

JAN 19 2007

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 there is an urgent
2 need to reform the state land use planning system and redefine
3 the roles of the State and the counties in that process. Reform
4 is needed to promote efficiency and avoid duplication between
5 the State and counties; to establish clear lines of
6 responsibility for decision-making and jurisdiction; to promote
7 the uniform application of state policies regarding the
8 protection of our environment and economy, and the provision of
9 shelter and the basic necessities of life to all members of our
10 community; to be responsive to changing social, economic, and
11 environmental needs; and to establish an integrated and
12 collaborative land use planning system for Hawaii.

13 The legislature further finds that there is no longer the
14 need for a state land use commission and land use classification
15 system that existed when the system was created in the early
16 1960s. County governments have matured and today have planning
17 systems and organizations in place, which are supported by



1 professional planning staffs that are fully capable of handling
2 these responsibilities. Furthermore, the counties are closer to
3 the people and their communities and are better able to
4 determine their needs and desires through community-based
5 planning. In addition, the county legislative process affords
6 the public numerous opportunities to express its views and
7 participate in planning and decision-making. Land use decisions
8 vital to the future of the counties need to be made by public
9 officials elected by the citizens of each county.

10 The legislature further finds that authority for
11 designation of public and private lands to be held in
12 conservation and their uses should be the function of the board
13 of land and natural resources. It is the intent of the
14 legislature that the counties have responsibility for land use
15 planning and zoning for all lands within the jurisdiction of
16 each county except that the management of conservation land
17 shall remain with the board of land and natural resources.

18 The purpose of this Act is to integrate the land use
19 planning system for Hawaii by repealing the state-level system
20 of land use districting and classification and by abolishing the
21 state land use commission.



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

4 "PART . IMPORTANT AGRICULTURAL LANDS

5 §46-A Declaration of policy. It is declared that the
6 people of Hawaii have a substantial interest in the health and
7 sustainability of agriculture as an industry in the State.
8 There is a compelling state interest in conserving the State's
9 agricultural land resource base and assuring the long-term
10 availability of agricultural lands for agricultural use to
11 achieve the purposes of:

- 12 (1) Conserving and protecting agricultural lands;
13 (2) Promoting diversified agriculture;
14 (3) Increasing agricultural self-sufficiency; and
15 (4) Assuring the availability of agriculturally suitable
16 lands,

17 pursuant to article XI, section 3, of the Hawaii state
18 constitution.

19 §46-B Important agricultural lands; definition and
20 objectives. (a) As used in this part, unless the context
21 otherwise requires, "important agricultural lands" means those
22 lands, identified pursuant to this part, that:



1 (1) Are capable of producing sustained high agricultural
2 yields when treated and managed according to accepted
3 farming methods and technology;

4 (2) Contribute to the State's economic base and produce
5 agricultural commodities for export or local
6 consumption; or

7 (3) Are needed to promote the expansion of agricultural
8 activities and income for the future, even if
9 currently not in production.

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

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

21 (2) Establish incentives that promote:

22 (A) Agricultural viability;



- 1 (B) Sustained growth of the agriculture industry; and
- 2 (C) The long-term agricultural use and protection of
- 3 these productive agricultural lands.

4 **§46-C Important agricultural lands; policies.** County
5 agricultural policies, tax policies, land use plans, ordinances,
6 and rules shall promote the long-term viability of agricultural
7 use of important agricultural lands and shall be consistent with
8 and implement the following policies:

- 9 (1) Promote the retention of important agricultural lands
10 in blocks of contiguous, intact, and functional land
11 units large enough to allow flexibility in
12 agricultural production and management;
- 13 (2) Discourage the fragmentation of important agricultural
14 lands and the conversion of these lands to
15 nonagricultural uses;
- 16 (3) Direct nonagricultural uses and activities from
17 important agricultural lands to other areas and ensure
18 that uses on important agricultural lands are actually
19 agricultural uses;
- 20 (4) Limit physical improvements on important agricultural
21 lands to maintain affordability of these lands for
22 agricultural purposes;



- 1 (5) Provide a basic level of infrastructure and services
2 on important agricultural lands limited to the minimum
3 necessary to support agricultural uses and activities;
- 4 (6) Facilitate the long-term dedication of important
5 agricultural lands for future agricultural use through
6 the use of incentives;
- 7 (7) Facilitate the access of farmers to important
8 agricultural lands for long-term viable agricultural
9 use; and
- 10 (8) Promote the maintenance of essential agricultural
11 infrastructure systems, including irrigation systems.

12 **§46-D Standards and criteria for the identification of**
13 **important agricultural lands.** The standards and criteria in
14 this section shall be used to identify important agricultural
15 lands. Lands identified as important agricultural lands need
16 not meet every standard and criteria listed below. Rather,
17 lands meeting any of the criteria below shall be given initial
18 consideration; provided that the designation of important
19 agricultural lands shall be made by weighing the standards and
20 criteria with each other to meet the constitutionally mandated
21 purposes in article XI, section 3, of the state constitution and
22 the objectives and policies for important agricultural lands in



1 sections 46-B and 46-C. The standards and criteria shall be as
2 follows:

- 3 (1) Land currently used for agricultural production;
- 4 (2) Land with soil qualities and growing conditions that
5 support agricultural production of food, fiber, or
6 fuel- and energy-producing crops;
- 7 (3) Land identified under agricultural productivity rating
8 systems, such as the agricultural lands of importance
9 to the State of Hawaii (ALISH) system adopted by the
10 board of agriculture on January 28, 1977;
- 11 (4) Land types associated with traditional native Hawaiian
12 agricultural uses, such as taro cultivation, or unique
13 agricultural crops and uses, such as coffee,
14 vineyards, aquaculture, and energy production;
- 15 (5) Land with sufficient quantities of water to support
16 viable agricultural production;
- 17 (6) Land whose designation as important agricultural lands
18 is consistent with general, development, and community
19 plans of the county;
- 20 (7) Land that contributes to maintaining a critical land
21 mass important to agricultural operating productivity;
22 and



1 (8) Land with or near support infrastructure conducive to
2 agricultural productivity, such as transportation to
3 markets, water, or power.

