

JAN 21 2022

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# A BILL FOR AN ACT

RELATING TO THE LAND USE COMMISSION.

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

1       SECTION 1. The legislature finds that, since 1961, it has  
2       been the land use commission's duty to establish a framework of  
3       land use management and regulation in which all lands in the  
4       State are classified into one of four land use districts. The  
5       legislature further finds that the land use commission is  
6       misusing its authority and keeping projects pending due to its  
7       consideration of factors beyond its jurisdiction and exceeding  
8       its role of simply determining boundary classifications.

9       Accordingly, because counties are better poised to make  
10      determinations regarding boundary classifications and land use  
11      management, the purpose of this Act is to:

12      (1) Require each county to establish its own land use  
13      commission to make certain determinations under  
14      chapter 205, Hawaii Revised Statutes; and

15      (2) Repeal the state land use commission.



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

**"§46- County land use commission; established. (a)**

Each county shall, by ordinance, establish a county land use commission that shall be responsible for the districting and classification of lands within the county, pursuant to the requirements of chapter 205. A county may designate an existing agency or office within the county as its county land use commission to satisfy the requirements of this section.

(b) Land use district boundaries and classifications as determined by the State and existing as of July 1, 2022, shall remain in full force and effect subject to amendment by respective county land use commissions as provided in chapter 205. The authority of each county land use commission to amend district boundaries or classifications of lands shall apply to petitions filed after July 1, 2022."

SECTION 3. Section 6K-6, Hawaii Revised Statutes, is amended to read as follows:

**"§6K-6 Responsibilities and duties of the commission.** The general administration of the island reserve shall rest with the



1 commission. In carrying out its duties and responsibilities,  
2 the commission:

3 (1) Shall establish criteria, policies, and controls for  
4 permissible uses within the island reserve;

5 (2) Shall approve all contracts for services and rules  
6 pertaining to the island reserve;

7 (3) Shall provide advice to the governor, the department,  
8 and other departments and agencies on any matter  
9 relating to the island reserve;

10 (4) Shall provide advice to the office of planning and  
11 sustainable development and the department of the  
12 attorney general on any matter relating to the federal  
13 conveyance of Kaho`olawe;

14 (5) May enter into curator or stewardship agreements with  
15 appropriate Hawaiian cultural and spiritual community  
16 organizations for the perpetuation of native Hawaiian  
17 cultural, religious, and subsistence customs, beliefs,  
18 and practices for the purposes stated in section 6K-3;

19 (6) Shall carry out those powers and duties otherwise  
20 conferred upon the board of land and natural resources  
21 and the county of Maui land use commission with regard



1 to dispositions and approvals pertaining to the island  
2 reserve. All powers and duties of the board of land  
3 and natural resources and the county of Maui land use  
4 commission concerning dispositions and approvals  
5 pertaining to the island reserve are transferred to  
6 the commission;

7 (7) Shall carry out those powers and duties concerning the  
8 island reserve otherwise conferred upon the county of  
9 Maui by chapter 205A. The powers and duties of the  
10 county of Maui and its agencies concerning coastal  
11 zone dispositions and approvals pertaining to the  
12 island reserve are transferred to the commission;

13 (8) Shall carry out those powers and duties concerning the  
14 island reserve otherwise conferred upon the island  
15 burial councils and the department with regard to  
16 proper treatment of burial sites and human skeletal  
17 remains found in the island reserve;

18 (9) Shall adopt rules in accordance with chapter 91 that  
19 are necessary for the purposes of this chapter and  
20 shall maintain a record of its proceedings and  
21 actions;



- 1       (10) May delegate to the executive director or employees of  
2           the commission, by formal commission action, such  
3           power and authority vested in the commission by this  
4           chapter as the commission deems reasonable and proper  
5           for the effective administration of this chapter; and  
6       (11) May solicit and accept grants, donations, and  
7           contributions for deposit into the Kaho`olawe  
8           rehabilitation trust fund to support the purposes of  
9           this chapter."

10       SECTION 4. Section 10-41, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12       "(a) The training required by this part shall apply to  
13 members of [~~the~~] each county land use commission, board of land  
14 and natural resources, commission on water resource management,  
15 environmental advisory council, board of directors of the  
16 agribusiness development corporation, board of agriculture,  
17 legacy land conservation commission, natural area reserves  
18 system commission, and Hawaii historic places review board."

19       SECTION 5. Section 46-15, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:



1       "(a) The mayor of each county, after holding a public  
2 hearing on the matter and receiving the approval of the  
3 respective council, shall be empowered to designate areas of  
4 land for experimental and demonstration housing projects, the  
5 purposes of which are to research and develop ideas that would  
6 reduce the cost of housing in the State. Except as hereinafter  
7 provided, the experimental and demonstration housing projects  
8 shall be exempt from all statutes, ordinances, charter  
9 provisions, and rules or regulations of any governmental agency  
10 or public utility relating to planning, zoning, construction  
11 standards for subdivisions, development and improvement of land,  
12 and the construction and sale of homes thereon; provided that  
13 the experimental and demonstration housing projects shall not  
14 affect the safety standards or tariffs approved by the public  
15 utility commissions for such public utility.

16       The mayor of each county with the approval of the  
17 respective council may designate a county agency or official who  
18 shall have the power to review all plans and specifications for  
19 the subdivisions, development and improvement of the land  
20 involved, and the construction and sale of homes thereon. The  
21 county agency or official shall have the power to approve or



1 disapprove or to make modifications to all or any portion of the  
2 plans and specifications.

3       The county agency or official shall submit preliminary  
4 plans and specifications to the legislative body of the  
5 respective county for its approval or disapproval. The final  
6 plans and specifications for the project shall be deemed  
7 approved by the legislative body if the final plans and  
8 specifications do not substantially deviate from the approved  
9 preliminary plans and specifications. The final plans and  
10 specifications shall constitute the standards for the particular  
11 project.

12       No action shall be prosecuted or maintained against any  
13 county, its officials or employees, on account of actions taken  
14 in reviewing, approving, or disapproving such plans and  
15 specifications.

16       Any experimental or demonstration housing project for the  
17 purposes hereinabove mentioned may be sponsored by any state or  
18 county agency or any person as defined in section 1-19.

19       The county agency or official shall apply to the [state]  
20 applicable county land use commission for an appropriate land  
21 use district classification change, except where a proposed



1 project is located on land within an urban district established  
2 by the [~~state~~] county land use commission. Notwithstanding any  
3 law, rule, or regulation to the contrary, the [~~state~~] county  
4 land use commission may approve the application at any time  
5 after a public hearing held in the county where the land is  
6 located upon notice of the time and place of the hearing being  
7 published in the same manner as the notice required for a public  
8 hearing by the planning commission of the appropriate county."

9 SECTION 6. Section 46-15.7, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "[~~§~~]**§46-15.7**[~~]~~ **Concurrent processing.** When amendments to  
12 a county community or development plan, a county zoning map, or  
13 any combination of the two, are necessary to permit the  
14 development of a housing project, requests for amendments to  
15 these plans and zoning maps shall be allowed, if accepted for  
16 processing by the county, to be processed concurrently at the  
17 request of the applicant. In addition, upon the request of the  
18 applicant, these plan and zoning map amendment requests may be  
19 processed concurrently with any request to the [~~state~~] county  
20 land use commission for the redesignation of lands which would  
21 permit the development of the housing project.





1 For the purposes of this section:

2 "County community or development plan" means a relatively  
3 detailed plan for an area or region within a county to implement  
4 the objectives and policies of a county general plan.

5 "Housing project" means a plan, design, or undertaking for  
6 the development of single- or multi-family housing, including  
7 any affordable housing component which may be required by the  
8 county council. A housing project may also include ancillary  
9 uses such as commercial and industrial uses which are an  
10 integral part of the development."

11 SECTION 7. Section 46-18, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) Each county shall, by ordinance, designate an  
14 existing agency within each county which shall be designated as  
15 the central coordinating agency and in addition to its existing  
16 functions shall:

- 17 (1) Maintain and continuously update a repository of all  
18 laws, rules and regulations, procedures, permit  
19 requirements and review criteria of all federal, state  
20 and county agencies having any control or regulatory  
21 powers over land development projects within such



1 county and shall make said repository and  
2 knowledgeable personnel available to inform any person  
3 requesting information as to the applicability of the  
4 same to a particular proposed project within the  
5 county;

6 (2) Study the feasibility and advisability of utilizing a  
7 master application form to concurrently file  
8 applications for an amendment to a county general plan  
9 and development plan, change in districting and  
10 classification of lands, change in zoning, special  
11 management area permit and other permits and  
12 procedures required for land development projects in  
13 the county to the extent practicable with one master  
14 application;

15 (3) Maintain and continuously update a master file for the  
16 respective county of all applications for building  
17 permits, subdivision maps, and land use designations  
18 of the [~~State and~~] county;

19 (4) When requested by the applicant, endeavor to schedule  
20 and coordinate, to the extent practicable, any  
21 referrals, public informational meetings, or any



1 public hearings with those held by other federal,  
2 state, or county commissions or agencies, or any  
3 combination thereof, pursuant to existing laws  
4 pertaining to the respective county; and

5 (5) When requested by the applicant, endeavor to schedule  
6 and coordinate, to the extent practicable, a single  
7 joint public hearing when multiple permits from state  
8 or county commissions or agencies, or any combination  
9 thereof, require a public hearing."

10 SECTION 8. Section 46-88, Hawaii Revised Statutes, is  
11 amended by amending subsection (g) to read as follows:

12 "(g) This section shall not apply to development on land  
13 in the [~~state~~] county land use urban district."

