

JAN 19 2018

A BILL FOR AN ACT

RELATING TO COMMUNITY PLANNING.

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

1 SECTION 1. The legislature finds that agriculture has a
2 long and valuable history in Hawaii and continues to be an
3 important industry generating \$1,900,000,000 and 42,000 jobs.
4 With the decline of the sugar industry, agricultural lands have
5 been increasingly used by small farms growing diversified
6 agricultural products that have gained recognition in foreign
7 and domestic markets. Despite the importance of agriculture, in
8 the last twenty years the State has developed nearly 3,300 acres
9 of prime farmland, increasing the price of remaining land and
10 creating financial hardships for farmers. Article XI,
11 section 3, of the Hawaii State Constitution requires the State
12 to conserve and protect agricultural lands and increase self-
13 sufficiency and directs the legislature to provide standards and
14 criteria to meet these requirements. Yet, the State needs a
15 strategic community-oriented criterion to protect our unspoiled
16 landscapes and farm lands, preserve the beauty of the islands,
17 and secure its unique agricultural industry.



1 The increased development of farmland is partially the
2 result of the addition of substantial numbers, at least 100,000
3 on average, to the Hawaii resident population each decade from
4 1960 to 2000. For each decade between 2000 and 2030, the
5 population is expected to increase by 140,000, with
6 approximately 59,000 of that growth being in the neighbor island
7 counties.

8 The increasing population puts pressure on the State and
9 counties to implement land use practices that carefully regulate
10 a balance of development while sustaining the beauty and natural
11 resources of the islands. Changes in state and county land use
12 practices need to be implemented to plan for proper population
13 growth; otherwise, new housing supply will decrease and island-
14 wide prices will increase.

15 Concurrently, changes need to be made to provide
16 opportunities to preserve or increase the number of affordable
17 housing facilities within transit-oriented development zones and
18 improve facilities for the care of children and the elderly.
19 Family-oriented support services are necessary for children and
20 elders, including child care and elder care so that families can
21 use mass transit while meeting the needs of their family



1 members. Focusing on such redevelopment and reinvestment will
2 provide communities in which future generations can grow up in a
3 safe and healthy environment by reducing traffic congestion,
4 greenhouse gases, and use of fossil fuels.

5 Existing land use practices, including statutes,
6 ordinances, permitting, development application processes, and
7 environmental infrastructure, need to be reviewed to effectively
8 provide the necessary information and recommendations required
9 to plan for the reduction of urban sprawl and proper development
10 and redevelopment to accommodate population growth.

11 Furthermore, to prevent urban sprawl from destroying our
12 agricultural lands, a viable option would be to focus growth
13 along the transit corridors and through the county development
14 plans for Ewa and the primary urban center.

15 The purpose of this Act is to establish planning districts,
16 create a comprehensive application process to apply for
17 residential and commercial qualified projects, and establish the
18 transit-oriented redevelopment district program.

19 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
20 by adding a new part to be appropriately designated and to read
21 as follows:



1 "PART . PLANNING DISTRICTS

2 §46-A Findings and purpose. The legislature finds that
3 successful planning for growth requires reducing sprawl and
4 creating urban developments in existing and new communities that
5 offer a high quality of life for a broad range of household
6 types. Further, well-designed and well-integrated higher-
7 density development can significantly reduce dependency on cars
8 and decrease traffic congestion and vehicle emissions. Benefits
9 are even greater when job locations and retail shopping
10 locations are incorporated with the housing. Mixed-use
11 neighborhoods make it easier for persons to park their cars in
12 one location where they may accomplish several tasks. This not
13 only reduces the number of car trips required but also reduces
14 overall parking needs for the community and our carbon imprint.
15 Infrastructure improvements are greatly needed to increase
16 safety and promote healthy lifestyle habits such as walking and
17 biking.

18 The purpose of this part is to facilitate commercial and
19 residential development of an exceptional level of quality on
20 land adjacent to public transportation stations and centers by



1 creating a process and reduced up-front costs that will, in
2 turn, act as catalytic projects for neighborhood reinvestment.

