
A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. The legislature finds that the State's pristine
2 natural landscapes and cultural settings have long provided
3 iconic backdrops for motion pictures, television, and other
4 creative industries that generate significant economic activity.
5 According to the department of business, economic development,
6 and tourism, in 2021, the Hawaii film production industry
7 contributed an estimated \$728 million in direct and induced
8 economic activity and supported 51,231 jobs in the State. In
9 addition, studies show that film-induced tourism is a powerful
10 driver of visitor demand, with visitors frequently citing films
11 as inspiration for travel.

12 The legislature further finds that smaller counties--
13 Hawaii, Maui, Kauai, and Kalawao--possess abundant agricultural
14 zoned lands suitable for limited, temporary, and carefully
15 managed film production. Allowing film production subject to
16 stringent oversight will stimulate rural economies and create
17 new revenue streams for landowners without compromising



1 long-term agricultural viability. The legislature recognizes
2 that lands designated as important agricultural lands,
3 high-productivity soils, and culturally or environmentally
4 sensitive areas must be safeguarded from incompatible or
5 degrading uses. Coordination with the county planning
6 commissions, land use commission, and other relevant state
7 agencies is essential to maintain statutory protections and
8 uphold constitutional obligations relating to Native Hawaiian
9 traditional and customary practices.

10 The legislature further finds that responsible temporary
11 film production on appropriate agricultural lands may contribute
12 to rural economic resilience by creating employment, supporting
13 local businesses, encouraging technical skill development, and
14 generating supplemental revenue that may be reinvested into
15 agricultural operations.

16 Accordingly, the purpose of this Act is to:

- 17 (1) Permit, facilitate, and regulate responsible film
18 production on certain agricultural zoned lands in
19 certain counties under certain conditions; and
20 (2) Establish the agricultural film production land use
21 oversight committee to establish film permit



1 application requirements and processes, facilitate the
2 issuance of permits for film production within
3 agricultural districts, and advise and make
4 recommendations relating to the regulation of film
5 productions on agricultural zoned lands.

6 SECTION 2. Chapter 201, Hawaii Revised Statutes, is
7 amended by adding a new subpart to part IX to be appropriately
8 designated and to read as follows:

9 " . Agricultural Film Production Land Use Act

10 **§201-A Short title.** This subpart shall be known and may
11 be cited as the Agricultural Film Production Land Use Act.

12 **§201-B Purpose.** The purpose of this subpart is to permit,
13 facilitate, and regulate responsible film production in
14 agricultural zoned lands while fostering collaboration with any
15 lineal descendants of the lands and ensuring the preservation,
16 respect, and sustainable use of these lands for future
17 generations. The legislature finds that film production
18 supported pursuant to this subpart shall advance the State's
19 economic resilience by supporting economic diversification,
20 rural economic activity, workforce skill development, and
21 complimentary use of agricultural lands without diminishing



1 their primary agricultural purposes. Encouragement of the film
2 tourism industry shall be fostered through responsible film
3 production on agricultural zoned lands that aims to showcase the
4 cultural and historical significance of agricultural zoned lands
5 in the State.

6 **§201-C Applicability.** This subpart shall apply only to
7 counties with a population of less than five hundred thousand.

8 **§201-D Definitions.** As used in this subpart:

9 "Agricultural zoned parcel" means land that is designated:

10 (1) For agricultural use under county zoning regulations;

11 and

12 (2) As important agricultural land within an agricultural

13 district that may only be accessed for an approved and

14 permitted use.

15 "Film permit" means the official authorization granted by

16 relevant authorities for conducting film production on

17 agricultural zoned parcels.

18 "Film production" means a short-term temporary activity

19 related to the creation of visual media content, including

20 motion pictures, television and streaming series, and commercial



1 photography that are not part of ongoing agricultural
2 operations.

3 "Film production area" means a designated area within the
4 agricultural zoned parcels where film production is permitted.

5 "Important agricultural land" means land identified and
6 designated as important agricultural land pursuant to part III
7 of chapter 205.

8 "Lineal descendant" means an individual directly descended
9 from previous generations who has historical, ancestral, or
10 cultural ties to the film production area.