14 SECTION 9. Section 84-17, Hawaii Revised Statutes, is  
15 amended by amending subsection (d) to read as follows:

16 "(d) The financial disclosure statements of the following  
17 persons shall be public records and available for inspection and  
18 duplication:

19 (1) The governor, the lieutenant governor, the members of  
20 the legislature, candidates for and delegates to the  
21 constitutional convention, the trustees of the office



1 of Hawaiian affairs, and candidates for state elective  
2 offices;

3 (2) The directors of the state departments and their  
4 deputies, regardless of the titles by which the  
5 foregoing persons are designated; provided that with  
6 respect to the department of the attorney general, the  
7 foregoing shall apply only to the attorney general and  
8 the first deputy attorney general;

9 (3) The administrative director of the State;

10 (4) The president, the vice presidents, the assistant vice  
11 presidents, the chancellors, members of the board of  
12 regents, and the provosts of the University of Hawaii;

13 (5) The members of the board of education and the  
14 superintendent, the deputy superintendent, the state  
15 librarian, and the deputy state librarian of the  
16 department of education;

17 (6) The administrative director and the deputy director of  
18 the courts;

19 (7) The administrator and the assistant administrator of  
20 the office of Hawaiian affairs; and



1       (8) The members of the following state boards,  
2       commissions, and agencies:

3       (A) The board of directors of the agribusiness  
4       development corporation established under section  
5       163D-3;

6       (B) The board of agriculture established under  
7       section 26-16;

8       (C) The state ethics commission established under  
9       section 84-21;

10      (D) The Hawaii community development authority  
11      established under section 206E-3;

12      (E) The Hawaiian homes commission established under  
13      the Hawaiian Homes Commission Act of 1920, as  
14      amended, and section 26-17;

15      (F) The board of directors of the Hawaii housing  
16      finance and development corporation established  
17      under section 201H-3;

18      (G) The board of land and natural resources  
19      established under section 171-4;

20      ~~[(H) The state land use commission established under~~  
21      ~~section 205-1;~~



1       ~~(I)~~ (H)   The legacy land conservation commission

2                   established under section 173A-2.4;

3       ~~(J)~~ (I)   The natural area reserves system commission

4                   established under section 195-6;

5       ~~(K)~~ (J)   The board of directors of the natural energy

6                   laboratory of Hawaii authority established under

7                   section 227D-2;

8       ~~(L)~~ (K)   The board of directors of the Hawaii public

9                   housing authority established under section

10                  356D-3;

11       ~~(M)~~ (L)   The public utilities commission established under

12                  section 269-2; and

13       ~~(N)~~ (M)   The commission on water resource management

14                  established under section 174C-7."

15       SECTION 10.   Section 92-6, Hawaii Revised Statutes, is  
16   amended by amending subsection (b) to read as follows:

17       "(b)   Notwithstanding provisions in this section to the  
18   contrary, this part shall apply to require open deliberation of  
19   the adjudicatory functions of ~~the~~ each county land use  
20   commission."



SECTION 11. Section 171-49.7, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~§171-49.7[~~§~~] **Public lands suitable and available for residential development; inventory.** The department of land and natural resources shall complete and maintain a current inventory of all public lands placed in the urban district by [~~the~~] each county land use commission under chapter 205 which are or may be suitable and available for residential development. This inventory shall be updated at the end of each quarter and shall contain the following information: the island and area in which the land is situated, the acreage, and such other information which the department determines may be necessary to identify and inventory the land."

SECTION 12. Section 174C-3, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "authorized planned use" to read:

"Authorized planned use" means the use or projected use of water by a development that has received the proper [~~state~~] county land use designation and county development plan/community plan approvals."



1           2. By amending the definition of "reasonable-beneficial  
2 use" to read:

3           ""Reasonable-beneficial use" means the use of water in such  
4 a quantity as is necessary for economic and efficient  
5 utilization, for a purpose, and in a manner which is both  
6 reasonable and consistent with the [~~state and~~] county land use  
7 plans and the public interest."

8           SECTION 13. Section 174C-31, Hawaii Revised Statutes, is  
9 amended by amending subsections (b) and (c) to read as follows:

10          "(b) All water use and development plans shall be prepared  
11 in a manner consistent with the following conditions:

12           (1) Each water use and development plan shall be  
13               consistent with the water resource protection and  
14               water quality plans;

15           (2) Each water use and development plan and the state  
16               water projects plan shall be consistent with the  
17               respective county land use plans and policies  
18               including general plan and zoning as determined by  
19               each respective county;





- 1           (3) The water use and development plan for each county  
2           shall also be consistent with the [~~state~~] county land  
3           use classification and policies;
- 4           (4) The cost to develop the initial water use and  
5           development plan for each county shall be funded by  
6           the State in an amount not exceeding \$150,000 per  
7           county;
- 8           (5) The cost of maintaining the water use and development  
9           plan shall be borne by the counties; state water  
10          capital improvement funds appropriated to the counties  
11          shall be deemed to satisfy article VIII, section 5 of  
12          the state constitution; and
- 13          (6) Each county in order to be eligible for state  
14          appropriations for county water projects must have  
15          developed an acceptable water use and development plan  
16          within the time frame established by this chapter.
- 17          (c) To prepare the water resource protection and water  
18          quality plans, the commission shall:
- 19               (1) Study and inventory the existing water resources of  
20               the State and the means and methods of conserving and  
21               augmenting such water resources;



- 1           (2) Review existing and contemplated needs and uses of  
2           water including [~~state and~~] county land use plans and  
3           policies and study their effect on the environment,  
4           procreation of fish and wildlife, and water quality;
- 5           (3) Study the quantity and quality of water needed for  
6           existing and contemplated uses, including irrigation,  
7           power development, geothermal power, and municipal  
8           uses;
- 9           (4) Identify rivers or streams, or a portion of a river or  
10          stream, which appropriately may be placed within a  
11          wild and scenic rivers system, to be preserved and  
12          protected as part of the public trust. For the  
13          purposes of this paragraph, the term "wild and scenic  
14          rivers" means rivers or streams, or a portion of a  
15          river or stream of high natural quality or that  
16          possess significant scenic value, including but not  
17          limited to, rivers or streams which are within the  
18          natural area reserves system. The commission shall  
19          report its findings to the legislature twenty days  
20          prior to the convening of each regular legislative  
21          session; and



(5) Study such other related matters as drainage, reclamation, flood hazards, floodplain zoning, dam safety, and selection of reservoir sites, as they relate to the protection, conservation, quantity, and quality of water."

SECTION 14. Section 174C-49, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) To obtain a permit pursuant to this part, the applicant shall establish that the proposed use of water:

(1) Can be accommodated with the available water source;

(2) Is a reasonable-beneficial use as defined in section 174C-3;

(3) Will not interfere with any existing legal use of water;

(4) Is consistent with the public interest;

(5) Is consistent with state and county general plans and county land use designations;

(6) Is consistent with county land use plans and policies; and



(7) Will not interfere with the rights of the department of Hawaiian home lands as provided in section 221 of the Hawaiian Homes Commission Act."

2. By amending subsection (c) to read:

"(c) The common law of the State to the contrary notwithstanding, the commission shall allow the holder of a use permit to transport and use surface or ground water beyond overlying land or outside the watershed from which it is taken if the commission determines that such transport and use are consistent with the public interest and the general plans and land use policies of the [~~State and~~] counties."

SECTION 15. Section 174C-93, Hawaii Revised Statutes, is amended to read as follows:

**"[+]§174C-93[+] Permits for construction or alteration.**

No person shall construct or alter a stream diversion works, other than in the course of normal maintenance, without first obtaining a permit from the commission. The commission may impose such reasonable conditions as are necessary to assure that the construction or alteration of such stream diversion works will not be inconsistent with the general plan and land



1 use policies of the [~~State and the~~] affected county. Nothing in  
2 this section shall be construed to be inconsistent with part IV.

3 A person proposing to construct or alter a stream diversion  
4 work shall apply to the commission for a permit authorizing such  
5 construction or alteration. The application shall contain the  
6 following:

- 7 (1) Name and address of the applicant;
- 8 (2) Name and address of the owner or owners of the land  
9 upon which the works are to be constructed and a legal  
10 description of such land;
- 11 (3) Location of the work;
- 12 (4) Engineering drawings showing the detailed plans of  
13 construction;
- 14 (5) Detailed specifications of construction;
- 15 (6) Name and address of the person who prepared the plans  
16 and specifications for construction;
- 17 (7) Name and address of the person who will construct the  
18 proposed work;
- 19 (8) General purpose of the proposed work; and
- 20 (9) Such other information as the commission may require."



SECTION 16. Section 183C-1, Hawaii Revised Statutes, is amended to read as follows:

"[+]§183C-1[+] **Findings and purpose.** The legislature finds that lands within the [state] land use conservation district contain important natural resources essential to the preservation of the State's fragile natural ecosystems and the sustainability of the State's water supply. It is therefore, the intent of the legislature to conserve, protect, and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare."

SECTION 17. Section 183C-3, Hawaii Revised Statutes, is amended to read as follows:

"[+]§183C-3[+] **Powers and duties of the board and department.** The board and department shall:

(1) Maintain an accurate inventory of lands classified within the [state] conservation district by [the state] each county land use commission, pursuant to chapter 205;

(2) Identify and appropriately zone those lands classified within the conservation district;



1           (3) Adopt rules, in compliance with chapter 91 which shall  
2           have the force and effect of law;

3           (4) Set, charge, and collect reasonable fees in an amount  
4           sufficient to defray the cost of processing  
5           applications for zoning, use, and subdivision of  
6           conservation lands;

7           (5) Establish categories of uses or activities on  
8           conservation lands, including allowable uses or  
9           activities for which no permit shall be required;

10          (6) Establish restrictions, requirements, and conditions  
11          consistent with the standards set forth in this  
12          chapter on the use of conservation lands; and

13          (7) Establish and enforce land use regulations on  
14          conservation district lands including the collection  
15          of fines for violations of land use and terms and  
16          conditions of permits issued by the department."

17          SECTION 18. Section 196D-10, Hawaii Revised Statutes, is  
18          amended by amending subsection (a) to read as follows:

19               "(a) Those functions identified in paragraphs (1) and (2)  
20          insofar as they relate to the permit application, review,  
21          processing, issuance, and monitoring of laws, and rules and to



1 the enforcement of terms, conditions, and stipulations of  
2 permits and other authorizations issued by agencies with respect  
3 to the development, construction, installation, operation,  
4 maintenance, repair, and replacement of the project, or any  
5 portion or portions thereof, are transferred to the department.

6 With respect to each of the statutory authorities cited in  
7 paragraphs (1) and (2), the transferred functions include all  
8 enforcement functions of the agencies or their officials under  
9 the statute cited as may be related to the enforcement of the  
10 terms, conditions, and stipulations of permits, including but  
11 not limited to the specific sections of the statute cited.

12 "Enforcement", for purposes of this transfer of functions,  
13 includes monitoring and any other compliance or oversight  
14 activities reasonably related to the enforcement process. These  
15 transferred functions include:

16 (1) Such functions of [~~the~~] each county land use  
17 commission related to: district boundary amendments  
18 as set forth in section 205-3.1 et seq.; and changes  
19 in zoning as set forth in section 205-5; and

20 (2) The permit approval and enforcement functions of the  
21 director of transportation or other appropriate





1           official or entity in the department of transportation  
2           related to permits or approvals issued for the use of  
3           or commercial activities in or affecting the ocean  
4           waters and shores of the State under chapter 266."