3 **§46-B Definitions.** As used in this part, unless the
4 context otherwise requires:

5 "Action" or "action taken" means approval, approval with
6 modification, or disapproval.

7 "Application" means the preliminary plans and
8 specifications for a qualified project and includes materials,
9 such as plans, information, or specifications, submitted to a
10 planning agency by a qualified developer.

11 "Legislative body" means the legislative body of the county
12 to which a qualified developer submits an application for final
13 approval of a qualified project.

14 "Planning agency" or "agency" means the planning agency of
15 a county to which a qualified developer submits an application
16 for a qualified project.

17 "Program" means the transit-oriented redevelopment district
18 program established by a county pursuant to section 46-D.

19 "Qualified developer" means a person, landowner,
20 corporation, organization, partnership, association, or other
21 legal entity that is:



(1) Licensed to do business in the State; and

(2) Bonded and in good standing in an amount to be determined by the respective legislative body.

"Qualified project" or "project" means a project as defined by the county that is located wholly within a planning district and promotes public transit ridership.

"Transit-oriented development" or "transit-oriented redevelopment" means land use projects of relatively intense concentration involving a mixture of uses that depend upon and support transit ridership.

§46-C Planning districts. (a) The county may establish planning districts contained within the land use district.

(b) Planning districts shall consist of a transit-oriented development within a radius, as specified by a county with a population of five hundred thousand or more pursuant to rule, of a:

(1) Bus transit station or center, as designated by the county to achieve density and ridership goals, located within the county development plans for Ewa and the primary urban center that has existing infrastructure,



public utilities, and roadways or is within a
developed community; or

- (2) Rail transit station, as designated by the county to
achieve density and ridership goals, located at east
Kapolei, the University of Hawaii West Oahu, West
Loch, Waipahu, Leeward Community College, or Pearl
Highlands;

provided that the designation of a planning district shall not
change the land use classification of the parcel.

§46-D Transit-oriented redevelopment district program.

(a) A county that establishes a planning district shall
establish a transit-oriented redevelopment district program.

The program shall include:

- (1) Guidelines for community-based planning for transit-
oriented redevelopment districts;
- (2) Strategies for infrastructure upgrades to support
development and redevelopment;
- (3) Minimum mixed use design and site plan guidelines;
- (4) Guidelines for complete streets programs; and
- (5) Strategies to promote public transit ridership.



(b) In developing the program, the county may establish minimum eligibility criteria for qualified projects, including:

- (1) Minimum and maximum project sizes;
- (2) Requiring a mix of commercial and residential uses;
- (3) Establishing workforce and affordable housing requirements;
- (4) Proposing parking ratios below any existing required ratio and a maximum cap on the total number of parking spaces, proposing a centralized public or private parking structure, or proposing a transportation plan with innovative parking solutions;
- (5) Creating street level activities, including early evening hour activities and retail and public gathering areas; and
- (6) Providing community benefits, including off-site open space, on-site social services space, and major off-site infrastructure upgrades.

(c) A county or county agency participating in the program shall adopt rules or regulations as necessary for the purposes of this section, including:



(1) Criteria for granting exemptions pursuant to sections 46-F and 46-G;

(2) Considerations, upon submission of an application for a qualified project to the planning agency, regarding the existing use of lands, including zoning, location, and future impacts; and

(3) Assurances for a fair and equitable application process.

§46-E Requirements of contractor. Prior to performing any work on a qualified project, contractors or subcontractors shall be pre-qualified by demonstrating at least three years of experience in Hawaii on similar projects. The pre-qualification process shall be established by the legislative body of the county in which the project is situated.

§46-F State incentives; exemptions. Subject to rules adopted pursuant to sections 46-D and 46-J, qualified projects in established planning districts shall be exempt from all state fees associated with land development; provided that approval for the exemption is granted by the state agency that would otherwise receive the fee.



