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## A BILL FOR AN ACT

RELATING TO LAND USE.

**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) Upon proper filing of a petition pursuant to  
17 subsection (a) the commission shall, within not less than sixty



1 and not more than one hundred and eighty days, conduct a hearing  
2 on the appropriate island in accordance with the provisions of  
3 sections 91-9, 91-10, 91-11, 91-12, and 91-13, as applicable.

4 (c) Prior to the filing of any petition for a district  
5 boundary amendment, the petitioner shall receive certification  
6 from the commission on water resources management that  
7 sufficient water is available for the project needs without  
8 causing harm to the relevant aquifers and submit that  
9 certification to the commission.

10 [←e→] (d) Any other provision of law to the contrary  
11 notwithstanding, notice of the hearing together with a copy of  
12 the petition shall be served on the county planning commission  
13 and the county planning department of the county in which the  
14 land is located and all persons with a property interest in the  
15 land as recorded in the county's real property tax records. In  
16 addition, notice of the hearing shall be mailed to all persons  
17 who have made a timely written request for advance notice of  
18 boundary amendment proceedings, and public notice shall be given  
19 at least once in the county in which the land sought to be  
20 redistricted is situated as well as once statewide at least  
21 thirty days in advance of the hearing. The notice shall comply



1 with section 91-9, shall indicate the time and place that maps  
2 showing the proposed district boundary may be inspected, and  
3 further shall inform all interested persons of their rights  
4 under subsection ~~(e)~~ (f).

5 ~~(d)~~ (e) Any other provisions of law to the contrary  
6 notwithstanding, prior to hearing of a petition the commission  
7 and its staff may view and inspect any land ~~which~~ that is the  
8 subject of the petition.

9 ~~(e)~~ (f) Any other provisions of law to the contrary  
10 notwithstanding, agencies and persons may intervene in the  
11 proceedings in accordance with this subsection.

12 (1) The petitioner, the office of planning and sustainable  
13 development, and the county planning department shall  
14 in every case appear as parties and make  
15 recommendations relative to the proposed boundary  
16 change;

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

20 (3) All persons who have some property interest in the  
21 land, who lawfully reside on the land, or who



1 otherwise can demonstrate that they will be so  
2 directly and immediately affected by the proposed  
3 change that their interest in the proceeding is  
4 clearly distinguishable from that of the general  
5 public shall be admitted as parties upon timely  
6 application for intervention;

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

13 (A) The position of the applicant for intervention  
14 concerning the proposed change is substantially  
15 the same as the position of a party already  
16 admitted to the proceeding; and

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

19 A person whose application to intervene is denied may  
20 appeal the denial to the circuit court pursuant to  
21 section 91-14; and



10 [+] (g) Together with other witnesses that the  
11 commission may desire to hear at the hearing, it shall allow a  
12 representative of a citizen or a community group to testify who  
13 indicates a desire to express the view of [such] the citizen or  
14 community group concerning the proposed boundary change.

15        [+] (h) Within a period of not more than three hundred  
16        sixty-five days after the proper filing of a petition, unless  
17        otherwise ordered by a court, or unless a time extension, which  
18        shall not exceed ninety days, is established by a two-thirds  
19        vote of the members of the commission, the commission, by filing  
20        findings of fact and conclusions of law, shall act to approve  
21        the petition, deny the petition, or to modify the petition by



1 imposing conditions necessary to uphold the intent and spirit of  
2 this chapter or the policies and criteria established pursuant  
3 to section 205-17 or to assure substantial compliance with  
4 representations made by the petitioner in seeking a boundary  
5 change. The commission may provide by condition that absent  
6 substantial commencement of use of the land in accordance with  
7 [such] the representations, the commission shall issue and serve  
8 upon the party bound by the condition an order to show cause why  
9 the property should not revert to its former land use  
10 classification or be changed to a more appropriate  
11 classification. [Such] The conditions, if any, shall run with  
12 the land and be recorded in the bureau of conveyances.

13 [+] (i) No amendment of a land use district boundary  
14 shall be 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           [~~(i)~~] (j) Parties to proceedings to amend land use  
2           district boundaries may obtain judicial review thereof in the  
3           manner set forth in section 91-14, provided that the court may  
4           also reverse or modify a finding of the commission if [~~such~~]  
5           that finding appears to be contrary to the clear preponderance  
6           of the evidence.

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

12          SECTION 2. Statutory material to be repealed is bracketed  
13          and stricken. New statutory material is underscored.

14          SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: *Stev C*



# S.B. NO. 2240

**Report Title:**

Land Use Commission; Commission on Water Resources Management; District Boundary Amendment

**Description:**

Requires any petitioner for a district boundary amendment to obtain certification from the Commission on Water Resources Management that enough water is available for the project needs without causing harm to the relevant aquifers and provide that certification to the 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.*