5           SECTION 19. Section 201H-12, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7           "(b) The corporation may develop public land in an  
8 agricultural district subject to the prior approval of the  
9 appropriate county land use commission, when developing lands  
10 greater than fifteen acres in size, and public land in a  
11 conservation district subject to the prior approval of the board  
12 of land and natural resources. The corporation shall not  
13 develop state monuments, historical sites, or parks. When the  
14 corporation proposes to develop public land, it shall file with  
15 the department of land and natural resources a petition setting  
16 forth the purpose for the development. The petition shall be  
17 conclusive proof that the intended use is a public use superior  
18 to that which the land has been appropriated."

19           SECTION 20. Section 201H-38, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:



1       "(a) The corporation may develop on behalf of the State or  
2 with an eligible developer, or may assist under a government  
3 assistance program in the development of, housing projects that  
4 shall be exempt from all statutes, ordinances, charter  
5 provisions, and rules of any government agency relating to  
6 planning, zoning, construction standards for subdivisions,  
7 development and improvement of land, and the construction of  
8 dwelling units thereon; provided that:

9       (1) The corporation finds the housing project is  
10 consistent with the purpose and intent of this  
11 chapter, and meets minimum requirements of health and  
12 safety;

13       (2) The development of the proposed housing project does  
14 not contravene any safety standards, tariffs, or rates  
15 and fees approved by the public utilities commission  
16 for public utilities or of the various boards of water  
17 supply authorized under chapter 54;

18       (3) The legislative body of the county in which the  
19 housing project is to be situated shall have approved  
20 the project with or without modifications:



1           (A) The legislative body shall approve, approve with  
2           modification, or disapprove the project by  
3           resolution within forty-five days after the  
4           corporation has submitted the preliminary plans  
5           and specifications for the project to the  
6           legislative body. If on the forty-sixth day a  
7           project is not disapproved, it shall be deemed  
8           approved by the legislative body;

9           (B) No action shall be prosecuted or maintained  
10          against any county, its officials, or employees  
11          on account of actions taken by them in reviewing,  
12          approving, modifying, or disapproving the plans  
13          and specifications; and

14          (C) The final plans and specifications for the  
15          project shall be deemed approved by the  
16          legislative body if the final plans and  
17          specifications do not substantially deviate from  
18          the preliminary plans and specifications. The  
19          final plans and specifications for the project  
20          shall constitute the zoning, building,  
21          construction, and subdivision standards for that



1 project. For purposes of sections 501-85 and  
2 502-17, the executive director of the corporation  
3 or the responsible county official may certify  
4 maps and plans of lands connected with the  
5 project as having complied with applicable laws  
6 and ordinances relating to consolidation and  
7 subdivision of lands, and the maps and plans  
8 shall be accepted for registration or recordation  
9 by the land court and registrar; and

10 (4) The appropriate county land use commission shall  
11 approve, approve with modification, or disapprove a  
12 boundary change within forty-five days after the  
13 corporation has submitted a petition to the commission  
14 as provided in section 205-4. If, on the forty-sixth  
15 day, the petition is not disapproved, it shall be  
16 deemed approved by the commission."

17 SECTION 21. Section 205-1, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 **"§205-1 Establishment of the commission.** (a) [There  
20 ~~shall be a state land use commission,~~] Pursuant to section  
21 46- , each county's land use commission shall be responsible



1 for the districting and classification of lands within its  
2 jurisdiction. Each county's respective land use commission  
3 shall hereinafter [ealled] be singularly referred to in this  
4 chapter as the land use commission or the commission. The  
5 commission shall consist of [nine] members [who shall hold no  
6 other public office and shall be appointed in the manner and  
7 serve for the term set forth in section 26-34. One member shall  
8 be appointed from each of the counties and the remainder shall  
9 be appointed at large,] as determined by respective county  
10 ordinance; provided that each commission shall have at least  
11 three members; provided further that one member shall have  
12 substantial experience or expertise in traditional Hawaiian land  
13 usage and knowledge of cultural land practices. [The] Each  
14 commission shall elect its chairperson from one of its members.  
15 The members shall receive no compensation for their services on  
16 the commission, but shall be reimbursed for actual expenses  
17 incurred in the performance of their duties. [Six affirmative  
18 votes] An affirmative vote by two-thirds majority of the members  
19 of the applicable commission shall be necessary for any boundary  
20 amendment.



1       ~~[(b) The commission shall be a part of the office of~~  
2 ~~planning and sustainable development for administrative~~  
3 ~~purposes.~~

4       ~~(c)]~~ (b) The commission may engage employees necessary to  
5 perform its duties, including administrative personnel and an  
6 executive officer. The executive officer shall be appointed by  
7 the commission and the executive officer's position shall be  
8 exempt from civil service. Departments of the state government  
9 shall make available to the commission such data, facilities,  
10 and personnel as are necessary for it to perform its duties.  
11 The commission may receive and utilize gifts and any funds from  
12 the federal or other governmental agencies. It shall adopt  
13 rules guiding its conduct, maintain a record of its activities  
14 and accomplishments, and make recommendations to the governor  
15 and to the legislature through the governor.

16       ~~[(d) Notwithstanding any law to the contrary, the~~  
17 ~~commission shall be exempt from section 26-35 with the exception~~  
18 ~~of section 26-35(a)(2), (3), (7), (8), and section 26-35(b)~~  
19 ~~shall apply.~~

20       ~~(e) The land use commission shall maintain its~~  
21 ~~independence on matters coming before it to which the office of~~



1 ~~planning and sustainable development is a party by establishing~~  
2 ~~and adhering to the process required by section 225M-2(d).]~~"

3 SECTION 22. Section 205-3.1, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§205-3.1 Amendments to district boundaries. (a)**

6 District boundary amendments involving lands in the conservation  
7 district, land areas greater than fifteen acres, or lands  
8 delineated as important agricultural lands shall be processed by  
9 the applicable county land use commission pursuant to section  
10 205-4.

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



1 (c) District boundary amendments involving land areas of  
2 fifteen acres or less, except as provided in subsection (b),  
3 shall be determined by the appropriate county land use  
4 ~~[decision-making authority]~~ commission for the district and  
5 shall not require consideration ~~[by the land use commission]~~  
6 pursuant to section 205-4; provided that such boundary  
7 amendments and approved uses are consistent with this chapter.  
8 The appropriate county land use ~~[decision-making authority]~~  
9 commission may consolidate proceedings to amend ~~[state]~~ land use  
10 district boundaries pursuant to this subsection, with county  
11 proceedings to amend the general plan, development plan, zoning  
12 of the affected land, or such other proceedings. Appropriate  
13 ordinances and rules to allow consolidation of such proceedings  
14 may be developed by the county land use ~~[decision-making~~  
15 ~~authority.]~~ commission.

16 (d) The county land use ~~[decision-making authority]~~  
17 commission shall serve a copy of the application for a district  
18 boundary amendment to the ~~[land use commission and the]~~  
19 department of business, economic development, and tourism and  
20 shall notify the ~~[commission and the]~~ department of the time and  
21 place of the hearing and the proposed amendments scheduled to be





1 heard at the hearing. A change in the [~~state~~] land use district  
2 boundaries pursuant to this subsection shall become effective on  
3 the day designated by the county land use [~~decision-making~~  
4 ~~authority~~] commission in its decision. Within sixty days of the  
5 effective date of any decision to amend [~~state~~] land use  
6 district boundaries by the county land use [~~decision-making~~  
7 ~~authority~~], commission, the decision and the description and map  
8 of the affected property shall be transmitted to the [~~land use~~  
9 ~~commission and the~~] department of business, economic  
10 development, and tourism by the county planning director."

11 SECTION 23. Section 205-4, Hawaii Revised Statutes, is  
12 amended by amending subsection (h) to read as follows:

13 "(h) No amendment of a land use district boundary shall be  
14 approved unless the commission finds upon the clear  
15 preponderance of the evidence that the proposed boundary is  
16 reasonable, not violative of section 205-2 and part III of this  
17 chapter, and consistent with the policies and criteria  
18 established pursuant to sections 205-16 and 205-17. [~~Six~~  
19 ~~affirmative votes of the commission shall be necessary for any~~  
20 ~~boundary amendment under this section.]"~~



1       SECTION 24. Section 205-4.1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§205-4.1 Fees.** The commission may establish reasonable  
4 fees for the filing of boundary amendment petitions and  
5 petitions for intervention to cover the cost of processing  
6 thereof and for the reproduction of maps and documents. The  
7 commission also may assess a reasonable fee or require  
8 reimbursements to be made for court reporter expenses, the  
9 inexcusable absence of a party from a boundary amendment  
10 proceeding, and any other reimbursements for hearing expenses as  
11 determined by the commission. Any fees collected shall be  
12 deposited [~~to the credit of the general fund.~~] as determined by  
13 ordinance."

14       SECTION 25. Section 205-4.5, Hawaii Revised Statutes, is  
15 amended by amending subsections (a) and (b) to read as follows:

16       "(a) [~~Within~~] Unless determined otherwise by a county land  
17 use commission, within the agricultural district, all lands with  
18 soil classified by the land study bureau's detailed land  
19 classification as overall (master) productivity rating class A  
20 or B and for solar energy facilities, class B or C, shall be  
21 restricted to the following permitted uses:



- 1           (1) Cultivation of crops, including crops for bioenergy,  
2                   flowers, vegetables, foliage, fruits, forage, and  
3                   timber;
- 4           (2) Game and fish propagation;
- 5           (3) Raising of livestock, including poultry, bees, fish,  
6                   or other animal or aquatic life that are propagated  
7                   for economic or personal use;
- 8           (4) Farm dwellings, employee housing, farm buildings, or  
9                   activities or uses related to farming and animal  
10                  husbandry. "Farm dwelling", as used in this  
11                  paragraph, means a single-family dwelling located on  
12                  and accessory to a farm, including clusters of single-  
13                  family farm dwellings permitted within agricultural  
14                  parks developed by the State, or where agricultural  
15                  activity provides income to the family occupying the  
16                  dwelling;
- 17          (5) Public institutions and buildings that are necessary  
18                  for agricultural practices;
- 19          (6) Public and private open area types of recreational  
20                  uses, including day camps, picnic grounds, parks, and  
21                  riding stables, but not including dragstrips,



- 1 airports, drive-in theaters, golf courses, golf  
2 driving ranges, country clubs, and overnight camps;
- 3 (7) Public, private, and quasi-public utility lines and  
4 roadways, transformer stations, communications  
5 equipment buildings, solid waste transfer stations,  
6 major water storage tanks, and appurtenant small  
7 buildings such as booster pumping stations, but not  
8 including offices or yards for equipment, material,  
9 vehicle storage, repair or maintenance, treatment  
10 plants, corporation yards, or other similar  
11 structures;
- 12 (8) Retention, restoration, rehabilitation, or improvement  
13 of buildings or sites of historic or scenic interest;
- 14 (9) Agricultural-based commercial operations as described  
15 in section 205-2(d)(15);
- 16 (10) Buildings and uses, including mills, storage, and  
17 processing facilities, maintenance facilities,  
18 photovoltaic, biogas, and other small-scale renewable  
19 energy systems producing energy solely for use in the  
20 agricultural activities of the fee or leasehold owner  
21 of the property, and vehicle and equipment storage