11 "Oversight committee" means the agricultural film
12 production land use oversight committee established pursuant to
13 section 201-F.

14 "Structural integrity check" means a periodic assessment to
15 ensure the stability and safety of any structure built for film
16 production purposes.

17 **§201-E Permissible film production on an agricultural**
18 **zoned parcel.** (a) Film production on an agricultural zoned
19 parcel shall be permitted pursuant to this subpart; provided
20 that:

21 (1) The parcel is not:



- 1 (A) Designated as important agricultural land;
- 2 (B) Land with soil classified by the land study
- 3 bureau's detailed land classification as overall
- 4 (master) productivity rating class A or B; and
- 5 (C) Used for active agricultural crop production;
- 6 (2) The film production company shall obtain all necessary
- 7 film permits, including permits to film pursuant to
- 8 section 201-14, from the relevant government entities,
- 9 outlining the scope of film production and adherence
- 10 to guidelines;
- 11 (3) The film production company shall make efforts to
- 12 involve lineal descendants in decision-making
- 13 processes concerning film production on an
- 14 agricultural zoned parcel with ancestral value,
- 15 thereby respecting the cultural heritage and
- 16 historical significance of these lands; and
- 17 (4) The film production shall be accessory and secondary
- 18 to the agricultural use of the parcel.
- 19 (b) Film production areas may include temporary setups,
- 20 including tents for filming and catering.



1 (c) Film set pieces and temporary structures constructed
2 for film production purposes are permitted within film
3 production areas; provided that the film set pieces and
4 temporary structures comply with safety standards and undergo
5 regular structural integrity checks.

6 (d) Upon the request of the owner of the agricultural
7 zoned parcel, the ownership and maintenance responsibilities of
8 any film set piece and temporary structure may be transferred
9 from the film production company to the owner of the
10 agricultural zoned parcel; provided that the terms of the
11 transfer are mutually agreed upon between both parties.

12 (e) Nothing in this subpart shall be construed to
13 authorize activities that impair long-term agricultural
14 productivity, soil health, water access, or operational
15 viability.

16 **§201-F Agricultural film production land use oversight**
17 **committee; establishment; powers and responsibilities;**

18 **penalties; rules.** (a) There is established an agricultural
19 film production land use oversight committee, to be placed
20 within the creative industries division of the department for
21 administrative purposes only, to serve as a coordinating body



1 and advise the department's regulation of filmmaking on
2 agricultural land.

3 (b) The oversight committee shall comprise the following:

4 (1) Four ex officio, voting members, including:

5 (A) The director of business, economic development,
6 and tourism or their designee;

7 (B) The chairperson of the board of agriculture and
8 biosecurity or their designee;

9 (C) The chairperson of the board of land and natural
10 resources or their designee; and

11 (D) The director of the office of planning and
12 sustainable development or their designee; and

13 (2) Three voting members, who shall be appointed by the
14 governor in accordance with section 26-34, including:

15 (A) One member of the board of trustees of the office
16 of Hawaiian affairs;

17 (B) One member with experience in commercial film
18 production; and

19 (C) One member with expertise in agriculture and
20 conservation.

21 (c) The oversight committee:



1 (1) Shall establish, in coordination with the appropriate
2 county planning commission or department, land use
3 commission, office of Hawaiian affairs, office of
4 planning and sustainable development, department of
5 land and natural resources, and department of
6 agriculture and biosecurity:

7 (A) Film permit application requirements, fees,
8 timelines, bonding and insurance minimums, and
9 structural inspection protocol; and

10 (B) Processes for cultural review and biological
11 surveys, including requirements for mitigation
12 and restoration efforts;

13 (2) Shall facilitate the issuance and approval of permits
14 for film productions within agricultural districts
15 pursuant to section 201-14, in coordination with the
16 appropriate county planning commission or department,
17 land use commission, office of planning and
18 sustainable development, and department of agriculture
19 and biosecurity; and

20 (3) May advise and make recommendations on any fine or
21 other penalty for non-compliance with this subpart;



1 provided that before recommending the imposition of a
2 fine or penalty, the oversight committee shall:
3 (A) Notify the film production in violation; and
4 (B) Conduct an administrative hearing; provided
5 further that any person aggrieved by the
6 oversight committee's decision, shall be entitled
7 to judicial review as provided by section 91-14;
8 provided that the oversight committee shall serve in a
9 coordinating and advisory capacity and shall not supplant any
10 county planning commissions or the land use commission.