4 **§46-E County zoning; agricultural zoning district.** Each
5 county shall establish at least one agricultural zoning district
6 for the purpose of protecting important agricultural lands.
7 Uses in this zoning district shall be restricted to those uses
8 directly related to agricultural production and agricultural
9 economic opportunities. The minimum lot size of the restricted
10 agricultural zoning district shall be twenty-five acres.

11 **§46-F Petition by farmer or landowner.** (a) A farmer or
12 landowner with lands qualifying under section 46-D may file a
13 petition for declaratory ruling with the counties at any time in
14 the designation process.

15 (b) The petition for declaratory ruling shall be submitted
16 in accordance with the ordinances of the respective counties and
17 shall include:

18 (1) Tax map keys of the land to be designated along with
19 verification and authorization from the applicable
20 landowners;

21 (2) Proof of qualification for designation under section
22 46-D, respecting a regional perspective; and



1 (3) The current or planned agricultural use of the area to
2 be designated.

3 (c) Each respective county shall review the petition and
4 the accompanying submissions to evaluate the qualifications of
5 the land for designation as important agricultural lands in
6 accordance with section 46-D. If the county, after its review
7 and evaluation, finds that the lands qualify for designation as
8 important agricultural lands under this part, the county shall
9 issue a declaratory order designating the lands as important
10 agricultural lands.

11 **§46-G Incentives for important agricultural lands.** (a)

12 To achieve the long-term agricultural viability and use of
13 important agricultural lands, each county shall ensure that
14 their:

15 (1) Agricultural development, land use, water use,
16 regulatory, tax, and land protection policies; and

17 (2) Permitting and approval procedures,
18 enable and promote the economic sustainability of agriculture.

19 Agricultural operations occurring on important agricultural
20 lands shall be eligible for incentives and protections provided
21 by the counties pursuant to this section to promote the
22 viability of agricultural enterprise on important agricultural



1 lands and to assure the availability of important agricultural
2 lands for long-term agricultural use.

3 (b) Incentive programs shall provide preference to
4 important agricultural lands and agricultural businesses on
5 important agricultural lands. Counties shall cooperate with
6 each other in program development to prevent duplication of and
7 to streamline and consolidate access to programs and services
8 for agricultural businesses located on important agricultural
9 lands.

10 (c) Counties shall cooperate with the state agencies to
11 establish incentive and protection programs that are designed to
12 provide a mutually supporting framework of programs and measures
13 that enhance agricultural viability on important agricultural
14 lands that may include:

- 15 (1) Grant assistance;
- 16 (2) Real property tax systems that support the needs of
17 agriculture, including property tax assessments based
18 on agricultural use valuation;
- 19 (3) Reduced infrastructure requirements and facilitated
20 building permit processes for dedicated agricultural
21 structures;



- 1 (4) Tax incentives to offset operational costs, promote
2 agricultural business viability, and promote the long-
3 term protection of important agricultural lands;
- 4 (5) Agricultural business planning, marketing, and
5 implementation grants;
- 6 (6) Tax incentives and programs for equity investments and
7 financing for agricultural operations, including
8 agricultural irrigation systems;
- 9 (7) Other programs and mechanisms that promote investment
10 in agricultural businesses or agricultural land
11 protection, such as the purchase of development
12 rights;
- 13 (8) State funding mechanisms to fund business viability
14 and land protection programs;
- 15 (9) Water regulations and policies that provide farmers of
16 important agricultural lands access to adequate and
17 cost-effective sources of water;
- 18 (10) Other measures that would ensure that state capital
19 investments, projects, programs, and rules are
20 consistent with this part; and
- 21 (11) Agricultural education and training for new farmers;
22 upgrading the skills of existing farmers and other



1 agriculture-related employees through the use of
2 mentoring, business incubators, and public or private
3 scholarships.

4 (d) County agencies shall review the protection and
5 incentive measures enacted for important agricultural lands and
6 agricultural viability pursuant to this part at least every five
7 years to:

8 (1) Determine their effectiveness in sustaining
9 agriculture in Hawaii, assuring agricultural
10 diversification, and increasing agricultural self-
11 sufficiency;

12 (2) Determine their effectiveness in enhancing investment
13 in and agricultural activities on important
14 agricultural lands; and

15 (3) Modify measures and programs as needed.

16 (e) This section shall apply only to those lands
17 designated as important agricultural lands pursuant to sections
18 46-F and 46-J.

19 **§46-H Identification of important agricultural lands;**

20 **county process.** (a) Each county shall identify and map
21 potential important agricultural lands within its jurisdiction
22 based on the standards and criteria in section 46-D and the



1 intent of this part, except lands that have been designated,
2 through the zoning or county planning process for urban use by a
3 county.

4 (b) Each county shall develop maps of potential lands to
5 be considered for designation as important agricultural lands in
6 consultation and cooperation with landowners, the department of
7 agriculture, agricultural interest groups, including
8 representatives from the Hawaii Farm Bureau Federation and other
9 agricultural organizations, the United States Department of
10 Agriculture - Natural Resources Conservation Service, the office
11 of planning, and other groups as necessary.

12 (c) Each county, through its planning department, shall
13 develop an inclusive process for public involvement in the
14 identification of potential lands and the development of maps of
15 lands to be recommended as important agricultural lands,
16 including a series of public meetings throughout the
17 identification and mapping process. The planning departments
18 may also establish one or more citizen advisory committees on
19 important agricultural lands to provide further public input,
20 utilize an existing process (such as general plan, development
21 plan, community plan), or employ appropriate existing and
22 adopted general plan, development plan, or community plan maps.



1 (d) The counties shall take notice of those lands that
2 have already been designated as important agricultural lands.