1 areas that are normally considered directly accessory  
2 to the above-mentioned uses and are permitted under  
3 section 205-2(d);

4 (11) Agricultural parks;

5 (12) Plantation community subdivisions, which as used in  
6 this chapter means an established subdivision or  
7 cluster of employee housing, community buildings, and  
8 agricultural support buildings on land currently or  
9 formerly owned, leased, or operated by a sugar or  
10 pineapple plantation; provided that the existing  
11 structures may be used or rehabilitated for use, and  
12 new employee housing and agricultural support  
13 buildings may be allowed on land within the  
14 subdivision as follows:

15 (A) The employee housing is occupied by employees or  
16 former employees of the plantation who have a  
17 property interest in the land;

18 (B) The employee housing units not owned by their  
19 occupants shall be rented or leased at affordable  
20 rates for agricultural workers; or



1 (C) The agricultural support buildings shall be  
2 rented or leased to agricultural business  
3 operators or agricultural support services;

4 (13) Agricultural tourism conducted on a working farm, or a  
5 farming operation as defined in section 165-2, for the  
6 enjoyment, education, or involvement of visitors;  
7 provided that the agricultural tourism activity is  
8 accessory and secondary to the principal agricultural  
9 use and does not interfere with surrounding farm  
10 operations; and provided further that this paragraph  
11 shall apply only to a county that has adopted  
12 ordinances regulating agricultural tourism under  
13 section 205-5;

14 (14) Agricultural tourism activities, including overnight  
15 accommodations of twenty-one days or less, for any one  
16 stay within a county; provided that this paragraph  
17 shall apply only to a county that includes at least  
18 three islands and has adopted ordinances regulating  
19 agricultural tourism activities pursuant to section  
20 205-5; provided further that the agricultural tourism  
21 activities coexist with a bona fide agricultural



1 activity. For the purposes of this paragraph, "bona  
2 fide agricultural activity" means a farming operation  
3 as defined in section 165-2;

4 (15) Wind energy facilities, including the appurtenances  
5 associated with the production and transmission of  
6 wind generated energy; provided that the wind energy  
7 facilities and appurtenances are compatible with  
8 agriculture uses and cause minimal adverse impact on  
9 agricultural land;

10 (16) Biofuel processing facilities, including the  
11 appurtenances associated with the production and  
12 refining of biofuels that is normally considered  
13 directly accessory and secondary to the growing of the  
14 energy feedstock; provided that biofuel processing  
15 facilities and appurtenances do not adversely impact  
16 agricultural land and other agricultural uses in the  
17 vicinity.

18 For the purposes of this paragraph:

19 "Appurtenances" means operational infrastructure  
20 of the appropriate type and scale for economic  
21 commercial storage and distribution, and other similar



1 handling of feedstock, fuels, and other products of  
2 biofuel processing facilities.

3 "Biofuel processing facility" means a facility  
4 that produces liquid or gaseous fuels from organic  
5 sources such as biomass crops, agricultural residues,  
6 and oil crops, including palm, canola, soybean, and  
7 waste cooking oils; grease; food wastes; and animal  
8 residues and wastes that can be used to generate  
9 energy;

10 (17) Agricultural-energy facilities, including  
11 appurtenances necessary for an agricultural-energy  
12 enterprise; provided that the primary activity of the  
13 agricultural-energy enterprise is agricultural  
14 activity. To be considered the primary activity of an  
15 agricultural-energy enterprise, the total acreage  
16 devoted to agricultural activity shall be not less  
17 than ninety per cent of the total acreage of the  
18 agricultural-energy enterprise. The agricultural-  
19 energy facility shall be limited to lands owned,  
20 leased, licensed, or operated by the entity conducting  
21 the agricultural activity.





1           As used in this paragraph:

2           "Agricultural activity" means any activity  
3 described in paragraphs (1) to (3) of this subsection.

4           "Agricultural-energy enterprise" means an  
5 enterprise that integrally incorporates an  
6 agricultural activity with an agricultural-energy  
7 facility.

8           "Agricultural-energy facility" means a facility  
9 that generates, stores, or distributes renewable  
10 energy as defined in section 269-91 or renewable fuel  
11 including electrical or thermal energy or liquid or  
12 gaseous fuels from products of agricultural activities  
13 from agricultural lands located in the State.

14           "Appurtenances" means operational infrastructure  
15 of the appropriate type and scale for the economic  
16 commercial generation, storage, distribution, and  
17 other similar handling of energy, including equipment,  
18 feedstock, fuels, and other products of agricultural-  
19 energy facilities;

20       (18) Construction and operation of wireless communication  
21 antennas, including small wireless facilities;



1 provided that, for the purposes of this paragraph,  
2 "wireless communication antenna" means communications  
3 equipment that is either freestanding or placed upon  
4 or attached to an already existing structure and that  
5 transmits and receives electromagnetic radio signals  
6 used in the provision of all types of wireless  
7 communications services; provided further that "small  
8 wireless facilities" shall have the same meaning as in  
9 section 206N-2; provided further that nothing in this  
10 paragraph shall be construed to permit the  
11 construction of any new structure that is not deemed a  
12 permitted use under this subsection;

13 (19) Agricultural education programs conducted on a farming  
14 operation as defined in section 165-2, for the  
15 education and participation of the general public;  
16 provided that the agricultural education programs are  
17 accessory and secondary to the principal agricultural  
18 use of the parcels or lots on which the agricultural  
19 education programs are to occur and do not interfere  
20 with surrounding farm operations. For the purposes of  
21 this paragraph, "agricultural education programs"



1 means activities or events designed to promote  
2 knowledge and understanding of agricultural activities  
3 and practices conducted on a farming operation as  
4 defined in section 165-2;

5 (20) Solar energy facilities that do not occupy more than  
6 ten per cent of the acreage of the parcel, or twenty  
7 acres of land, whichever is lesser or for which a  
8 special use permit is granted pursuant to section  
9 205-6; provided that this use shall not be permitted  
10 on lands with soil classified by the land study  
11 bureau's detailed land classification as overall  
12 (master) productivity rating class A;

13 (21) Solar energy facilities on lands with soil classified  
14 by the land study bureau's detailed land  
15 classification as overall (master) productivity rating  
16 B or C for which a special use permit is granted  
17 pursuant to section 205-6; provided that:

18 (A) The area occupied by the solar energy facilities  
19 is also made available for compatible  
20 agricultural activities at a lease rate that is



1 at least fifty per cent below the fair market  
2 rent for comparable properties;

3 (B) Proof of financial security to decommission the  
4 facility is provided to the satisfaction of the  
5 appropriate county planning commission prior to  
6 date of commencement of commercial generation;  
7 and

8 (C) Solar energy facilities shall be decommissioned  
9 at the owner's expense according to the following  
10 requirements:

11 (i) Removal of all equipment related to the  
12 solar energy facility within twelve months  
13 of the conclusion of operation or useful  
14 life; and

15 (ii) Restoration of the disturbed earth to  
16 substantially the same physical condition as  
17 existed prior to the development of the  
18 solar energy facility.

19 For the purposes of this paragraph, "agricultural  
20 activities" means the activities described in  
21 paragraphs (1) to (3);



1 (22) Geothermal resources exploration and geothermal  
2 resources development, as defined under section 182-1;  
3 or

4 (23) Hydroelectric facilities, including the appurtenances  
5 associated with the production and transmission of  
6 hydroelectric energy, subject to section 205-2;  
7 provided that the hydroelectric facilities and their  
8 appurtenances:

9 (A) Shall consist of a small hydropower facility as  
10 defined by the United States Department of  
11 Energy, including:

12 (i) Impoundment facilities using a dam to store  
13 water in a reservoir;

14 (ii) A diversion or run-of-river facility that  
15 channels a portion of a river through a  
16 canal or channel; and

17 (iii) Pumped storage facilities that store energy  
18 by pumping water uphill to a reservoir at  
19 higher elevation from a reservoir at a lower  
20 elevation to be released to turn a turbine  
21 to generate electricity;



1 (B) Comply with the state water code, chapter 174C;

2 (C) Shall, if over five hundred kilowatts in  
3 hydroelectric generating capacity, have the  
4 approval of the commission on water resource  
5 management, including a new instream flow  
6 standard established for any new hydroelectric  
7 facility; and

8 (D) Do not impact or impede the use of agricultural  
9 land or the availability of surface or ground  
10 water for all uses on all parcels that are served  
11 by the ground water sources or streams for which  
12 hydroelectric facilities are considered.

13 (b) [~~Uses~~] Unless determined otherwise by a county land  
14 use commission, uses not expressly permitted in subsection (a)  
15 shall be prohibited, except the uses permitted as provided in  
16 sections 205-6 and 205-8, and construction of single-family  
17 dwellings on lots existing before June 4, 1976. Any other law  
18 to the contrary notwithstanding, no subdivision of land within  
19 the agricultural district with soil classified by the land study  
20 bureau's detailed land classification as overall (master)  
21 productivity rating class A or B shall be approved by a county



1 unless those A and B lands within the subdivision are made  
2 subject to the restriction on uses as prescribed in this section  
3 and to the condition that the uses shall be primarily in pursuit  
4 of an agricultural activity.

5 Any deed, lease, agreement of sale, mortgage, or other  
6 instrument of conveyance covering any land within the  
7 agricultural subdivision shall expressly contain the restriction  
8 on uses and the condition, as prescribed in this section that  
9 these restrictions and conditions shall be encumbrances running  
10 with the land until such time that the land is reclassified to a  
11 land use district other than agricultural district.

12 If the foregoing requirement of encumbrances running with  
13 the land jeopardizes the owner or lessee in obtaining mortgage  
14 financing from any of the mortgage lending agencies set forth in  
15 the following paragraph, and the requirement is the sole reason  
16 for failure to obtain mortgage financing, then the requirement  
17 of encumbrances shall, insofar as such mortgage financing is  
18 jeopardized, be conditionally waived by the appropriate county  
19 enforcement officer; provided that the conditional waiver shall  
20 become effective only in the event that the property is  
21 subjected to foreclosure proceedings by the mortgage lender.



1       The mortgage lending agencies referred to in the preceding  
2 paragraph are the Federal Housing Administration, Federal  
3 National Mortgage Association, Department of Veterans Affairs,  
4 Small Business Administration, United States Department of  
5 Agriculture, Federal Land Bank of Berkeley, Federal Intermediate  
6 Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any  
7 other federal, state, or private mortgage lending agency  
8 qualified to do business in Hawaii, and their respective  
9 successors and assigns."

