
A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. The legislature finds that Act 187, Session
2 Laws of Hawaii 1961, which established the State's land use law,
3 was enacted because it was perceived at the time that a lack of
4 adequate controls permitted many of Hawaii's limited and
5 valuable lands to be used for the short-term gain of a few,
6 resulting in a long-term loss to the growth and potential of
7 Hawaii's economy. The law was enacted "to preserve, protect and
8 encourage the development of the lands in the State for those
9 uses to which they are best suited for the public
10 welfare"

11 The legislature further finds that since 1961, amendments
12 made to Hawaii's land use law have created confusion. There are
13 conflicts between sections in the law, the respective
14 jurisdictions of the counties and State are unclear, and
15 disputes persist over permissible use in districts because of
16 the use of special permits. One major problem is caused by a
17 provision in section 205-2(d), Hawaii Revised Statutes that



1 states: "Agricultural districts include areas that are not used
2 for, or that are not suited to, agricultural and ancillary
3 activities by reason of topography, soils, and other related
4 characteristics." Another problem was created by giving the
5 counties boundary amendment jurisdiction for parcels under
6 fifteen acres, which resulted in some developers parceling
7 projects into segments smaller than fifteen acres.

8 The legislature further finds that over the years, the
9 legislature has established commissions and task forces to
10 review Hawaii's land use law or provisions such as the mandates
11 of article XI of the state constitution for the conservation,
12 control, and development of resources. The land evaluation and
13 site assessment commission was established to make
14 recommendations relating to the mandate of article XI, section
15 3, of the state constitution to provide the standards and
16 criteria to "conserve and protect agricultural lands, promote
17 diversified agriculture, increase agricultural self-sufficiency
18 and assure the availability of agriculturally suitable lands."

19 The land evaluation and site assessment commission noted,
20 at the time:



1 The Land Use Commission (LUC) . . . includes about 2.0
2 million acres of land in the Agricultural District.
3 The "ALISH" study listed about 1.0 million acres in
4 its agricultural "lands of importance" inventory. The
5 University of Hawaii Land Study Bureau's productivity
6 categories "A" through "E" included approximately 1.5
7 million acres of agricultural land, as of 1968,
8 excluding forest and forest reserve, game management,
9 recreation, national park, military, undeveloped
10 subdivision, pali, and barren land.

11 The land evaluation and site assessment commission also
12 reported that:

13 [I]t is important to correlate the acreage of
14 agriculturally suited lands to that required to meet
15 the projected agricultural production goals for the
16 future. . . [A] sufficient amount of the most
17 productive and best suited agricultural lands in the
18 State would be classified as "important agricultural
19 lands" and . . . receive the attention mandated by the
20 State Constitution.



1 In 2006, in response to Act 205, Session Laws of Hawaii
2 2005, an advisory group was convened to develop policy and
3 recommend boundary amendments to expand and enhance the use of
4 rural districts. As a result, the office of planning, in
5 cooperation with the county planning directors and the land use
6 commission, conducted statewide workshops to identify public
7 values and vision for rural communities. A variety of views
8 were presented on rural areas, including: preserving or
9 restoring local character; preserving ecosystems, green spaces,
10 and natural open space; maintaining natural landscapes and
11 vistas; preserving rural lifestyle and maintaining peace and
12 quiet; making possible low cost development alternative; and
13 increasing the land available for small farms.

14 The advisory group's recommendations included the following
15 statements, among others:

- 16 (1) The minimum lot size for the rural district should not
17 be specified in state law;
- 18 (2) The state law should specify:
- 19 (A) The basic policies governing land use in the
20 rural district; and



H.B. NO. 1321

- 1 (B) That the county ordinances governing rural land
2 patters, permitted uses, and character shall be
3 consistent with those policies;
- 4 (3) The State should adopt governing and guiding
5 principles for the planning and management of land in
6 the rural district by the counties and by state
7 agencies;
- 8 (4) That the decision to change the classification of
9 existing rural villages, currently classified as
10 urban, from an urban district to a rural district
11 shall be a county decision, and that once a county
12 adopts policies and ordinances governing the rural
13 district, which are in accordance with their general
14 plans, the county may apply to the land use commission
15 to reclassify regional areas from urban to rural using
16 a quasi-legislative process; and
- 17 (5) The counties should be authorized to manage land use
18 in the rural district with the same degree of
19 discretion as they currently have in managing land use
20 in the urban district.



1 The purpose of this Act is to establish a land use review
2 project similar to the project undertaken in 1970 by the
3 judicial council of Hawaii to recodify Hawaii's penal laws.

4 SECTION 2. (a) There is established a land use revision
5 advisory committee that shall:

6 (1) Review the evolution of the land use law since its
7 enactment and the reasons for the various amendments
8 to the law;

9 (2) Review conflicts that have arisen because of
10 ambiguities in the law and the judicial remedies that
11 have been rendered; and

12 (3) Revisit the recommendations of the various
13 commissions, task forces, and working groups that were
14 created to investigate different components of the
15 land use law, such as the land evaluation and site
16 assessment commission and the rural working group.

17 (b) The membership of the advisory committee shall consist
18 of:

19 (1) The director of the legislative reference bureau or
20 the director's designee, to serve as chair of the
21 advisory committee;



1 (2) Two members with experience in land use law; provided
2 that the president of the senate shall appoint one
3 member and the speaker of the house of representatives
4 shall appoint the other member;

5 (3) The executive officer of the land use commission;

6 (4) The director of the office of planning; and

7 (5) The directors of planning of the counties of Hawaii,
8 Maui, and Kauai, respectively, and the director of
9 planning and permitting of the city and county of
10 Honolulu.

11 (c) The members of the advisory committee shall receive no
12 compensation for their service on the committee; provided that
13 state and county employees serving on the committee in their
14 official capacities shall continue to receive compensation as
15 employees. Members shall be reimbursed for reasonable expenses
16 incurred, including travel expenses, related to their service on
17 the committee.

18 (d) The advisory committee may establish ad hoc working
19 groups of persons with special expertise in land use,
20 conservation, development, planning, and agriculture to address
21 specific issues relating to the land use law.



1 (e) The advisory committee shall submit an interim report
 2 to the legislature not later than twenty days before the
 3 convening of the regular session of 2018, and a final report of
 4 findings and recommendations, including a proposed draft of land
 5 use legislation, not later than twenty days before the convening
 6 of the regular session of 2019.

7 SECTION 3. There is appropriated out of the general
 8 revenues of the State of Hawaii the sum of \$ or so much
 9 thereof as may be necessary for fiscal year 2017-2018 and the
 10 same sum or so much thereof as may be necessary for fiscal year
 11 2018-2019 for the purposes of this Act.

12 The sums appropriated shall be expended by the legislative
 13 reference bureau for the purposes of this Act.

14 SECTION 4. This Act shall take effect upon its approval.
 15

INTRODUCED BY:

H. K. Hironaka

Linda LeMizone

Samuel S. King

[Signature]
[Signature]

[Signature]

[Signature]

Calvin H. King

Cindy Brown

JAN 24 2017



H.B. NO. 1321

Report Title:

Land Use Revision Advisory Committee

Description:

Establishes an advisory committee to review state land use law.
Requires the committee to submit reports to the legislature.
Appropriates funds.

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