1 **§46-G County incentives; exemptions.** Subject to rules
2 adopted pursuant to sections 46-D and 46-J, qualified projects
3 in a planning district that are approved by the legislative body
4 shall receive exemptions from the zone change process and
5 compliance with zoning standards. Additionally, a county may
6 adopt any other incentives that it deems appropriate to be
7 granted to qualified projects.

8 **§46-H Qualified projects; application by developer;**
9 **review.** (a) A qualified developer may submit to a planning
10 agency an application for approval of a qualified project within
11 a planning district. The application shall include a transit
12 ridership study that demonstrates the need for development by
13 determining the size of the service population, transportation
14 demands, and other factors that will achieve desired transit
15 ridership goals and overall land use density, as determined by
16 the planning agency. The desired overall land use density
17 referenced in the application shall be consistent with existing
18 county general plans and state plans.

19 (b) The planning agency shall review the application and
20 secure any additional information that the planning agency deems
21 necessary for the purpose of taking action. The planning agency



1 shall take action within forty-five days of the application
2 being deemed complete; provided that the time to take action may
3 be extended up to ten days for good cause. No later than fifty-
4 five days after the application is deemed complete, the planning
5 agency shall notify the developer of the action taken.

6 (c) If the planning agency approves the application, with
7 or without modifications, the planning agency shall forward the
8 application with its recommendation to the legislative body.

9 The legislative body shall have forty-five days from the date of
10 receipt of the planning agency's recommendation of approval to
11 approve, approve with modifications, or disapprove the
12 application by resolution.

13 **§46-I Floor area ratio transfer.** (a) There is
14 established a discretionary review process to be conducted by
15 the county legislative body, subject to the recommendation of
16 the county planning director, for the transfer of floor area
17 within a planning district from sending sites to a receiving
18 site within a planning district established pursuant to section
19 46-C(b)(2). The purpose of this process is to encourage the
20 transfer of floor area to properties with lot dimensions that
21 allow for additional floor area while complying with the



1 building envelope requirements and building height requirements
2 set forth in a county land use ordinance.

3 (b) The proposed creation and redemption of floor area
4 ratio transfers shall take place solely on a voluntary basis
5 between consenting parties. Landowners shall not be required to
6 create or convey floor area ratio transfers; provided that floor
7 area ratio transfers shall be created, conveyed, or redeemed in
8 accordance with this section to be recognized by a legislative
9 body.

10 (c) Floor area ratio transfers shall not involve an
11 existing public park or open space.

12 (d) All requests to create, convey, and redeem floor area
13 ratio transfer credits shall be accompanied by and occur in
14 conjunction with the following:

15 (1) A project agreement, including any accompanying permit
16 approval request, improvement permit, development
17 permit, conditional use permit, variance, and master
18 plan permit; and

19 (2) A proposal to create, convey, and redeem floor area
20 ratio transfer credits on forms prescribed by the



1 director of the planning agency that contain the
2 following information:

3 (A) Particular to a sending site:

4 (i) A cover letter identifying the landowner's
5 name, mailing address, and contact
6 information and briefly explaining what the
7 landowner seeks to accomplish;

8 (ii) A certificate of title demonstrating
9 ownership of the proposed sending site and
10 receiving site;

11 (iii) A draft covenant that provides the
12 protections and restrictions on the proposed
13 property;

14 (iv) A baseline documentation report that
15 establishes the current condition of the
16 proposed sending site that contains, at a
17 minimum, a general location map, legal
18 description and sketch of parcel boundaries,
19 and documentation (such as maps, written
20 summaries, and photographs) of existing
21 conditions that relate to the proposed



1 easement restrictions as well as the
2 proposed rights to be retained by the
3 landowner; and

4 (v) An affidavit signed by the landowner and
5 preparer of the submittal, attesting to the
6 accuracy of the information contained in the
7 baseline documentation report; and

8 (B) Particular to a receiving site, plans, diagrams,
9 and supporting text that clearly identify and
10 illustrate the location and extent of the
11 proposed floor area transfer.