10       SECTION 26. Section 205-7, Hawaii Revised Statutes, is  
11 amended to read as follows:

12       "**§205-7 Adoption, amendment or repeal of rules.** [The]  
13 Each county land use commission shall adopt, amend or repeal  
14 rules relating to matters within its jurisdiction in the manner  
15 prescribed in chapter 91."

16       SECTION 27. Section 205-18, Hawaii Revised Statutes, is  
17 amended to read as follows:

18       "**§205-18 Review of districts.** The office of planning and  
19 sustainable development may undertake a review of the  
20 classification and districting of all lands in the State. The  
21 office, in its boundary review, shall focus its efforts on





1 reviewing the Hawaii state plan, county general plans, and  
2 county development and community plans. Upon completion of the  
3 boundary review, the office shall submit a report of the  
4 findings to [~~the~~] each county land use commission, the governor,  
5 legislature, and appropriate state and county agencies. The  
6 office may initiate [~~state~~] land use boundary amendments which  
7 it deems appropriate to conform to these plans. The office may  
8 seek the assistance of appropriate state and county agencies and  
9 may employ consultants and undertake studies in making this  
10 review."

11 SECTION 28. Section 205-42, Hawaii Revised Statutes, is  
12 amended by amending subsection (b) to read as follows:

13 "(b) The objective for the identification of important  
14 agricultural lands is to identify and plan for the maintenance  
15 of a strategic agricultural land resource base that can support  
16 a diversity of agricultural activities and opportunities that  
17 expand agricultural income and job opportunities and increase  
18 agricultural self-sufficiency for current and future  
19 generations. To achieve this objective, the State and counties  
20 shall:



(1) Promote agricultural development and land use planning that delineates blocks of productive agricultural land and areas of agricultural activity for protection from the encroachment of nonagricultural uses; and

(2) Establish incentives that promote:

(A) Agricultural viability;

(B) Sustained growth of the agriculture industry; and

(C) The long-term agricultural use and protection of these productive agricultural lands."

SECTION 29. Section 205-45, Hawaii Revised Statutes, is amended to read as follows:

**"§205-45 Petition by farmer or landowner.** (a) A farmer or landowner with lands qualifying under section 205-44 may file with the commission a petition for declaratory order to designate the lands as important agricultural lands. The petition may be filed at any time in the designation process.

(b) Any law to the contrary notwithstanding, within the same petition for declaratory order as described in subsection (a), the petitioner may seek a reclassification of land in the agricultural district to the rural, urban, or conservation district, or a combination thereof; provided that:



- 1           (1) The land sought to be reclassified to the rural,  
2           urban, or conservation district is within the same  
3           county as the land sought to be designated as  
4           important agricultural lands;
- 5           (2) If the reclassification of the land is proposed to the  
6           urban district, that reclassification to urban is  
7           consistent with the relevant county general and  
8           community, development, or community development  
9           plans; and
- 10          (3) The total acreage of the land sought to be designated  
11          or reclassified in the petition complies with the  
12          following proportions:
- 13                (A) At least eighty-five per cent of the total  
14                acreage is sought to be designated as important  
15                agricultural land; and
- 16                (B) The remainder of the acreage is sought to be  
17                reclassified to the rural, urban, or conservation  
18                district.
- 19          (c) The petition for declaratory order shall be submitted  
20          in accordance with [~~subchapter 14 of~~] the applicable county  
21          commission's rules and shall include:



1           (1) Tax map key numbers of the land to be designated as  
2           important agricultural lands and, if applicable, the  
3           land to be reclassified from the agricultural district  
4           to the rural, urban, or conservation district, along  
5           with verification and authorization from the  
6           applicable landowners;

7           (2) Proof of qualification for designation as important  
8           agricultural lands under section 205-44, respecting a  
9           regional perspective;

10          (3) The current or planned agricultural use of the area  
11          sought to be designated as important agricultural  
12          lands; and

13          (4) If applicable, the current or planned use of the area  
14          sought to be reclassified to the rural, urban, or  
15          conservation district.

16          (d) Prior to the commission considering a petition for a  
17          declaratory order to designate important agricultural land in  
18          combination with the reclassification of agricultural land to  
19          the rural, urban, or conservation district, the petitioner shall  
20          submit to the commission a certification issued by the  
21          department of agriculture as to the quality of the land for



1 which designation as important agricultural land is being  
2 sought.

3 (e) The commission shall review the petition and the  
4 accompanying submissions to evaluate the qualifications of the  
5 land for designation as important agricultural lands in  
6 accordance with section 205-44.

7 If the petition also seeks the reclassification of land to  
8 the rural, urban, or conservation district, the commission shall  
9 review the petition and accompanying submissions to evaluate:

10 (1) The suitability of the land for the reclassification  
11 in accordance with section 205-2;

12 (2) If the reclassification of the land is proposed to the  
13 urban district, that reclassification to urban is  
14 consistent with the relevant county general and  
15 community, development, or community development  
16 plans; and

17 (3) Compliance with the other provisions of subsection  
18 (b).

19 If the commission, after its review, finds that the  
20 designation and, if applicable, reclassification sought in the  
21 petition should be approved, the commission shall vote, by a



1 two-thirds majority of the members of the commission, to issue a  
2 declaratory order designating the petitioner's identified lands  
3 as important agricultural lands and, if applicable,  
4 reclassifying the petitioner's identified land from the  
5 agricultural district to the rural, urban, or conservation  
6 district. The commission may include reasonable conditions in  
7 the declaratory order.

8 With respect to a petition that seeks to both designate  
9 important agricultural lands and reclassify agricultural lands  
10 to the rural, urban, or conservation district, if the commission  
11 finds that either the designation or reclassification as  
12 proposed by the petitioner should not be approved, the  
13 commission shall deny the petition in its entirety.

14 (f) The designation or reclassification of land pursuant  
15 to subsection (a) or (b) shall not be subject to the district  
16 boundary amendment procedures of sections 205-3.1 and 205-4 or  
17 become effective prior to legislative enactment of protection  
18 and incentive measures for important agricultural land and  
19 agricultural viability, as provided in section 9 of Act 183,  
20 Session Laws of Hawaii 2005.



1           (g) Farmers or landowners with lands qualifying under  
2 section 205-44 may file petitions for a declaratory order to  
3 designate lands as important agricultural lands following the  
4 legislative enactment of protection and incentive measures for  
5 important agricultural lands and agricultural viability, as  
6 provided in section 9 of Act 183, Session Laws of Hawaii 2005.

7           (h) A petitioner granted a declaratory order that  
8 designates important agricultural land, whether or not combined  
9 with the reclassification of land to the rural, urban, or  
10 conservation district, shall earn credits if the amount of land  
11 reclassified to the rural, urban, or conservation district is  
12 less than fifteen per cent of the total acreage of land subject  
13 to the order. The "total acreage of land subject to the order"  
14 means the total acreage designated as important agricultural  
15 land and, if applicable, reclassified to the rural, urban, or  
16 conservation district by the declaratory order.

17           The credits shall equal the difference between the  
18 following, rounded to the nearer tenth of an acre:

- 19           (1) The number that is fifteen per cent of the total  
20           acreage of land subject to the order; less



1           (2)   The amount of the petitioner's land that is  
2                   reclassified from the agricultural district to the  
3                   rural, urban, or conservation district by the  
4                   declaratory order.

5           A petitioner with credits earned within a county may  
6   petition the commission for a declaratory order to reclassify  
7   any of the petitioner's other land in the same county from the  
8   agricultural district to the rural, urban, or conservation  
9   district until the credits are exhausted or expired.   The  
10   "petitioner's other land in the same county" means land owned by  
11   the petitioner that is in the same county as the land designated  
12   or reclassified under the petition.   The commission may issue  
13   the declaratory order if it finds that the land is suitable for  
14   reclassification in accordance with section 205-2 and that the  
15   reclassification is consistent with the relevant county general  
16   and community, development, or community development plans.   The  
17   petitioner may petition for such reclassification until all of  
18   the petitioner's credits are exhausted.   Any unexhausted credits  
19   shall expire and become unusable ten years after the granting of  
20   the declaratory order that designated the important agricultural





1 land and, if applicable, reclassified land to the rural, urban,  
2 or conservation district.

3 A petitioner with unused and unexhausted credits shall not  
4 transfer the credits to another person.

5 ~~[(i) Notwithstanding any other law to the contrary, the~~  
6 ~~land use commission may grant declaratory orders pursuant to~~  
7 ~~this section before the commission receives from any county a~~  
8 ~~map delineating recommended important agricultural lands.~~

9 ~~+(j)]~~ (i) Land designated as important agricultural land  
10 pursuant to a declaratory order that both designates land as  
11 important agricultural land and reclassifies land in the  
12 agricultural district to the rural, urban, or conservation  
13 district, or a combination thereof pursuant to this section  
14 shall be redesignated only with the prior authorization of the  
15 legislature. The authorization shall be expressed by the  
16 adoption of a concurrent resolution approved by a two-thirds  
17 vote of each house of the legislature voting separately. When  
18 making its decision, the legislature shall consider the  
19 standards and criteria in section 205-50.

20 ~~[(k)]~~ (j) The commission may adopt rules pursuant to  
21 chapter 91 to effectuate this section."



SECTION 30. Section 205-47, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Each county shall identify and map potential important agricultural lands within its jurisdiction based on the standards and criteria in section 205-44 and the intent of this part, except lands that have been designated, through the [state] land use, zoning, or county planning process, for urban use by the State or county."

2. By amending subsections (d) and (e) to read:

~~"(d) [The counties shall take notice of those lands that have already been designated as important agricultural lands by the commission.]~~

Upon identification of potential lands to be recommended to the county council as potential important agricultural lands, the counties shall take reasonable action to notify each owner of those lands by mail or posted notice on the affected lands to inform them of the potential designation of their lands.

In formulating its final recommendations to the respective county councils, the planning departments shall report on the



manner in which the important agricultural lands mapping relates to, supports, and is consistent with the:

(1) Standards and criteria set forth in section 205-44;

(2) County's adopted land use plans, as applied to both the identification and exclusion of important agricultural lands from such designation;

(3) Comments received from government agencies and others identified in subsection (b);

(4) Viability of existing agribusinesses; and

(5) Representations or position statements of the owners whose lands are subject to the potential designation.

(e) The important agricultural lands maps shall be submitted to the county council for decision-making. The county council shall adopt the maps, with or without changes, by resolution. The adopted maps shall be transmitted to the ~~land use commission~~ department of agriculture and the office of planning and sustainable development for further action pursuant to section 205-48."

