
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) Before the filing of any petition for a district
5 boundary amendment, the petitioner shall submit to the land use
6 commission a written statement from the commission on water
7 resources management on current water availability in the
8 hydrologic unit or units where the parcel is located.

9 For the purposes of this subsection, "hydrologic unit" has
10 the same meaning as defined in section 174C-3.

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



1 thirty days in advance of the hearing. The notice shall comply
2 with section 91-9, shall indicate the time and place that maps
3 showing the proposed district boundary may be inspected, and
4 further shall inform all interested persons of their rights
5 under subsection ~~[(e)]~~ (f).

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

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

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

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



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

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

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

- 19 (B) The admission of additional parties will render
- 20 the proceedings inefficient and unmanageable.



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

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

8 (A) The information to be set forth in any
9 application for intervention;

10 (B) The limits within which applications shall be
11 filed; and

12 (C) Reasonable filing fees to accompany applications.

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

19 ~~[+g)]~~ (h) Within a period of not more than three hundred
20 sixty-five days after the proper filing of a petition, unless
21 otherwise ordered by a court, or unless a time extension, which



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

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



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

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

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



S.B. NO. 2240
S.D. 2

Report Title:

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

Description:

Requires any petitioner for a district boundary amendment to obtain a written statement from the Commission on Water Resources Management on water availability in the hydrologic unit or units where the parcel is located and provide that certification to the Land Use Commission. Effective 7/1/2050.
(SD2)

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