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

8 In formulating its final recommendations to the respective
9 county councils, the planning departments shall report on the
10 manner in which the important agricultural lands mapping relates
11 to, supports, and is consistent with the:

- 12 (1) Standards and criteria set forth in section 46-D;
- 13 (2) County's adopted land use plans, as applied to both
14 the identification and exclusion of important
15 agricultural lands from such designation;
- 16 (3) Comments received from government agencies and others
17 identified in subsection (b);
- 18 (4) Viability of existing agribusinesses; and
- 19 (5) Representations or position statements of the owners
20 whose lands are subject to the potential designation.

21 (e) The important agricultural lands maps shall be
22 submitted to the county council for decision-making. The county



1 council shall adopt the maps, with or without changes, by
2 resolution.

3 (f) Designations made pursuant to this section take effect
4 three years after incentives and protections for important
5 agricultural lands and agricultural viability are enacted.

6 **§46-I Consultation with state agencies.** The respective
7 county councils may consult with the department of agriculture
8 and the office of planning as needed. The department of
9 agriculture and the office of planning may review the report and
10 recommendations from the planning departments and provide
11 comments to the respective county councils.

12 **§46-J Designation of important agricultural lands;**
13 **adoption of important agricultural lands maps.** (a) After
14 receipt of the maps of eligible important agricultural lands
15 from the respective county planning departments and the
16 recommendations of the department of agriculture and the office
17 of planning, the respective county councils shall then proceed
18 to identify and designate important agricultural lands, subject
19 to section 46-F. The decision shall consider the county maps of
20 eligible important agricultural lands; declaratory orders
21 designating important agricultural lands during the three year
22 period following the enactment of ordinances establishing



1 incentives and protections contemplated under section 46-G;
2 landowner position statements and representations; and any other
3 relevant information.

4 In designating important agricultural lands in the State,
5 pursuant to the recommendations of individual county planning
6 departments, the respective county councils shall consider the
7 extent to which:

- 8 (1) The proposed lands meet the standards and criteria
9 under section 46-D;
- 10 (2) The proposed designation is necessary to meet the
11 objectives and policies for important agricultural
12 lands in sections 46-B and 46-C; and
- 13 (3) The respective county councils has designated lands as
14 important agricultural lands, pursuant to section 46-
15 F; provided that if the majority of landowners'
16 landholdings is already designated as important
17 agricultural lands, excluding lands held in the
18 conservation district, pursuant to section 46-F or any
19 other provision of this part, the respective county
20 councils shall not designate any additional lands of
21 that landowner as important agricultural lands except
22 by a petition pursuant to section 46-F.



1 Any decision regarding the designation of lands as
2 important agricultural lands and the adoption of maps of those
3 lands pursuant to this section shall be based upon written
4 findings of fact and conclusions of law, presented in at least
5 one public hearing conducted in the county where the land is
6 located in, that the subject lands meet the standards and
7 criteria set forth in section 46-D and shall be approved by the
8 respective county council.

9 (b) Copies of the maps of important agricultural lands
10 adopted under this section shall be transmitted to each county
11 planning department and county council, the department of
12 agriculture, the agribusiness development corporation, the
13 office of planning, and other state agencies involved in land
14 use matters. The maps of important agricultural lands shall
15 guide all decision-making on the proposed reclassification or
16 rezoning of important agricultural lands, state agricultural
17 development programs, and other state and county land use
18 planning and decision-making.

19 (c) The respective county councils shall have the sole
20 authority to interpret the adopted map boundaries delineating
21 the important agricultural lands.



1 (d) The respective county councils may designate lands as
2 important agricultural lands and adopt maps for a designation
3 pursuant to:

4 (1) A farmer or landowner petition for declaratory ruling
5 under section 46-F at any time; or

6 (2) The county process for identifying and recommending
7 lands for important agricultural lands under section
8 46-H no sooner than three years,

9 after the enactment of ordinances establishing incentives and
10 protections contemplated under this part.

11 **§46-K Standards and criteria for the reclassification or**
12 **rezoning of important agricultural lands.** (a) Any land use
13 district boundary amendment or change in zoning involving
14 important agricultural lands identified pursuant to this part
15 shall be subject to this section.

16 (b) Upon acceptance by the county for processing, any
17 application for a special permit involving important
18 agricultural lands shall be referred to the department of
19 agriculture and the office of planning for review and comment.

20 (c) Any decision by the county pursuant to this section
21 shall specifically consider the following standards and
22 criteria:



- 1 (1) The relative importance of the land for agriculture
2 based on the stock of similarly suited lands in the
3 area and the State as a whole;
- 4 (2) The proposed district boundary amendment or zone
5 change will not harm the productivity or viability of
6 existing agricultural activity in the area, or
7 adversely affect the viability of other agricultural
8 activities or operations that share infrastructure,
9 processing, marketing, or other production-related
10 costs or facilities with the agricultural activities
11 on the land in question;
- 12 (3) The district boundary amendment or zone change will
13 not cause the fragmentation of or intrusion of
14 nonagricultural uses into largely intact areas of
15 lands identified by the respective counties as
16 important agricultural lands that create residual
17 parcels of a size that would preclude viable
18 agricultural use;
- 19 (4) The public benefit to be derived from the proposed
20 action is justified by a need for additional lands for
21 nonagricultural purposes; and



1 (5) The impact of the proposed district boundary amendment
2 or zone change on the necessity and capacity of state
3 and county agencies to provide and support additional
4 agricultural infrastructure or services in the area.

5 (d) Any decision pursuant to this section shall be based
6 upon a determination that:

7 (1) On balance, the public benefit from the proposed
8 district boundary amendment or zone change outweighs
9 the benefits of retaining the land for agricultural
10 purposes; and

11 (2) The proposed action will have no significant impact
12 upon the viability of agricultural operations on
13 adjacent agricultural lands.

14 (e) The standards and criteria of this section shall be in
15 addition to the decision-making criteria adopted by each county
16 to govern decisions of county decision-making authorities under
17 this chapter.