SECTION 31. Section 205-48, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:



1           "§205-48   Receipt of maps of eligible important  
2   agricultural lands; county land use [commission.] commissions.

3   (a)   The [~~land use commission~~] department of agriculture and  
4   office of planning and sustainable development shall receive the  
5   county recommendations and maps delineating those lands eligible  
6   to be designated important agricultural lands no sooner than the  
7   effective date of the legislative enactment of protection and  
8   incentive measures for important agricultural lands and  
9   agricultural viability, as provided in section 9 of Act 183,  
10   Session Laws of Hawaii 2005.

11       (b)   The department of agriculture and the office of  
12   planning and sustainable development shall review the county  
13   report and recommendations and provide comments to [~~the~~] each  
14   county land use commission within forty-five days of the receipt  
15   of the report and maps by the [~~land use commission.~~] respective  
16   county council.   The land use commission for each county may  
17   also consult with the department of agriculture and the office  
18   of planning and sustainable development as needed."

19       SECTION 32.   Section 205-49, Hawaii Revised Statutes, is  
20   amended by amending subsection (a) to read as follows:



1       "(a) After receipt of the maps of eligible important  
2 agricultural lands from the counties and the recommendations of  
3 the department of agriculture and the office of planning and  
4 sustainable development, [~~the~~] each county land use commission  
5 shall then proceed to identify and designate important  
6 agricultural lands[~~7~~] within its jurisdiction, subject to  
7 section 205-45. The decision shall consider the county maps of  
8 eligible important agricultural lands; declaratory orders issued  
9 by the commission designating important agricultural lands  
10 during the three year period following the enactment of  
11 legislation establishing incentives and protections contemplated  
12 under section 205-46, as provided in section 9 of Act 183,  
13 Session Laws of Hawaii 2005; landowner position statements and  
14 representations; and any other relevant information.

15       In designating important agricultural lands [~~in the State,~~]  
16 within its jurisdiction, pursuant to the recommendations of  
17 individual counties, the commission shall consider the extent to  
18 which:

- 19       (1) The proposed lands meet the standards and criteria  
20             under section 205-44;



(2) The proposed designation is necessary to meet the objectives and policies for important agricultural lands in sections 205-42 and 205-43; and

(3) The commission has designated lands as important agricultural lands, pursuant to section 205-45; provided that if the majority of landowners' landholdings is already designated as important agricultural lands, excluding lands held in the conservation district, pursuant to section 205-45 or any other provision of this part, the commission shall not designate any additional lands of that landowner as important agricultural lands except by a petition pursuant to section 205-45.

Any decision regarding the designation of lands as important agricultural lands and the adoption of maps of those lands pursuant to this section shall be based upon written findings of fact and conclusions of law, presented in at least one public hearing conducted in the county where the land is located in accordance with chapter 91, that the subject lands meet the standards and criteria set forth in section 205-44 and



1 shall be approved by two-thirds of the membership to which the  
2 applicable county commission is entitled."

3 SECTION 33. Section 205-50, Hawaii Revised Statutes, is  
4 amended by amending subsection (c) to read as follows:

5 "(c) Any decision by the land use commission or county  
6 pursuant to this section shall specifically consider the  
7 following standards and criteria:

- 8 (1) The relative importance of the land for agriculture  
9 based on the stock of similarly suited lands in the  
10 area and the State as a whole;
- 11 (2) The proposed district boundary amendment or zone  
12 change will not harm the productivity or viability of  
13 existing agricultural activity in the area, or  
14 adversely affect the viability of other agricultural  
15 activities or operations that share infrastructure,  
16 processing, marketing, or other production-related  
17 costs or facilities with the agricultural activities  
18 on the land in question;
- 19 (3) The district boundary amendment or zone change will  
20 not cause the fragmentation of or intrusion of  
21 nonagricultural uses into largely intact areas of



1           lands identified by the [~~State~~] applicable county as  
2           important agricultural lands that create residual  
3           parcels of a size that would preclude viable  
4           agricultural use;

5           (4) The public benefit to be derived from the proposed  
6           action is justified by a need for additional lands for  
7           nonagricultural purposes; and

8           (5) The impact of the proposed district boundary amendment  
9           or zone change on the necessity and capacity of state  
10          and county agencies to provide and support additional  
11          agricultural infrastructure or services in the area."

12          SECTION 34. Section 205A-2, Hawaii Revised Statutes, is  
13          amended by amending subsection (c) to read as follows:

14          "(c) Policies.

15          (1) Recreational resources;

16                (A) Improve coordination and funding of coastal  
17                recreational planning and management; and

18                (B) Provide adequate, accessible, and diverse  
19                recreational opportunities in the coastal zone  
20                management area by:





1 (i) Protecting coastal resources uniquely suited  
2 for recreational activities that cannot be  
3 provided in other areas;

4 (ii) Requiring restoration of coastal resources  
5 that have significant recreational and  
6 ecosystem value, including but not limited  
7 to coral reefs, surfing sites, fishponds,  
8 sand beaches, and coastal dunes, when these  
9 resources will be unavoidably damaged by  
10 development; or requiring monetary  
11 compensation to the State for recreation  
12 when restoration is not feasible or  
13 desirable;

14 (iii) Providing and managing adequate public  
15 access, consistent with conservation of  
16 natural resources, to and along shorelines  
17 with recreational value;

18 (iv) Providing an adequate supply of shoreline  
19 parks and other recreational facilities  
20 suitable for public recreation;



1 (v) Ensuring public recreational uses of county,  
2 state, and federally owned or controlled  
3 shoreline lands and waters having  
4 recreational value consistent with public  
5 safety standards and conservation of natural  
6 resources;

7 (vi) Adopting water quality standards and  
8 regulating point and nonpoint sources of  
9 pollution to protect, and where feasible,  
10 restore the recreational value of coastal  
11 waters;

12 (vii) Developing new shoreline recreational  
13 opportunities, where appropriate, such as  
14 artificial lagoons, artificial beaches, and  
15 artificial reefs for surfing and fishing;  
16 and

17 (viii) Encouraging reasonable dedication of  
18 shoreline areas with recreational value for  
19 public use as part of discretionary  
20 approvals or permits by the applicable  
21 county land use commission, board of land



1 and natural resources, and county  
2 authorities; and crediting that dedication  
3 against the requirements of section 46-6;

4 (2) Historic resources;

5 (A) Identify and analyze significant archaeological  
6 resources;

7 (B) Maximize information retention through  
8 preservation of remains and artifacts or salvage  
9 operations; and

10 (C) Support state goals for protection, restoration,  
11 interpretation, and display of historic  
12 resources;

13 (3) Scenic and open space resources;

14 (A) Identify valued scenic resources in the coastal  
15 zone management area;

16 (B) Ensure that new developments are compatible with  
17 their visual environment by designing and  
18 locating those developments to minimize the  
19 alteration of natural landforms and existing  
20 public views to and along the shoreline;



1 (C) Preserve, maintain, and, where desirable, improve  
2 and restore shoreline open space and scenic  
3 resources; and

4 (D) Encourage those developments that are not coastal  
5 dependent to locate in inland areas;

6 (4) Coastal ecosystems;

7 (A) Exercise an overall conservation ethic, and  
8 practice stewardship in the protection, use, and  
9 development of marine and coastal resources;

10 (B) Improve the technical basis for natural resource  
11 management;

12 (C) Preserve valuable coastal ecosystems of  
13 significant biological or economic importance,  
14 including reefs, beaches, and dunes;

15 (D) Minimize disruption or degradation of coastal  
16 water ecosystems by effective regulation of  
17 stream diversions, channelization, and similar  
18 land and water uses, recognizing competing water  
19 needs; and

20 (E) Promote water quantity and quality planning and  
21 management practices that reflect the tolerance



1 of fresh water and marine ecosystems and maintain  
2 and enhance water quality through the development  
3 and implementation of point and nonpoint source  
4 water pollution control measures;

5 (5) Economic uses;

6 (A) Concentrate coastal dependent development in  
7 appropriate areas;

8 (B) Ensure that coastal dependent development and  
9 coastal related development are located,  
10 designed, and constructed to minimize exposure to  
11 coastal hazards and adverse social, visual, and  
12 environmental impacts in the coastal zone  
13 management area; and

14 (C) Direct the location and expansion of coastal  
15 development to areas designated and used for that  
16 development and permit reasonable long-term  
17 growth at those areas, and permit coastal  
18 development outside of designated areas when:

- 19 (i) Use of designated locations is not feasible;  
20 (ii) Adverse environmental effects and risks from  
21 coastal hazards are minimized; and



(iii) The development is important to the State's  
economy;

(6) Coastal hazards;

(A) Develop and communicate adequate information  
about the risks of coastal hazards;

(B) Control development, including planning and  
zoning control, in areas subject to coastal  
hazards;

(C) Ensure that developments comply with requirements  
of the National Flood Insurance Program; and

(D) Prevent coastal flooding from inland projects;

(7) Managing development;

(A) Use, implement, and enforce existing law  
effectively to the maximum extent possible in  
managing present and future coastal zone  
development;

(B) Facilitate timely processing of applications for  
development permits and resolve overlapping or  
conflicting permit requirements; and

(C) Communicate the potential short and long-term  
impacts of proposed significant coastal



1           developments early in their life cycle and in  
2           terms understandable to the public to facilitate  
3           public participation in the planning and review  
4           process;

5       (8)   Public participation;

6           (A)   Promote public involvement in coastal zone  
7           management processes;

8           (B)   Disseminate information on coastal management  
9           issues by means of educational materials,  
10          published reports, staff contact, and public  
11          workshops for persons and organizations concerned  
12          with coastal issues, developments, and government  
13          activities; and

14          (C)   Organize workshops, policy dialogues, and site-  
15          specific mediations to respond to coastal issues  
16          and conflicts;

17       (9)   Beach protection;

18          (A)   Locate new structures inland from the shoreline  
19          setback to conserve open space, minimize  
20          interference with natural shoreline processes,  
21          and minimize loss of improvements due to erosion;



1 (B) Prohibit construction of private shoreline  
2 hardening structures, including seawalls and  
3 revetments, at sites having sand beaches and at  
4 sites where shoreline hardening structures  
5 interfere with existing recreational and  
6 waterline activities;

7 (C) Minimize the construction of public shoreline  
8 hardening structures, including seawalls and  
9 revetments, at sites having sand beaches and at  
10 sites where shoreline hardening structures  
11 interfere with existing recreational and  
12 waterline activities;

13 (D) Minimize grading of and damage to coastal dunes;

14 (E) Prohibit private property owners from creating a  
15 public nuisance by inducing or cultivating the  
16 private property owner's vegetation in a beach  
17 transit corridor; and

18 (F) Prohibit private property owners from creating a  
19 public nuisance by allowing the private property  
20 owner's unmaintained vegetation to interfere or  
21 encroach upon a beach transit corridor; and





1       (10) Marine and coastal resources;

2               (A) Ensure that the use and development of marine and  
3               coastal resources are ecologically and  
4               environmentally sound and economically  
5               beneficial;

6               (B) Coordinate the management of marine and coastal  
7               resources and activities to improve effectiveness  
8               and efficiency;

9               (C) Assert and articulate the interests of the State  
10              as a partner with federal agencies in the sound  
11              management of ocean resources within the United  
12              States exclusive economic zone;

13              (D) Promote research, study, and understanding of  
14              ocean and coastal processes, impacts of climate  
15              change and sea level rise, marine life, and other  
16              ocean resources to acquire and inventory  
17              information necessary to understand how coastal  
18              development activities relate to and impact ocean  
19              and coastal resources; and



(E) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources."

