
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. Section 205-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§205-4 Amendments to district boundaries involving land
4 areas greater than fifteen acres. (a) Any department or agency
5 of the State, any department or agency of the county in which
6 the land is situated, or any person with a property interest in
7 the land sought to be reclassified, may petition the land use
8 commission for a change in the boundary of a district. This
9 section applies to all petitions for changes in district
10 boundaries of lands within conservation districts, lands
11 designated or sought to be designated as important agricultural
12 lands, and lands greater than fifteen acres in the agricultural,
13 rural, and urban districts, except as provided in section
14 201H-38. The land use commission shall adopt rules pursuant to
15 chapter 91 to implement section 201H-38.

16 (b) Any county may initiate a land use boundary amendment
17 for land designated for urban, rural, agricultural, or



1 conservation to implement the county's general plan; provided
2 that the amendments conform to the county's adopted general
3 plan. The application shall be submitted to the commission by
4 the county planning director and shall include the request and
5 reasons; provided that technical studies shall not be required
6 if the request conforms to the county general plan. Technical
7 archaeological, cultural, and biological survey studies shall be
8 required for reclassifications of land from agricultural or
9 conservation to urban.

10 ~~[(b)]~~ (c) Upon proper filing of a petition pursuant to
11 subsection (a) the commission shall, within not less than sixty
12 and not more than one hundred and eighty days, conduct a hearing
13 on the appropriate island in accordance with the provisions of
14 sections 91-9, 91-10, 91-11, 91-12, and 91-13, as applicable.

15 ~~[(e)]~~ (d) Any other provision of law to the contrary
16 notwithstanding, notice of the hearing together with a copy of
17 the petition shall be served on the county planning commission
18 and the county planning department of the county in which the
19 land is located and all persons with a property interest in the
20 land as recorded in the county's real property tax records. In
21 addition, notice of the hearing shall be mailed to all persons



1 who have made a timely written request for advance notice of
2 boundary amendment proceedings, and public notice shall be given
3 at least once in the county in which the land sought to be
4 redistricted is situated as well as once statewide at least
5 thirty days in advance of the hearing. The notice shall comply
6 with section 91-9, shall indicate the time and place that maps
7 showing the proposed district boundary may be inspected, and
8 further shall inform all interested persons of their rights
9 under subsection [~~(e)~~] (f).

10 [~~(d)~~] (e) Any other provisions of law to the contrary
11 notwithstanding, prior to hearing of a petition the commission
12 and its staff may view and inspect any land which is the subject
13 of the petition.

14 [~~(e)~~] (f) Any other provisions of law to the contrary
15 notwithstanding, agencies and persons may intervene in the
16 proceedings in accordance with this subsection.

17 (1) The petitioner, the office of planning and sustainable
18 development, and the county planning department shall
19 in every case appear as parties and make
20 recommendations relative to the proposed boundary
21 change;



1 (2) All departments and agencies of the State and of the
2 county in which the land is situated shall be admitted
3 as parties upon timely application for intervention;

4 (3) All persons who have some property interest in the
5 land, who lawfully reside on the land, or who
6 otherwise can demonstrate that they will be so
7 directly and immediately affected by the proposed
8 change that their interest in the proceeding is
9 clearly distinguishable from that of the general
10 public shall be admitted as parties upon timely
11 application for intervention;

12 (4) All other persons may apply to the commission for
13 leave to intervene as parties. Leave to intervene
14 shall be freely granted; provided that the commission
15 or its hearing officer, if one is appointed, may deny
16 an application to intervene when in the commission's
17 or hearing officer's sound discretion it appears that:

18 (A) The position of the applicant for intervention
19 concerning the proposed change is substantially
20 the same as the position of a party already
21 admitted to the proceeding; and



1 (B) The admission of additional parties will render
2 the proceedings inefficient and unmanageable.

3 A person whose application to intervene is denied may
4 appeal the denial to the circuit court pursuant to
5 section 91-14; and

6 (5) The commission, pursuant to chapter 91, shall adopt
7 rules governing the intervention of agencies and
8 persons under this subsection. The rules shall
9 without limitation establish:

10 (A) The information to be set forth in any
11 application for intervention;

12 (B) The limits within which applications shall be
13 filed; and

14 (C) Reasonable filing fees to accompany applications.

15 [~~f~~] (g) Together with other witnesses that the
16 commission may desire to hear at the hearing, it shall allow a
17 representative of a citizen or a community group to testify who
18 indicates a desire to express the view of such citizen or
19 community group concerning the proposed boundary change.

20 [~~g~~] (h) Within a period of not more than three hundred
21 sixty-five days after the proper filing of a petition, unless



1 otherwise ordered by a court, or unless a time extension, which
2 shall not exceed ninety days, is established by a two-thirds
3 vote of the members of the commission, the commission, by filing
4 findings of fact and conclusions of law, shall act to approve
5 the petition, deny the petition, or to modify the petition by
6 imposing conditions necessary to uphold the intent and spirit of
7 this chapter or the policies and criteria established pursuant
8 to section 205-17 or to assure substantial compliance with
9 representations made by the petitioner in seeking a boundary
10 change. The commission may provide by condition that absent
11 substantial commencement of use of the land in accordance with
12 [~~such~~] the representations, the commission shall issue and serve
13 upon the party bound by the condition an order to show cause why
14 the property should not revert to its former land use
15 classification or be changed to a more appropriate
16 classification. [~~Such~~] The conditions, if any, shall run with
17 the land and be recorded in the bureau of conveyances.

18 [~~h~~] (i) No amendment of a land use district boundary
19 shall be approved unless the commission finds upon the clear
20 preponderance of the evidence that the proposed boundary is
21 reasonable, not violative of section 205-2 and part III of this



1 chapter, and consistent with the policies and criteria
2 established pursuant to sections 205-16 and 205-17. Six
3 affirmative votes of the commission shall be necessary for any
4 boundary amendment under this section.

5 ~~(i)~~ (j) Parties to proceedings to amend land use
6 district boundaries may obtain judicial review thereof in the
7 manner set forth in section 91-14~~(7)~~i; provided that the court
8 may also reverse or modify a finding of the commission if ~~[such]~~
9 the finding appears to be contrary to the clear preponderance of
10 the evidence.

11 ~~(j)~~ (k) At the hearing, all parties may enter into
12 appropriate stipulations as to findings of fact, conclusions of
13 law, and conditions of reclassification concerning the proposed
14 boundary change. The commission may but shall not be required
15 to approve ~~[such]~~ stipulations based on the evidence adduced."

16 SECTION 2. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Hawaii Council of Mayors Package; Land Use Commission; Boundary Amendments; Counties

Description:

Authorizes a county to initiate a land use boundary amendment to implement the county's general plan. Takes effect 7/1/2050.
(SD1)

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