18 (f) Any decision of any county on a land use district
19 boundary amendment or change in zoning involving important
20 agricultural lands shall be approved by the body responsible for
21 the decision.



1 (g) A farmer or landowner with qualifying lands may also
2 petition the respective counties to remove the "important
3 agricultural lands" designation from lands if a sufficient
4 supply of water is no longer available to allow profitable
5 farming of the land due to governmental actions, acts of God, or
6 other causes beyond the farmer's or landowner's reasonable
7 control.

8 **§46-L Important agricultural lands; county ordinances.**

9 (a) Each county shall adopt ordinances that reduce
10 infrastructure standards for important agricultural lands no
11 later than the effective date of the enactment of protection and
12 incentive measures for important agricultural lands and
13 agricultural viability.

14 (b) For counties without ordinances adopted pursuant to
15 subsection (a), important agricultural lands designated pursuant
16 to this part may be subdivided without county processing or
17 standards; provided that:

18 (1) None of the resulting lots shall be used solely for
19 residential occupancy; and

20 (2) The leasehold lots shall return to the original lot of
21 record upon expiration or termination of the lease.



1 §46-M Periodic review and amendment of important
2 agricultural lands maps. The maps delineating important
3 agricultural lands shall be reviewed in conjunction with the
4 county general plan and community and development plan revision
5 process, or at least once every ten years following the adoption
6 of the maps by the respective county councils; provided that the
7 maps shall not be reviewed more than once every five years. Any
8 review and amendment of the maps of important agricultural lands
9 shall be conducted in accordance with this part. In these
10 periodic reviews or petitions by the farmers or landowners for
11 declaratory rulings, the "important agricultural lands"
12 designation shall be removed from those important agricultural
13 lands where the respective county councils have issued a
14 declaratory order that a sufficient supply of water is no longer
15 available to allow profitable farming of these lands due to
16 governmental actions, acts of God, or other causes beyond the
17 farmer's or landowner's reasonable control."

18 SECTION 3. Chapter 183C, Hawaii Revised Statutes, is
19 amended by adding two new sections to be appropriately
20 designated and to read as follows:

21 "§183C- Boundary amendment decision-making criteria. In
22 its review of any petition for reclassification of the



1 conservation district boundaries pursuant to this chapter, the
2 respective counties shall specifically consider the following:

3 (1) The extent to which the proposed reclassification
4 conforms to the applicable goals, objectives, and
5 policies of the Hawaii state plan and relates to the
6 applicable priority guidelines of the Hawaii state
7 plan and the adopted functional plans;

8 (2) The extent to which the proposed reclassification
9 conforms to the applicable conservation district
10 standards; and

11 (3) The impact of the proposed reclassification on the
12 following areas of state concern:

13 (A) Preservation or maintenance of important natural
14 systems or habitats; and

15 (B) Maintenance of valued cultural, historical, or
16 natural resources.

17 §183C- Adjustments of assessing practices. Upon the
18 adoption of conservation district boundaries, certified copies
19 of the classification maps showing the district boundaries shall
20 be filed with the appropriate county finance departments. The
21 counties, when making assessments of property within the



1 district, shall give consideration to the use that may be made
2 thereof."

3 SECTION 4. Chapter 226, Hawaii Revised Statutes, is
4 amended by adding a new section to part II to be appropriately
5 designated and to read as follows:

6 "§226- County development plans; agriculture. County
7 development and comprehensive plans shall describe and identify
8 agricultural areas including important agricultural lands
9 consistent with article XI, section 3, of the State
10 Constitution. Important agricultural lands shall include lands
11 for current and potential agricultural cultivation and
12 agricultural uses with a high capacity for intensive and
13 sustainable cultivation or pasturage. The county land use
14 regulations shall be designed to protect those lands designated
15 as important agricultural lands."

16 SECTION 5. Section 26-18, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The following are placed in the department of
19 business, economic development, and tourism for administrative
20 purposes as defined by section 26-35: Aloha Tower development
21 corporation, Hawaii community development authority, high
22 technology development corporation, [~~land use commission,~~]



1 natural energy laboratory of Hawaii authority, and any other
2 boards and commissions as shall be provided by law.

3 The department of business, economic development, and
4 tourism shall be empowered to establish, modify, or abolish
5 statistical boundaries for cities, towns, or villages in the
6 State and shall publish, as expeditiously as possible, an up-to-
7 date list of cities, towns, and villages after changes to
8 statistical boundaries have been made."

9 SECTION 6. Section 46-15, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) The mayor of each county, after holding a public
12 hearing on the matter and receiving the approval of the
13 respective council, shall be empowered to designate areas of
14 land for experimental and demonstration housing projects, the
15 purposes of which are to research and develop ideas that would
16 reduce the cost of housing in the State. Except as hereinafter
17 provided, the experimental and demonstration housing projects
18 shall be exempt from all statutes, ordinances, charter
19 provisions, and rules [~~or regulations~~] of any governmental
20 agency or public utility relating to planning, zoning,
21 construction standards for subdivisions, development and
22 improvement of land, and the construction and sale of homes



1 thereon; provided that the experimental and demonstration
2 housing projects shall not affect the safety standards or
3 tariffs approved by the public [~~utility commissions~~] utilities
4 commission for [~~such~~] a public utility.

5 The mayor of each county, with the approval of the
6 respective council, may designate a county agency or official
7 who [~~shall have the power to~~] may review all plans and
8 specifications for the subdivisions, development and improvement
9 of the land involved, and the construction and sale of homes
10 thereon. The county agency or official [~~shall have the power~~
11 ~~to~~] may approve or disapprove or to make modifications to all or
12 any portion of the plans and specifications.

13 The county agency or official shall submit preliminary
14 plans and specifications to the legislative body of the
15 respective county for its approval or disapproval. The final
16 plans and specifications for the project shall be deemed
17 approved by the legislative body if the final plans and
18 specifications do not substantially deviate from the approved
19 preliminary plans and specifications. The final plans and
20 specifications shall constitute the standards for the particular
21 project.