11 (d) The oversight committee shall advise the department on
12 the adoption of rules pursuant to section 201-H.

13 **§201-G Violations; penalties.** Any violation of this
14 subpart may result in fines, suspension or revocation of
15 permits, and other legal consequences as deemed appropriate by
16 the department, and in accordance with rules adopted pursuant to
17 section 201-H.

18 **§201-H Rules.** The department shall adopt rules pursuant
19 to chapter 91 necessary to effectuate the purposes of this
20 subpart.



1 **§201-I Conflict with other regulations.** This subpart
 2 shall supersede any conflicting regulations to the extent
 3 permitted by law; provided that nothing in this subpart shall be
 4 construed to supplant the authority of the counties or land use
 5 commission to issue, approve, suspend, revoke, or enforce
 6 permits, including special use permits."

7 SECTION 3. Chapter 201, Hawaii Revised Statutes, is
 8 amended by designating sections 201-111 to 201-115 as subpart A,
 9 and inserting a title before section 201-111 to read as follows:

10 "A. General Provisions"

11 SECTION 4. Section 201-14, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "**§201-14 Consolidated film permit processing.** (a) The
 14 department shall consult with state and county agencies in order
 15 to identify sites that can be used for making visually recorded
 16 productions under terms and conditions as may be determined by
 17 the state or county agency having jurisdiction over the sites.

18 (b) The department may accept an application from any
 19 person who proposes to make a motion picture, television show,
 20 television commercial, or other visually recorded production at



1 one or more sites on state or county lands, whether or not set
2 aside under section 171-11.

3 (c) The applicant shall identify the sites to be covered
4 by the permit and provide other information as may be required
5 by the department.

6 (d) The department may approve and issue a permit to film
7 at any of the sites identified by the appropriate state or
8 county agency under subsection (a). If any site requested for
9 use by the applicant is not identified under subsection (a), the
10 department shall consult with the appropriate state or county
11 agency having jurisdiction over the site to obtain a permit. If
12 the matter of a permit cannot be resolved in this manner, the
13 department shall refer the application to the appropriate state
14 or county agency to obtain a permit.

15 (e) The department is authorized to make changes to, and
16 extensions of, any approved permits so long as the changes and
17 extensions do not conflict with the policies, terms, and
18 conditions set forth by the agency having jurisdiction over the
19 site in question.



1 (f) The department may establish memoranda of agreement or
2 adopt rules to implement the intent and purposes of this
3 section.

4 (g) The department shall consult with state and county
5 agencies to issue permits for film production within an
6 agricultural district pursuant to section 201-E using the
7 consolidated film permit process established pursuant to this
8 section.

9 [~~g~~] (h) Nothing in this section shall be construed as
10 waiving the authority of any county or the department of
11 transportation of the State to require a person to obtain a
12 permit from the department or county where the production takes
13 place on or from a public highway.

14 [~~h~~] (i) A vessel engaged in temporary use for film
15 production purposes in accordance with a film permit issued by
16 the department shall not be considered to be a "commercial
17 vessel" within the meaning of section 200-9, 200-10, or 200-39;
18 provided that:

19 (1) The period of temporary use does not exceed fourteen
20 hours per day, five days per week, excluding weekends,



1 and for a period not to exceed thirty calendar days;
2 and

3 (2) The department may make allowances to include weekends
4 for film production purposes due to inclement weather
5 conditions during the weekday period."

