preserving and protecting Hawaii's lands and encouraging those uses to which lands are best suited.


HB 2617 should not advanced today because it would:

- \* Strip the LUC of most of its discretionary authority
- \* Change land use designation and density increases without environmental review (Chapter 343) and cultural resources assessment
- \* Eliminate the highly effective contested case hearing process
- \* Eliminate LUC's ability to handle State issues such as the public trust doctrine, environment, health, cultural, archeological and constitutionally protected gathering rights

- \* Eliminate any process for review or requirements to be granted a special permit
- \* Eliminate any state LUC oversight on reclassification of all proposals of 15 acres or less including conservation lands and Important Agricultural Lands (IAL)
- \* Make wind a permitted exemption from subdivision requirements
- \* Limit protection of A & B rated agricultural lands to those already irrigated
- \* Limit protection of C & D rated agricultural lands to those in production or those that could be in production with irrigation
- \* Require the LUC to approve boundary amendments the counties have put in their general plans and development/community plans
- \* Require automatic approval of county-recommended boundary changes within 90 days of final public hearing
- \* Lead to unregulated and unrestricted growth of large-scale renewable energy facilities on agricultural lands without public trust, cultural and environmental review
- \* Automatically, after 5-year boundary review, convert agricultural land with subdivisions to the rural designation, which allows greater density and does not require any actual farming.

For these reasons, the Sierra Club urges this Committee to DEFER this measure indefinitely. Thank you for the opportunity to testify on this measure.

Mahalo,



Martha Townsend  
Director



**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 2:34 PM  
**To:** waltestimony  
**Cc:** milholen.jennifer@gmail.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Milholen	Individual	Oppose	No

Comments: HB 2617 is not accurate in \* Stating that the first legislature "enacted the state land use commission law in 1961 because of the perception that inadequate controls allowed many of Hawaii's limited and valuable lands to be used for the short-term gain of a few, resulting in a long-term loss to the growth and potential of Hawaii's economy." The reality is \* The first state legislature determined that a lack of adequate controls had caused the development of Hawaii's limited and valuable land for short-term gain for a few \* The key reasons for establishing the state-wide zoning system was because the development of scattered subdivisions created problems of expensive yet reduced public services, and the converted prime ag land to residential use. \* The legislature established the Land Use Commisson (LUC) to administer this state-wide zoning law, which is responsible for preserving and protecting Hawaii's lands and encouraging those uses to which lands are best suited. HB 2617 will \* Strip the LUC of most of its discretionary authority \* Change land use designation and density increases without environmental review (Chapter 343) and cultural resources assessment \* Eliminate the contested case process by giving decision-making authority to the counties \* Eliminate LUC's ability to handle State issues such as the public trust doctrine, environment, health, cultural, archeological and constitutionally protected gathering rights \* Eliminate any process for review or requirements to be granted a special permit \* Eliminate any state LUC oversight on reclassification of all proposals of 15 acres or less including conservation lands and Important Ag Lands (IAL) \* Make wind a permitted exemption from subdivision requirements \* Limit protection of A & B rated ag lands to those already irrigated \* Limit protection of C & D rated ag lands to those in production or those that could be in production with irrigation \* Require the LUC to approve boundary amendments the counties have put in their general plans and development/community plans \* Require automatic approval of county-recommended boundary changes within 90 days of final public hearing \* Lead to unregulated and unrestricted growth of renewable energy facilities on ag lands without public trust, cultural and environmental review \* Automatically, after 5-year boundary review, convert ag land with subdivisions to the rural designation, which allows greater density and does not require farming

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 4:36 PM  
**To:** waltestimony  
**Cc:** mauimagic5711@hotmail.com  
**Subject:** \*Submitted testimony for HB2617 on Feb 5, 2016 08:30AM\*

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ann Evans	Individual	Oppose	No

**Comments:**

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 04, 2016 8:49 PM  
**To:** waltestimony  
**Cc:** jennyleejarnesky@gmail.com  
**Subject:** \*Submitted testimony for HB2617 on Feb 5, 2016 08:30AM\*

**LATE**

**HB2617**

Submitted on: 2/4/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jennylee Harris	Individual	Oppose	No

**Comments:**

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 05, 2016 9:07 AM  
**To:** waltestimony  
**Cc:** shannonkona@gmail.com  
**Subject:** Submitted testimony for HB2617 on Feb 5, 2016 08:30AM

**HB2617**

Submitted on: 2/5/2016

Testimony for WAL on Feb 5, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Oppose	No

Comments: Strongly OPPOSE

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)