1 No action shall be prosecuted or maintained against any
2 county, its officials or employees, on account of actions taken
3 in reviewing, approving, or disapproving such plans and
4 specifications.
5 Any experimental or demonstration housing project for the
6 purposes hereinabove mentioned may be sponsored by any state or
7 county agency or any person as defined in section 1-19.
8 [The county agency or official shall apply to the state
9 land use commission for an appropriate land use district
10 classification change, except where a proposed project is
11 located on land within an urban district established by the
12 state land use commission. Notwithstanding any law, rule, or
13 regulation to the contrary, the state land use commission may
14 approve the application at any time after a public hearing held
15 in the county where the land is located upon notice of the time
16 and place of the hearing being published in the same manner as
17 the notice required for a public hearing by the planning
18 commission of the appropriate county.] "
19 SECTION 7. Section 92-6, Hawaii Revised Statutes, is
20 amended to read as follows:

1 "§92-6 Judicial branch, quasi-judicial boards and
2 investigatory functions; applicability. [~~a~~] This part shall
3 not apply:

4 (1) To the judicial branch~~[-]~~; or

5 (2) To adjudicatory functions exercised by a board and
6 governed by sections 91-8 and 91-9, or authorized by
7 other sections of the Hawaii Revised Statutes. In the
8 application of this [~~subsection,~~] section, boards
9 exercising adjudicatory functions include, but are not
10 limited to, the following:

11 (A) Hawaii labor relations board, chapters 89 and
12 377;

13 (B) Labor and industrial relations appeals board,
14 chapter 371;

15 (C) Hawaii paroling authority, chapter 353;

16 (D) Civil service commission, chapter 26;

17 (E) Board of trustees, employees' retirement system
18 of the State of Hawaii, chapter 88;

19 (F) Crime victim compensation commission, chapter
20 351; and

21 (G) State ethics commission, chapter 84.



1 ~~[(b) Notwithstanding provisions in this section to the~~
2 ~~contrary, this part shall apply to require open deliberation of~~
3 ~~the adjudicatory functions of the land use commission.]"~~

4 SECTION 8. Section 171-49.7, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~[+]§171-49.7[+]~~ **Public lands suitable and available for**
7 **residential development; inventory.** The department of land and
8 natural resources shall complete and maintain a current
9 inventory of all public lands ~~[placed in the urban district]~~
10 designated by the ~~[land use commission under chapter 205]~~
11 various counties for urban use, which are or may be suitable and
12 available for residential development. This inventory shall be
13 updated at the end of each quarter and shall contain the
14 following information: the island and area in which the land is
15 situated, the acreage, and ~~[such]~~ other related information
16 ~~[which]~~ that the department determines may be necessary to
17 identify and inventory the land."

18 SECTION 9. Section 183C-1, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~[+]§183C-1[+]~~ **Findings and purpose.** The legislature
21 finds that lands within the ~~[state land use]~~ conservation
22 district contain important natural resources essential to the



1 preservation of the State's fragile natural ecosystems and the
2 sustainability of the State's water supply. It is therefore,
3 the intent of the legislature to conserve, protect, and preserve
4 the important natural resources of the State through appropriate
5 management and use to promote their long-term sustainability and
6 the public health, safety and welfare."

7 SECTION 10. Section 183C-2, Hawaii Revised Statutes, is
8 amended by amending the definition of "conservation district" to
9 read as follows:

10 "Conservation district" means those lands within the
11 various counties of the State bounded by the conservation
12 district line, as established under provisions of Act 187,
13 Session Laws of Hawaii 1961, and Act 205, Session Laws of Hawaii
14 1963, or future amendments thereto.

15 Conservation districts include areas necessary for
16 protecting watersheds and water sources; preserving scenic and
17 historic areas; providing park lands, wilderness, and beach
18 reserves; conserving indigenous or endemic plants, fish, and
19 wildlife, including those that are threatened or endangered;
20 preventing floods and soil erosion; forestry; open space areas
21 whose existing openness, natural condition, or present state of
22 use, if retained, would enhance the present or potential value



1 of abutting or surrounding communities, or would maintain or
2 enhance the conservation of natural or scenic resources; areas
3 of value for recreational purposes; other related activities;
4 and other permitted uses not detrimental to a multiple use
5 conservation concept."

6 SECTION 11. Section 183C-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~{}~~§183C-3~~{}~~ **Powers and duties of the board and**
9 **department.** The board and department shall:

- 10 (1) Maintain an accurate inventory of lands classified
11 within the state conservation district by the [state
12 ~~land-use commission, pursuant to chapter 205,~~
13 respective counties;
- 14 (2) Identify and appropriately zone those lands classified
15 within the conservation district;
- 16 (3) Adopt rules~~{}~~ in compliance with chapter 91 ~~[which]~~
17 that shall have the force and effect of law;
- 18 (4) Set, charge, and collect reasonable fees in an amount
19 sufficient to defray the cost of processing
20 applications for zoning, use, and subdivision of
21 conservation lands;



- 1 (5) Establish categories of uses or activities on
2 conservation lands, including allowable uses or
3 activities for which no permit shall be required;
- 4 (6) Establish restrictions, requirements, and conditions
5 consistent with the standards set forth in this
6 chapter on the use of conservation lands; and
- 7 (7) Establish and enforce land use regulations on
8 conservation district lands including the collection
9 of fines for violations of land use and terms and
10 conditions of permits issued by the department."