SECTION 35. Section 225M-2, Hawaii Revised Statutes, is amended to read as follows:

**"§225M-2 Office of planning and sustainable development; establishment; responsibilities.** (a) There is established the office of planning and sustainable development within the department of business, economic development, and tourism for administrative purposes only. The head of the office shall be known as the director of the office of planning and sustainable development and referred to in this chapter as director. The director shall have:

- (1) Training in the field of urban or regional planning, public administration, or other related fields;
- (2) Experience in programs or services related to governmental planning; and
- (3) Experience in a supervisory, consultative, or administrative capacity.

The director shall be nominated by the governor and, by and with the advice and consent of the senate, appointed by the governor



1 without regard to chapter 76, and shall be compensated at a  
2 salary level set by the governor. The director shall be  
3 included in any benefit program generally applicable to the  
4 officers and employees of the State. The director may retain  
5 staff as may be necessary for the purposes of this chapter, in  
6 conformity with chapter 76. The director shall report to the  
7 director of business, economic development, and tourism and  
8 shall not be required to report directly to any other principal  
9 executive department. The director may also employ staff  
10 without regard to chapter 76, as authorized in this chapter and  
11 as may be necessary.

12 (b) The office of planning and sustainable development  
13 shall gather, analyze, and provide information to the governor,  
14 the legislature, and state and county agencies to assist in the  
15 overall analysis and formulation of state policies and  
16 strategies to provide central direction and cohesion in the  
17 allocation of resources and effectuation of state activities and  
18 programs and effectively address current or emerging issues and  
19 opportunities. More specifically, the office shall engage in  
20 the following activities:



1 (1) State comprehensive planning and program coordination.

2 Formulating and articulating comprehensive statewide  
3 goals, objectives, policies, and priorities, and  
4 coordinating their implementation through the  
5 statewide planning system established in part II of  
6 chapter 226;

7 (2) Strategic planning. Identifying and analyzing  
8 significant issues, problems, and opportunities  
9 confronting the State, and formulating strategies and  
10 alternative courses of action in response to  
11 identified problems and opportunities by:

12 (A) Providing in-depth policy research, analysis, and  
13 recommendations on existing or potential areas of  
14 critical state concern;

15 (B) Examining and evaluating the effectiveness of  
16 state programs in implementing state policies and  
17 priorities;

18 (C) Monitoring current social, economic, and physical  
19 conditions and trends through surveys,  
20 environmental scanning, and other techniques; and



1 (D) Developing, in collaboration with affected public  
2 or private agencies and organizations,  
3 implementation plans and schedules and, where  
4 appropriate, assisting in the mobilization of  
5 resources to meet identified needs;

6 (3) Planning coordination and cooperation. Facilitating  
7 coordinated and cooperative planning and policy  
8 development and implementation activities among state  
9 agencies and between the state, county, and federal  
10 governments, by:

11 (A) Reviewing, assessing, and coordinating, as  
12 necessary, major plans, programs, projects, and  
13 regulatory activities existing or proposed by  
14 state and county agencies;

15 (B) Formulating mechanisms to simplify, streamline,  
16 or coordinate interagency development and  
17 regulatory processes; and

18 (C) Recognizing the presence of federal defense and  
19 security forces and agencies in the State as  
20 important state concerns;



1           (4)   Statewide planning and geographic information system.

2           Collecting, integrating, analyzing, maintaining, and  
3           disseminating various forms of data and information,  
4           including geospatial data and information, to further  
5           effective state planning, policy analysis and  
6           development, and delivery of government services by:

7           (A)   Collecting, assembling, organizing, evaluating,  
8                 and classifying existing geospatial and  
9                 non-geospatial data and performing necessary  
10            basic research, conversions, and integration to  
11            provide a common database for governmental  
12            planning and geospatial analyses by state  
13            agencies;

14           (B)   Planning, coordinating, and maintaining a  
15                 comprehensive, shared statewide planning and  
16                 geographic information system and associated  
17                 geospatial database. The office shall be the  
18                 lead agency responsible for coordinating the  
19                 maintenance of the multi-agency, statewide  
20                 planning and geographic information system and  
21                 coordinating, collecting, integrating, and



1 disseminating geospatial data sets that are used  
2 to support a variety of state agency applications  
3 and other spatial data analyses to enhance  
4 decision-making. The office shall promote and  
5 encourage free and open data sharing among and  
6 between all government agencies. To ensure the  
7 maintenance of a comprehensive, accurate,  
8 up-to-date geospatial data resource that can be  
9 drawn upon for decision-making related to  
10 essential public policy issues such as land use  
11 planning, resource management, homeland security,  
12 and the overall health, safety, and well-being of  
13 Hawaii's citizens, and to avoid redundant data  
14 development efforts, state agencies shall provide  
15 to the shared system either their respective  
16 geospatial databases or, at a minimum, especially  
17 in cases of secure or confidential data sets that  
18 cannot be shared or must be restricted, metadata  
19 describing existing geospatial data. In cases  
20 where agencies provide restricted data, the



1 office of planning and sustainable development

2 shall ensure the security of that data; and

3 (C) Maintaining a centralized depository of state and  
4 national planning references;

5 (5) Land use planning. Developing and presenting the  
6 position of the State in all boundary change petitions  
7 and proceedings before [~~the~~] each county's land use  
8 commission, and assisting state agencies in the  
9 development and submittal of petitions for land use  
10 district boundary amendments, and conducting reviews  
11 of the classification and districting of all lands in  
12 the State, as specified in chapter 205;

13 (6) Coastal and ocean policy management, and sea level  
14 rise adaptation coordination. Carrying out the lead  
15 agency responsibilities for the Hawaii coastal zone  
16 management program, as specified in chapter 205A.

17 Also:

18 (A) Developing and maintaining an ocean and coastal  
19 resources information, planning, and management  
20 system;





1 (B) Further developing and coordinating  
2 implementation of the ocean resources management  
3 plan;

4 (C) Formulating ocean policies with respect to the  
5 exclusive economic zone, coral reefs, and  
6 national marine sanctuaries; and

7 (D) Coordinating sea level rise adaptation with state  
8 agencies having operational responsibilities over  
9 state facilities to identify existing and planned  
10 facilities, including critical infrastructure,  
11 that are vulnerable to sea level rise, flooding  
12 impacts, and natural hazards;

13 (7) Regional planning and studies. Conducting plans and  
14 studies to determine:

15 (A) The capability of various regions within the  
16 State to support projected increases in both  
17 resident populations and visitors;

18 (B) The potential physical, social, economic, and  
19 environmental impact on these regions resulting  
20 from increases in both resident populations and  
21 visitors;



1 (C) The maximum annual visitor carrying capacity for  
2 the State by region, county, and island; and

3 (D) The appropriate guidance and management of  
4 selected regions and areas of statewide critical  
5 concern.

6 The studies in subparagraphs (A) to (C) shall be  
7 conducted at appropriate intervals, but not less than  
8 once every five years;

9 (8) Regional, national, and international planning.

10 Participating in and ensuring that state plans,  
11 policies, and objectives are consistent, to the extent  
12 practicable, with regional, national, and  
13 international planning efforts;

14 (9) Climate adaptation and sustainability planning and  
15 coordination. Conducting plans and studies and  
16 preparing reports as follows:

17 (A) Develop, monitor, and evaluate strategic climate  
18 adaptation plans and actionable policy  
19 recommendations for the State and counties  
20 addressing expected statewide climate change



1 impacts identified under chapter 225P and  
2 sections 226-108 and 226-109; and

3 (B) Provide planning and policy guidance and  
4 assistance to state and county agencies regarding  
5 climate change and sustainability;

6 (10) Smart growth and transit-oriented development. Acting  
7 as the lead agency to coordinate and advance smart  
8 growth and transit-oriented development planning  
9 within the State as follows:

10 (A) Identify transit-oriented development  
11 opportunities shared between state and county  
12 agencies, including relevant initiatives such as  
13 the department of health's healthy Hawaii  
14 initiative and the Hawaii clean energy  
15 initiative;

16 (B) Refine the definition of "transit-oriented  
17 development" in the context of Hawaii, while  
18 recognizing the potential for smart growth  
19 development patterns in all locations;

20 (C) Clarify state goals for transit-oriented  
21 development and smart growth that support the



1 principles of the Hawaii State Planning Act by  
2 preserving non-urbanized land, improving worker  
3 access to jobs, and reducing fuel consumption;

4 (D) Target transit-oriented development areas for  
5 significant increase in affordable housing and  
6 rental units;

7 (E) Conduct outreach to state agencies to help  
8 educate state employees about the ways they can  
9 support and benefit from transit-oriented  
10 development and the State's smart growth goals;

11 (F) Publicize coordinated state efforts that support  
12 smart growth, walkable neighborhoods, and  
13 transit-oriented development;

14 (G) Review [~~state~~] county land use decision-making  
15 processes to identify ways to make transit-  
16 oriented development a higher priority and  
17 facilitate better and more proactive leadership  
18 in creating walkable communities and employment  
19 districts, even if transit will only be provided  
20 at a later date; and



1           (H) Approve all state agencies' development plans for  
2           parcels along the rail transit corridor. For the  
3           purposes of this subparagraph, "development  
4           plans" means conceptual land use plans that  
5           identify the location and planned uses within a  
6           defined area; and

7           (11) Environmental review. Performing duties set forth  
8           under chapter 343, serving the governor in an advisory  
9           capacity on all matters relating to environmental  
10          review, and having such powers delegated by the  
11          governor as are necessary to coordinate and, when  
12          requested by the governor, direct all state  
13          governmental agencies in matters concerning  
14          environmental quality control, including:

15          (A) Advising and assisting private industries,  
16          government department and agencies, and other  
17          persons on the requirements of chapter 343; and

18          (B) Conducting public education programs on  
19          environmental quality control;



1 provided that the office shall adopt rules in  
2 accordance with chapter 91 to implement this  
3 paragraph.