12 (e) The legislative body shall review and act upon all
13 applications for floor area ratio transfers to create, convey,
14 and redeem floor area ratio transfer credits after receiving a
15 recommendation from the respective county's director of the
16 planning agency.

17 (f) The legislative body shall make the following findings
18 of fact to approve an application to create, convey, and redeem
19 floor area ratio transfer credits:



(1) The receiving site allows for additional floor area while complying with the building envelope requirements and the land use ordinance; and

(2) The creation, conveyance, and redemption of floor area ratio transfer credits enable the subject lots to fulfill the development objectives of the county general or development plans.

(g) The creation, conveyance, and redemption of floor area ratio transfer credits shall be limited by the following:

(1) Floor area ratio transfer credits shall not be created or redeemed in conjunction with a variance approval to exceed any maximum building height or building footprint, or reduce any setback specified in the county land use ordinance;

(2) No more than fifty per cent of the maximum permitted floor area ratio shall be transferred from any sending site; provided that contiguous lots may transfer one hundred per cent of the maximum permitted floor area ratio; and

(3) Floor area ratio transfer credits shall be created and redeemed concurrently. No floor area ratio transfer



1 credit may be reserved for future conveyance to a
2 sending site.

3 (h) To establish floor area ratio transfer credits, the
4 sending site landowner shall record a covenant running with the
5 land over the sending site consistent with this section. The
6 covenant shall:

7 (1) Run with the land on the sending site;

8 (2) Restrict the floor area ratio of the sending site to
9 the ratio established by the transfer; and

10 (3) Name the planning agency as an intended beneficiary
11 with the right to enforce the covenant.

12 (i) The director of the planning agency shall maintain a
13 register of all floor area ratio transfer credits both created
14 and redeemed pursuant to this section and shall update this
15 register annually.

16 **§46-J Adoption of rules.** A planning agency may adopt
17 rules pursuant to chapter 91 that are necessary to effectuate
18 the purposes of this part, including rules to specify materials
19 that shall be necessary components of a complete application."

20 SECTION 3. In codifying the new sections added by
21 section 2 of this Act, the revisor of statutes shall substitute



S.B. NO. 2518

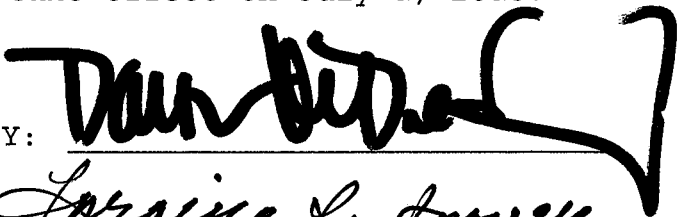
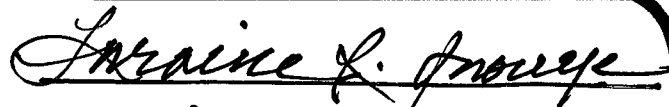

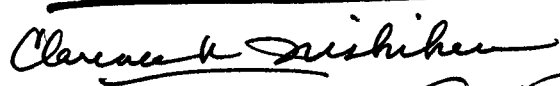
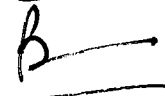
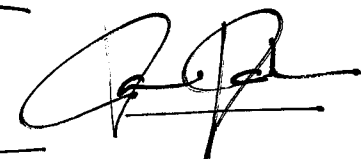



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 4. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 5. This Act shall take effect on July 1, 2018.

10

INTRODUCED BY:



S.B. NO. 2518

Report Title:

Counties; Transit-oriented Development; Community Planning

Description:

Authorizes certain counties to establish planning districts and a transit-oriented redevelopment district program. Authorizes state and county incentives for qualified projects. Establishes a discretionary review process for the transfer of floor area within certain planning districts.

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