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

13 "(b) The corporation may develop public land in an
14 agricultural district subject to the prior approval of the [land
15 ~~use commission, when developing lands greater than fifteen acres~~
16 ~~in size,~~ respective counties, and public land in a conservation
17 district subject to the prior approval of the board of land and
18 natural resources. The corporation shall not develop state
19 monuments, historical sites, or parks. When the corporation
20 proposes to develop public land, it shall file with the
21 department of land and natural resources a petition setting
22 forth the purpose for the development. The petition shall be



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

3 SECTION 13. Section 201H-38, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

13 (1) The corporation finds the housing project is
14 consistent with the purpose and intent of this
15 chapter, and meets minimum requirements of health and
16 safety;

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



1 (3) The legislative body of the county in which the
2 housing project is to be situated shall have approved
3 the project:

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

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

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



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

11 ~~(4) The land use commission shall approve 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 14. Section 205A-2, Hawaii Revised Statutes, is
 18 amended by amending subsection (c) to read as follows:

19 "(c) Policies.

20 (1) Recreational resources [~~and~~]:

21 (A) Improve coordination and funding of coastal
 22 recreational planning and management; and



- 1 (B) Provide adequate, accessible, and diverse
2 recreational opportunities in the coastal zone
3 management area by:
- 4 (i) Protecting coastal resources uniquely suited
5 for recreational activities that cannot be
6 provided in other areas;
- 7 (ii) Requiring replacement of coastal resources
8 having significant recreational value
9 including, but not limited to, surfing
10 sites, fishponds, and sand beaches, when
11 [~~such~~] these resources will be unavoidably
12 damaged by development; or requiring
13 reasonable monetary compensation to the
14 State for recreation when replacement is not
15 feasible or desirable;
- 16 (iii) Providing and managing adequate public
17 access, consistent with conservation of
18 natural resources, to and along shorelines
19 with recreational value;
- 20 (iv) Providing an adequate supply of shoreline
21 parks and other recreational facilities
22 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 [~~land-use~~
21 ~~commission,~~] respective counties and the
22 board of land and natural resources [~~and~~



1 ~~county authorities~~]; and crediting [~~such~~]
2 the dedication against the requirements of
3 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 [~~such~~] these developments to minimize
19 the 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~~] (A) Improve the technical basis for natural
11 resource management;
- 12 [~~C~~] (B) Preserve valuable coastal ecosystems,
13 including reefs, of significant biological or
14 economic importance;
- 15 [~~D~~] (C) Minimize disruption or degradation of
16 coastal water ecosystems by effective regulation
17 of stream diversions, channelization, and similar
18 land and water uses, recognizing competing water
19 needs; and
- 20 [~~E~~] (D) Promote water quantity and quality planning
21 and management practices that reflect the
22 tolerance of fresh water and marine ecosystems



1 and maintain and enhance water quality through
2 the development and implementation of point and
3 nonpoint source water pollution control measures.

4 (5) Economic uses[+]:

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

7 (B) Ensure that coastal dependent development such as
8 harbors and ports, and coastal related
9 development such as visitor industry facilities
10 and energy generating facilities, are located,
11 designed, and constructed to minimize adverse
12 social, visual, and environmental impacts in the
13 coastal zone management area; and

14 (C) Direct the location and expansion of coastal
15 dependent developments to areas presently
16 designated and used for [such] these developments
17 and permit reasonable long-term growth at [such]
18 designated areas, and permit coastal dependent
19 development outside of presently designated areas
20 when:

21 (i) Use of presently designated locations is not
22 feasible;



- 1 managing present and future coastal zone
2 development;
- 3 (B) Facilitate timely processing of applications for
4 development permits and resolve overlapping or
5 conflicting permit requirements; and
- 6 (C) Communicate the potential [~~short~~] short- and
7 long-term impacts of proposed significant coastal
8 developments early in their life cycle and in
9 terms understandable to the public to facilitate
10 public participation in the planning and review
11 process.
- 12 (8) Public participation[+]:
- 13 (A) [~~Promote public involvement in coastal zone~~
14 ~~management processes~~] Maintain a public advisory
15 board to identify coastal management problems and
16 to provide policy advice and assistance to the
17 coastal zone management program;
- 18 (B) Disseminate information on coastal management
19 issues by means of educational materials,
20 published reports, staff contact, and public
21 workshops for persons and organizations concerned



- 1 with [~~coastal~~] coastal-related issues,
2 developments, and government activities; and
- 3 (C) Organize workshops, policy dialogues, and
4 site-specific mediations to respond to coastal
5 issues and conflicts.
- 6 (9) Beach protection[+]:
- 7 (A) Locate new structures inland from the shoreline
8 setback to conserve open space [~~, minimize~~
9 ~~interference with natural shoreline processes,~~]
10 and to minimize loss of improvements due to
11 erosion;
- 12 (B) Prohibit construction of private erosion-
13 protection structures seaward of the shoreline,
14 except when they result in improved aesthetic and
15 engineering solutions to erosion at the sites and
16 do not interfere with existing recreational and
17 waterline activities; and
- 18 (C) Minimize the construction of public erosion-
19 protection structures seaward of the shoreline.
- 20 (10) Marine resources[+]:



1 (A) Exercise an overall conservation ethic, and
2 practice stewardship in the protection, use, and
3 development of marine and coastal resources;

4 [~~(A)~~] (B) Ensure that the use and development of
5 marine and coastal resources are ecologically and
6 environmentally sound and economically
7 beneficial;

8 [~~(B)~~] (C) Coordinate the management of marine and
9 coastal resources and activities to improve
10 effectiveness and efficiency;

11 [~~(C)~~] (D) Assert and articulate the interests of the
12 State as a partner with federal agencies in the
13 sound management of ocean resources within the
14 United States exclusive economic zone;

15 [~~(D)~~] (E) Promote research, study, and understanding
16 of ocean processes, marine life, and other ocean
17 resources in order to acquire and inventory
18 information necessary to understand how ocean
19 development activities relate to and impact upon
20 ocean and coastal resources; and



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

4 SECTION 15. Section 226-52, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The statewide planning system shall consist of the
7 following policies, plans, and programs:

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

11 (2) The priority guidelines established in this chapter
12 that shall provide guidelines for decisionmaking by
13 the State and the counties for the immediate future
14 and set priorities for the allocation of resources.