4 ~~[(c) The land use commission's executive officer, chief~~  
5 ~~clerk, and employees shall be administratively attached to the~~  
6 ~~office, and section 205-1(c) shall apply.~~

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

20 SECTION 36. Section 226-52, Hawaii Revised Statutes, is  
21 amended to read as follows:



1       **"§226-52   Statewide planning system.**   (a)   The statewide  
2   planning system shall consist of the following policies, plans,  
3   and programs:

4       (1)   The overall theme, goals, objectives, and policies  
5             established in this chapter that shall provide the  
6             broad guidelines for the State;

7       (2)   The priority guidelines established in this chapter  
8             that shall provide guidelines for decision making by  
9             the State and the counties for the immediate future  
10            and set priorities for the allocation of resources.  
11            The formulation and revision of state functional plans  
12            shall be in conformance with the priority guidelines;

13       (3)   State functional plans that shall be prepared to  
14             address, but not be limited to, the areas of  
15             agriculture, conservation lands, education, energy,  
16             higher education, health, historic preservation,  
17             housing, recreation, tourism, and transportation. The  
18             preparing agency for each state functional plan shall  
19             also consider applicable federal laws, policies, or  
20             programs that impact upon the functional plan area.  
21             State functional plans shall define, implement, and be



1 in conformance with the overall theme, goals,  
2 objectives, policies, and priority guidelines  
3 contained within this chapter. County general plans  
4 and development plans shall be taken into  
5 consideration in the formulation and revision of state  
6 functional plans;

7 (4) County general plans that shall indicate desired  
8 population and physical development patterns for each  
9 county and regions within each county. In addition,  
10 county general plans or development plans shall  
11 address the unique problems and needs of each county  
12 and regions within each county. County general plans  
13 or development plans shall further define the overall  
14 theme, goals, objectives, policies, and priority  
15 guidelines contained within this chapter. State  
16 functional plans shall be taken into consideration in  
17 amending the county general plans; and

18 (5) State programs that shall include but not be limited  
19 to programs involving coordination and review;  
20 research and support; design, construction, and  
21 maintenance; services; and regulatory powers. State





1 programs that exercise coordination and review  
2 functions shall include but not be limited to the  
3 state clearinghouse process, the capital improvements  
4 program, and the coastal zone management program.  
5 State programs that exercise regulatory powers in  
6 resource allocation shall include but not be limited  
7 to the land use and management programs administered  
8 by ~~[the]~~ each county's land use commission and the  
9 board of land and natural resources. State programs  
10 shall further define, implement, and be in conformance  
11 with the overall theme, goals, objectives, and  
12 policies, and shall utilize as guidelines the priority  
13 guidelines contained within this chapter, and the  
14 state functional plans approved pursuant to this  
15 chapter.

16 (b) The statewide planning system shall also consist of  
17 several implementation mechanisms, including:

18 (1) Overall plan review, coordination, and evaluation.  
19 Overall plan review, coordination, and evaluation  
20 shall be conducted by the office;



1           (2) The state budgetary, land use, and other decision-  
2           making processes. The state budgetary, land use, and  
3           other decision-making processes shall consist of:

4           (A) The program appropriations process. The  
5           appropriation of funds for major programs under  
6           the biennial and supplemental budgets shall be in  
7           conformance with the overall theme, goals,  
8           objectives, and policies, and shall utilize as  
9           guidelines the priority guidelines contained  
10          within this chapter, and the state functional  
11          plans approved pursuant to this chapter;

12          (B) The capital improvement project appropriations  
13          process. The appropriation of funds for major  
14          plans and projects under the capital improvements  
15          program shall be in conformance with the overall  
16          theme, goals, objectives, and policies, and shall  
17          utilize as guidelines the priority guidelines  
18          contained within this chapter, and the state  
19          functional plans approved pursuant to this  
20          chapter;



1 (C) The budgetary review process of the department of  
2 budget and finance. The budgetary review and  
3 allocation process of the department of budget  
4 and finance shall be in conformance with the  
5 overall theme, goals, objectives, and policies,  
6 and shall utilize as guidelines the priority  
7 guidelines contained within this chapter, and the  
8 state functional plans approved pursuant to this  
9 chapter;

10 (D) Land use decision-making processes of state  
11 agencies. Land use decisions made by state and  
12 county agencies shall be in conformance with the  
13 overall theme, goals, objectives, and policies,  
14 and shall utilize as guidelines the priority  
15 guidelines contained within this chapter, and the  
16 state functional plans approved pursuant to this  
17 chapter. The rules adopted by appropriate state  
18 and county agencies to govern land use decision  
19 making shall be in conformance with the overall  
20 theme, goals, objectives, and policies contained  
21 within this chapter; and



1           (E) All other regulatory and administrative decision-  
2           making processes of state agencies, which shall  
3           be in conformance with the overall theme, goals,  
4           objectives, and policies, and shall utilize as  
5           guidelines the priority guidelines contained  
6           within this chapter, and the state functional  
7           plans approved pursuant to this chapter. Rules  
8           adopted by state agencies to govern decision  
9           making shall be in conformance with the overall  
10          theme, goals, objectives, and policies contained  
11          within this chapter;

12       (3) The strategic planning processes. The office and  
13       other state agencies shall conduct strategic planning  
14       activities to identify and analyze significant issues,  
15       problems, and opportunities confronting the State,  
16       including the examination and evaluation of state  
17       programs in implementing state policies and the  
18       formulation of strategies and alternative courses of  
19       action in response to identified problems and  
20       opportunities. Strategic planning processes may  
21       include the conduct of surveys and other monitoring



1 instruments such as environmental scanning to assess  
2 current social, economic, and physical conditions and  
3 trends. In conducting strategic planning activities,  
4 the office and other state agencies shall ensure that  
5 general public and agency concerns are solicited and  
6 taken into consideration. The formation of task  
7 forces, ad hoc committees, or other advisory bodies  
8 comprised of interested parties may serve to  
9 facilitate public involvement in specific planning  
10 projects; and

11 (4) Other coordination processes which include the use of  
12 the state clearinghouse process. The state  
13 clearinghouse shall coordinate the review of all  
14 federally-assisted and direct federal development  
15 projects which are covered under the state  
16 clearinghouse process."

17 SECTION 37. Section 339-5, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[+]§339-5[+] **Responsibilities of owners and lessees of**  
20 **real property.** It shall be the responsibility of any owner or  
21 lessee of real property in [state] county land use urban



1 districts zoned for urban use by the county to maintain  
2 sidewalks, alleys, curbs, roadway shoulder areas, fence lines,  
3 and hedges immediately adjoining such real property in a litter-  
4 free condition except that in no way will the statute be used to  
5 release the state and county agencies from continuing their  
6 present level of public property maintenance."

7 SECTION 38. Section 343-5, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) Except as otherwise provided, an environmental  
10 assessment shall be required for actions that:

11 (1) Propose the use of state or county lands or the use of  
12 state or county funds, other than funds to be used for  
13 feasibility or planning studies for possible future  
14 programs or projects that the agency has not approved,  
15 adopted, or funded, or funds to be used for the  
16 acquisition of unimproved real property; provided that  
17 the agency shall consider environmental factors and  
18 available alternatives in its feasibility or planning  
19 studies; provided further that an environmental  
20 assessment for proposed uses under section



1           205-2(d)(11) or 205-4.5(a)(13) shall only be required  
2           pursuant to section 205-5(b);

3           (2) Propose any use within any land classified as a  
4           conservation district by the [~~state~~] applicable county  
5           land use commission under chapter 205;

6           (3) Propose any use within a shoreline area as defined in  
7           section 205A-41;

8           (4) Propose any use within any historic site as designated  
9           in the National Register or Hawaii Register, as  
10          provided for in the Historic Preservation Act of 1966,  
11          Public Law 89-665, or chapter 6E;

12          (5) Propose any use within the Waikiki area of Oahu, the  
13          boundaries of which are delineated in the land use  
14          ordinance as amended, establishing the "Waikiki  
15          Special District";

16          (6) Propose any amendments to existing county general  
17          plans where the amendment would result in designations  
18          other than agriculture, conservation, or preservation,  
19          except actions proposing any new county general plan  
20          or amendments to any existing county general plan  
21          initiated by a county;



1       (7) Propose any reclassification of any land classified as  
2       a conservation district by the [~~state~~] applicable  
3       county land use commission under chapter 205;

4       (8) Propose the construction of new or the expansion or  
5       modification of existing helicopter facilities within  
6       the State, that by way of their activities, may  
7       affect:

8       (A) Any land classified as a conservation district by  
9       the [~~state~~] applicable county land use commission  
10      under chapter 205;

11      (B) A shoreline area as defined in section 205A-41;  
12      or

13      (C) Any historic site as designated in the National  
14      Register or Hawaii Register, as provided for in  
15      the Historic Preservation Act of 1966, Public Law  
16      89-665, or chapter 6E; or until the statewide  
17      historic places inventory is completed, any  
18      historic site that is found by a field  
19      reconnaissance of the area affected by the  
20      helicopter facility and is under consideration





1 for placement on the National Register or the  
2 Hawaii Register of Historic Places; and

3 (9) Propose any:

4 (A) Wastewater treatment unit, except an individual  
5 wastewater system or a wastewater treatment unit  
6 serving fewer than fifty single-family dwellings  
7 or the equivalent;

8 (B) Waste-to-energy facility;

9 (C) Landfill;

10 (D) Oil refinery; or

11 (E) Power-generating facility."

12 SECTION 39. Section 356D-11, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14 "(b) The authority may develop public land in an  
15 agricultural district subject to the prior approval of the  
16 applicable county land use commission when developing lands  
17 greater than five acres in size. The authority shall not  
18 develop state monuments, historical sites, or parks. When the  
19 authority proposes to develop public land, it shall file with  
20 the department of land and natural resources a petition setting  
21 forth such purpose. The petition shall be conclusive proof that



1 the intended use is a public use superior to that to which the  
2 land had been appropriated."

3 SECTION 40. It is not the intent of this Act to modify the  
4 duties of the State concerning agricultural lands as established  
5 by article XI, section 3, of the Hawaii State Constitution.

6 SECTION 41. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 42. This Act shall take effect on July 1, 2022.

9

INTRODUCED BY: 



# S.B. NO. 2668

**Report Title:**

State Land Use Commission; Repeal; Counties

**Description:**

Requires each county to establish its own land use commission to make certain determinations under chapter 205, Hawaii Revised Statutes. Repeals the State Land Use Commission.

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