6 SECTION 5. Section 205-4.5, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) Within the agricultural district, all lands with soil
9 classified by the land study bureau's detailed land
10 classification as overall (master) productivity rating class A
11 or B and for solar energy facilities, class B or C, shall be
12 restricted to the following permitted uses:

13 (1) Cultivation of crops, including crops for bioenergy,
14 flowers, vegetables, foliage, fruits, forage, and
15 timber;

16 (2) Game and fish propagation;

17 (3) Raising of livestock, including poultry, bees, fish,
18 or other animal or aquatic life that are propagated
19 for economic or personal use;

20 (4) Farm dwellings, employee housing, farm buildings, or
21 activities or uses related to farming and animal



1 husbandry. For the purposes of this paragraph, "farm
2 dwelling" means a single-family dwelling located on
3 and accessory to a farm, including clusters of
4 single-family farm dwellings permitted within
5 agricultural parks developed by the State, or where
6 agricultural activity provides income to the family
7 occupying the dwelling;

8 (5) Public institutions and buildings that are necessary
9 for agricultural practices;

10 (6) Public and private open area types of recreational
11 uses, including day camps, picnic grounds, parks, and
12 riding stables, but not including dragstrips,
13 airports, drive-in theaters, golf courses, golf
14 driving ranges, country clubs, and overnight camps;
15 provided that overnight camps in operation before
16 January 1, 1961, may be approved by special permit;

17 (7) Public, private, and quasi-public utility lines and
18 roadways, transformer stations, communications
19 equipment buildings, solid waste transfer stations,
20 major water storage tanks, and appurtenant small
21 buildings such as booster pumping stations, but not



- 1 including offices or yards for equipment, material,
2 vehicle storage, repair or maintenance, treatment
3 plants, corporation yards, or other similar
4 structures;
- 5 (8) Retention, restoration, rehabilitation, or improvement
6 of buildings or sites of historic or scenic interest;
- 7 (9) Agricultural-based commercial operations as described
8 in section 205-2(d) (15);
- 9 (10) Buildings and uses, including mills, storage, and
10 processing facilities, maintenance facilities,
11 photovoltaic, biogas, and other small-scale renewable
12 energy systems producing energy solely for use in the
13 agricultural activities of the fee or leasehold owner
14 of the property, and vehicle and equipment storage
15 areas that are normally considered directly accessory
16 to the above-mentioned uses and are permitted under
17 section 205-2(d);
- 18 (11) Agricultural parks;
- 19 (12) Plantation community subdivisions, which as used in
20 this chapter means an established subdivision or
21 cluster of employee housing, community buildings, and



1 agricultural support buildings on land currently or
2 formerly owned, leased, or operated by a sugar or
3 pineapple plantation; provided that the existing
4 structures may be used or rehabilitated for use, and
5 new employee housing and agricultural support
6 buildings may be allowed on land within the
7 subdivision as follows:

8 (A) The employee housing is occupied by employees or
9 former employees of the plantation who have a
10 property interest in the land;

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

14 (C) The agricultural support buildings shall be
15 rented or leased to agricultural business
16 operators or agricultural support services;

17 (13) Agricultural tourism conducted on a working farm, or a
18 farming operation as defined in section 165-2, for the
19 enjoyment, education, or involvement of visitors;
20 provided that the agricultural tourism activity is
21 accessory and secondary to the principal agricultural



1 use and does not interfere with surrounding farm
2 operations; provided further that this paragraph shall
3 apply only to a county that has adopted ordinances
4 regulating agricultural tourism under section 205-5;
5 (14) Agricultural tourism activities, including overnight
6 accommodations of twenty-one days or less, for any one
7 stay within a county; provided that this paragraph
8 shall apply only to a county that includes at least
9 three islands and has adopted ordinances regulating
10 agricultural tourism activities pursuant to section
11 205-5; provided further that the agricultural tourism
12 activities coexist with a bona fide agricultural
13 activity. For the purposes of this paragraph, "bona
14 fide agricultural activity" means a farming operation
15 as defined in section 165-2;
16 (15) Wind energy facilities, including the appurtenances
17 associated with the production and transmission of
18 wind generated energy; provided that the wind energy
19 facilities and appurtenances are compatible with
20 agriculture uses and cause minimal adverse impact on
21 agricultural land;



1 (16) Biofuel processing facilities, including the
2 appurtenances associated with the production and
3 refining of biofuels that is normally considered
4 directly accessory and secondary to the growing of the
5 energy feedstock; provided that biofuel processing
6 facilities and appurtenances do not adversely impact
7 agricultural land and other agricultural uses in the
8 vicinity.