15 The formulation and revision of state functional plans
16 shall be in conformance with the priority guidelines;

17 (3) State functional plans that shall be prepared to
18 address, but not be limited to, the areas of
19 agriculture, conservation lands, education, energy,
20 higher education, health, historic preservation,
21 housing, recreation, tourism, and transportation. The
22 preparing agency for each state functional plan shall



1 also consider applicable federal laws, policies, or
2 programs that impact upon the functional plan area.
3 State functional plans shall define, implement, and be
4 in conformance with the overall theme, goals,
5 objectives, policies, and priority guidelines
6 contained within this chapter. County general plans
7 and development plans shall be taken into
8 consideration in the formulation and revision of state
9 functional plans;

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

21 (5) State programs that shall include but not be limited
22 to programs involving coordination and review;



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

17 SECTION 16. Section 279E-1, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§279E-1[+] **Statement of purpose.** (a) The legislature
20 finds that Section 112 of the Federal-Aid Highway Act of 1973,
21 ~~[Section 9 of the Urban Mass Transportation Act of 1964,]~~ as
22 amended, Federal Transit Act (49 U.S.C. 5303(c)), as amended,



1 and other federal [~~law~~] laws require that a metropolitan
2 planning organization be designated to act as an advisory urban
3 transportation planning organization and to receive certain
4 funds for the purpose of carrying out continuing, comprehensive,
5 cooperative urban transportation planning. It is further
6 suggested that the organization be established under specific
7 state legislation to coordinate metropolitan transportation
8 planning.

9 The Oahu Transportation Planning Program, a quasi-agency
10 presently charged with coordinating transportation planning on
11 Oahu has been unable to satisfy federal requirements for a
12 "continuing, comprehensive, and cooperative", transportation
13 planning process. As a result, the Federal Highway
14 Administration and the Urban Mass Transportation Administration
15 have decertified Oahu transportation programs for federal
16 funding. This problem has resulted in statewide concern about
17 the effects of decertification because of its impact on
18 transportation programs and consequently employment and also
19 because Oahu contains the greater part of the [~~state's~~] State's
20 population and employment.

21 In order to be recertified, it is mandatory that a
22 Metropolitan Planning Organization be established and designated



1 by the State as soon as possible. Loss of all federal planning
2 and construction funds for transit and transportation will
3 continue until this is done.

4 (b) This [MPO] Metropolitan Planning Organization will be
5 primarily an advisory body to the legislature and the
6 legislative body of the appropriate county in affairs involving
7 the continuous, comprehensive, cooperative urban transportation
8 planning for the county. This chapter is designed to provide
9 the mechanism by which orderly and reasoned urban transportation
10 planning can take place within the framework of federal law and
11 the need to provide for adequate and informed representation
12 from both the state and county governments and the public at
13 large.

14 It is appropriate that each unit of general purpose
15 government within the jurisdiction of the Metropolitan Planning
16 Organization shall have adequate representation on the
17 Metropolitan Planning Organization. The Metropolitan Planning
18 Organization [~~MPO~~], will, utilizing input from appropriate
19 state and city agencies, coordinate and develop a prospectus and
20 a unified planning work program, a transportation plan and a
21 transportation improvement program including an annual element
22 of projects recommended for funding in order to provide this



1 advice to legislative and government agencies. It is very
2 important that the delineation of state and county functions
3 relating to transportation within the metropolitan area be
4 carefully considered in the designation of the ~~[-(MPO)-]~~
5 Metropolitan Planning Organization.

6 (c) Hawaii's state government differs markedly from most
7 mainland states. Hawaii has a two-tier government: the State
8 and the various counties. The state government functions as a
9 general purpose government having the responsibility for many
10 programs, such as public education, health, welfare and
11 judiciary, which are usually controlled by local government in
12 mainland states. ~~[In addition, land use, through the state land
13 use commission, is generally determined by the State rather than
14 by the counties as is usually the case on the mainland.]~~ In
15 transportation, the state government has responsibility for such
16 normally local government programs as airports, bikeways,
17 harbors, and waterways.

18 Hawaii's two-tier government did not come about by
19 accident; it was the result of careful consideration and study
20 of Hawaii's unique geographic configuration. As a state
21 comprised of islands, Hawaii has four counties, each consisting
22 of separate islands and consequently not contiguous.



1 Because the State of Hawaii is comprised of islands, much
2 of the transportation planning done by the State is designed to
3 facilitate transportation solely within the county in which the
4 project is built. Obviously, a state highway built on the
5 island of Oahu will only serve that island. Hence, for example,
6 the State's three major defense highways, H-1, H-2 and [~~TH-3,~~
7 H-3, which are all located on Oahu, while designated as state
8 highways, serve only the transportation needs of the residents
9 of Oahu. However, this is entirely consistent with the present
10 delineation of roadway functions in Hawaii. The State is
11 generally responsible for providing highway facilities that
12 facilitate inter-community transportation, with the counties
13 primarily responsible for local intra-community streets and
14 roads. As a result, the State has by design a major portion of
15 the responsibility for transportation in each county, and more
16 importantly for that part of the transportation network most
17 closely related to and impacting on planning in general and
18 transportation planning in particular.

19 (d) Unlike most mainland states, Hawaii has only one
20 urbanized area, the [~~City and County~~] city and county of
21 Honolulu, where eighty-one per cent of the [~~state's~~] State's
22 population reside. In transportation, the State has programmed



1 approximately \$149 million dollars in new highway facilities for
2 Oahu in fiscal year 1976 as compared to approximately \$31
3 million dollars by the [~~City and County~~] city and county of
4 Honolulu. Additionally, the State's major airports and harbors
5 are located on Oahu. In short, the State has responsibility for
6 most of the major transportation facilities and projects on Oahu
7 and any designation of [~~an MPO~~] a Metropolitan Planning
8 Organization must take this into account. Designation of [~~an~~
9 ~~MPO which~~] a Metropolitan Planning Organization that does not
10 provide for significant state participation simply does not
11 recognize the existing delineation of state and county functions
12 relating to transportation in Hawaii.