9 For the purposes of this paragraph:

10 "Appurtenances" means operational infrastructure
11 of the appropriate type and scale for economic
12 commercial storage and distribution, and other similar
13 handling of feedstock, fuels, and other products of
14 biofuel processing facilities.

15 "Biofuel processing facility" means a facility
16 that produces liquid or gaseous fuels from organic
17 sources such as biomass crops, agricultural residues,
18 and oil crops, including palm, canola, soybean, and
19 waste cooking oils; grease; food wastes; and animal
20 residues and wastes that can be used to generate
21 energy;



1 (17) Agricultural-energy facilities, including
2 appurtenances necessary for an agricultural-energy
3 enterprise; provided that the primary activity of the
4 agricultural-energy enterprise is agricultural
5 activity. To be considered the primary activity of an
6 agricultural-energy enterprise, the total acreage
7 devoted to agricultural activity shall be no less than
8 ninety per cent of the total acreage of the
9 agricultural-energy enterprise. The
10 agricultural-energy facility shall be limited to lands
11 owned, leased, licensed, or operated by the entity
12 conducting the agricultural activity.

13 As used in this paragraph:

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

16 "Agricultural-energy enterprise" means an
17 enterprise that integrally incorporates an
18 agricultural activity with an agricultural-energy
19 facility.

20 "Agricultural-energy facility" means a facility
21 that generates, stores, or distributes renewable



1 energy as defined in section 269-91 or renewable fuel
2 including electrical or thermal energy or liquid or
3 gaseous fuels from products of agricultural activities
4 from agricultural lands located in the State.

5 "Appurtenances" means operational infrastructure
6 of the appropriate type and scale for the economic
7 commercial generation, storage, distribution, and
8 other similar handling of energy, including equipment,
9 feedstock, fuels, and other products of
10 agricultural-energy facilities;

11 (18) Construction and operation of wireless communication
12 antennas, including small wireless facilities;
13 provided that, for the purposes of this paragraph,
14 "wireless communication antenna" means communications
15 equipment that is either freestanding or placed upon
16 or attached to an already existing structure and that
17 transmits and receives electromagnetic radio signals
18 used in the provision of all types of wireless
19 communications services; provided further that "small
20 wireless facilities" shall have the same meaning as in
21 section 206N-2; provided further that nothing in this



1 paragraph shall be construed to permit the
2 construction of any new structure that is not deemed a
3 permitted use under this subsection;

4 (19) Agricultural education programs conducted on a farming
5 operation as defined in section 165-2, for the
6 education and participation of the general public;
7 provided that the agricultural education programs are
8 accessory and secondary to the principal agricultural
9 use of the parcels or lots on which the agricultural
10 education programs are to occur and do not interfere
11 with surrounding farm operations. For the purposes of
12 this paragraph, "agricultural education programs"
13 means activities or events designed to promote
14 knowledge and understanding of agricultural activities
15 and practices conducted on a farming operation as
16 defined in section 165-2;

17 (20) Solar energy facilities that do not occupy more than
18 ten per cent of the acreage of the parcel, or twenty
19 acres of land, whichever is lesser or for which a
20 special use permit is granted pursuant to section
21 205-6; provided that this use shall not be permitted



1 on lands with soil classified by the land study
2 bureau's detailed land classification as overall
3 (master) productivity rating class A;

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

9 (A) The area occupied by the solar energy facilities
10 is also made available for compatible
11 agricultural activities at a lease rate that is
12 at least fifty per cent below the fair market
13 rent for comparable properties;

14 (B) Proof of financial security to decommission the
15 facility is provided to the satisfaction of the
16 appropriate county planning commission before the
17 date of commencement of commercial generation;
18 and

19 (C) Solar energy facilities shall be decommissioned
20 at the owner's expense according to the following
21 requirements:



- 1 (i) Removal of all equipment related to the
- 2 solar energy facility within twelve months
- 3 of the conclusion of operation or useful
- 4 life; and
- 5 (ii) Restoration of the disturbed earth to
- 6 substantially the same physical condition as
- 7 existed before the development of the solar
- 8 energy facility.