13 The [~~MPO~~] Metropolitan Planning Organization must be
14 designed to prevent the type of situation [~~which~~] that led to
15 the decertification of the [~~OTPP;~~] Oahu Transportation Planning
16 Program; it must have its own coordinating staff independent of
17 either state or county agencies; it must be accessible and
18 accountable to the public; and it must provide for public input.

19 (e) The purpose of this chapter is to establish and
20 specify the role of the organization to be designated by the
21 governor as the [~~MPO~~] Metropolitan Planning Organization as
22 required by 23 United States Code 134 [~~and Section 4(a) of the~~



1 ~~Urban Mass Transportation Act of 1964~~], as amended, [~~49 U.S.C.~~
2 ~~1603(a)~~] and the Federal Transit Act (49 U.S.C. 5303(c)), as
3 amended, which requires the comprehensive planning of
4 transportation improvements."

5 SECTION 17. Section 343-5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

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

9 (1) Propose the use of state or county lands or the use of
10 state or county funds, other than funds to be used for
11 feasibility or planning studies for possible future
12 programs or projects that the agency has not approved,
13 adopted, or funded, or funds to be used for the
14 acquisition of unimproved real property; provided that
15 the agency shall consider environmental factors and
16 available alternatives in its feasibility or planning
17 studies; [~~provided further that an environmental~~
18 ~~assessment for proposed uses under section 205-2(d)(9)~~
19 ~~or [205-4.5(a)(13)] shall only be required pursuant to~~
20 ~~section 205-5(b);~~]



- 1 (2) Propose any use within any land classified [~~as a~~] for
2 conservation [~~district~~] by the [~~state land use~~
3 ~~commission under chapter 205,~~] respective counties;
- 4 (3) Propose any use within a shoreline area as defined in
5 section 205A-41;
- 6 (4) Propose any use within any historic site as designated
7 in the National Register or Hawaii Register, as
8 provided for in the Historic Preservation Act of 1966,
9 Public Law 89-665, or chapter 6E;
- 10 (5) Propose any use within the Waikiki area of Oahu, the
11 boundaries of which are delineated in the land use
12 ordinance as amended, establishing the "Waikiki
13 Special District";
- 14 (6) Propose any amendments to existing county general or
15 development plans where the amendment would result in
16 designations other than agriculture, conservation, or
17 preservation, except actions proposing any new county
18 general [~~plan~~] or development plans or amendments to
19 any existing county general [~~plan~~] or development
20 plans initiated by a county;
- 21 (7) Propose any reclassification of any land classified
22 [~~as a~~] for conservation [~~district~~] by the [~~state land~~



1 ~~use commission under chapter 205,]~~ respective
2 counties;

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

7 (A) Any land classified [~~as a~~] for conservation
8 [~~district~~] by the [~~state land use commission~~
9 ~~under chapter 205,]~~ respective counties;

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

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

22 (9) Propose any:



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

5 (B) Waste-to-energy facility;

6 (C) Landfill;

7 (D) Oil refinery; or

8 (E) Power-generating facility."

9 SECTION 18. Chapter 205, Hawaii Revised Statutes, is
10 repealed.

11 SECTION 19. The land use commission and the system of
12 districting and classification of lands set forth in section
13 205-2, Hawaii Revised Statutes, are abolished. All rights,
14 powers, functions, and duties of the land use commission are
15 transferred to the various counties except for the establishment
16 of the boundaries for conservation lands as provided for in
17 section 3 of this Act, which shall remain with the State. Each
18 respective county shall be accorded all the rights, powers,
19 functions, and duties of the land use commission over the
20 respective lands outside of the conservation district boundaries
21 within each of the respective counties.



1 All officers and employees whose functions are transferred
2 by this Act or whose office or position is abolished, shall not
3 be separated from public employment, but shall remain in the
4 employment of the State or of one of the respective counties and
5 shall be assigned to any office or position for which such
6 officer or employee is eligible under the personnel laws of the
7 State or of the respective counties.

8 No officer or employee of the State having tenure shall
9 suffer any loss of salary, seniority, prior service credit,
10 vacation, sick leave, or other employee benefit or privilege as
11 a consequence of this Act, and such officer or employee may be
12 transferred or appointed to a civil service position without the
13 necessity of examination; provided that the officer or employee
14 possesses the minimum qualifications for the position to which
15 the officer or employee is transferred or appointed; and
16 provided that subsequent changes in status may be made pursuant
17 to applicable civil service and compensation laws.

18 An officer or employee of the State who does not have
19 tenure and who may be transferred or appointed to a civil
20 service position as a consequence of this Act shall become a
21 civil service employee without the loss of salary, seniority,
22 prior service credit, vacation, sick leave, or other employee



1 benefits or privileges and without the necessity of examination;
2 provided that such officer or employee possesses the minimum
3 qualifications for the position to which the officer or employee
4 is transferred or appointed.

5 All appropriations, records, equipment, machines, files,
6 supplies, contracts, books, papers, documents, maps, and other
7 personal property heretofore made, used, acquired, or held by
8 the land use commission relating to the functions transferred to
9 the various counties shall be transferred with the functions to
10 which they relate.

11 SECTION 20. In codifying the new sections added by section
12 2 of this Act, the revisor of statutes shall substitute
13 appropriate section numbers for the letters used in designating
14 the new sections in this Act.

15 SECTION 21. This Act does not affect rights and duties
16 that matured, penalties that were incurred, and proceedings that
17 were begun, before its effective date.

18 SECTION 22. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 23. This Act shall take effect upon its approval.

21

INTRODUCED BY: Anna Mercedes K.



Report Title:

Land Use; Transfer to Counties

Description:

Abolishes the land use commission and transfers its functions to the counties. Transfers jurisdiction over important agricultural lands to the counties. Makes various amendments to the coastal zone management law.