9 For the purposes of this paragraph, "agricultural
10 activities" means the activities described in
11 paragraphs (1) to (3);

12 (22) Geothermal resources exploration and geothermal
13 resources development, as defined under section 182-1;

14 (23) Hydroelectric facilities, including the appurtenances
15 associated with the production and transmission of
16 hydroelectric energy, subject to section 205-2;
17 provided that the hydroelectric facilities and their
18 appurtenances:

19 (A) Shall consist of a small hydropower facility as
20 defined by the United States Department of
21 Energy, including:



- 1 (i) Impoundment facilities using a dam to store
- 2 water in a reservoir;
- 3 (ii) A diversion or run-of-river facility that
- 4 channels a portion of a river through a
- 5 canal or channel; and
- 6 (iii) Pumped storage facilities that store energy
- 7 by pumping water uphill to a reservoir at
- 8 higher elevation from a reservoir at a lower
- 9 elevation to be released to turn a turbine
- 10 to generate electricity;
- 11 (B) Comply with the state water code, chapter 174C;
- 12 (C) Shall, if over five hundred kilowatts in
- 13 hydroelectric generating capacity, have the
- 14 approval of the commission on water resource
- 15 management, including a new instream flow
- 16 standard established for any new hydroelectric
- 17 facility; and
- 18 (D) Do not impact or impede the use of agricultural
- 19 land or the availability of surface or ground
- 20 water for all uses on all parcels that are served



1 by the ground water sources or streams for which
 2 hydroelectric facilities are considered; ~~[or]~~

3 (24) Temporary filming activity as a conditional accessory
 4 use; provided that the appropriate county planning
 5 commission or department approves the activity and the
 6 department of agriculture and biosecurity finds that
 7 the activity is compatible with existing agricultural
 8 use; provided further that the activity shall not:

9 (A) Result in the permanent physical degradation of
 10 soil or agricultural infrastructure;

11 (B) Displace any active agricultural operation; or

12 (C) Exceed a cumulative duration of thirty days,
 13 consecutively or cumulatively per year without a
 14 special use permit; provided further that for any
 15 activity with a film production timeframe that
 16 displaces normal agricultural operations, an
 17 applicant:

18 (i) Shall develop and submit to the land use
 19 commission, office of planning and
 20 sustainable development, and department of
 21 agriculture and biosecurity an agricultural



1 impact statement which shall outline the
2 applicant's procedures for soil protection,
3 waste management, cultural consultation, and
4 remediation efforts, in addition to applying
5 for the appropriate permits from a county
6 planning commission or department; and
7 (ii) Seeking a permit shall be subject to ongoing
8 and post-permit compliance checks by the
9 appropriate county planning commission or
10 department and the department of agriculture
11 and biosecurity; or

12 [~~24~~] (25) Notwithstanding any other law to the contrary,
13 composting and co-composting operations; provided that
14 operations that process their own green waste and do
15 not require permits from the department of health
16 shall use the finished composting product only on the
17 operation's own premises to minimize the potential
18 spread of invasive species."

19 SECTION 6. In codifying the new sections added by
20 section 2 of this Act, the revisor of statutes shall substitute



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

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

DBEDT; Creative Industries Division; Agricultural Film Production Land Use Act; Agricultural Film Production Land Use Oversight Committee; Rules

Description:

Permits film production on certain lands zoned for agricultural use under certain conditions, including obtaining land use special permits. Establishes the Agricultural Film Production Land Use Oversight Committee within the Creative Industries Division of the Department of Business, Economic Development, and Tourism to establish film permit application requirements and processes, facilitate the issuance of special permits for film production on agricultural zoned parcels, and advise and make recommendations relating to the regulation of film productions on agricultural zoned lands. Requires DBEDT to adopt rules. Requires DBEDT to consult with state and county agencies to issue permits for film production within an agricultural district using the consolidated film permit process under certain circumstances. Includes temporary filming activities as a permissible conditional accessory use of lands within the agricultural district. Effective 7/1/2050. (SD1)

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

