

STAND. COM. REP. NO. 481

Honolulu, Hawaii

FEB 20 2015

RE: S.B. No. 511
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committees on Water and Land and Agriculture, to which was referred S.B. No. 511 entitled:

"A BILL FOR AN ACT RELATING TO THE LAND USE COMMISSION,"

beg leave to report as follows:

The purpose and intent of this measure is to provide the Land Use Commission with the authority to amend, modify, or vacate conditions of a boundary amendment and special permit conditions granted pursuant to chapter 205, Hawaii Revised Statutes.

Your Committees received testimony in support of this measure from the Land Use Commission, Office of Planning, and Hawaii Farmers Union. Your Committees received testimony in opposition to this measure from the Land Use Research Foundation of Hawaii.

Your Committees find that the Land Use Commission currently has only the remedy of reversion if there is a violation of a Commission decision and order. Reversion of land back to its original classification is an extreme measure and often not in the best interest of the community. Under a recent Supreme Court decision, even if a developer fails to perform according to conditions imposed and representations made to the Commission in obtaining a district reclassification, reversion may not be immediately available if, by the time the Commission issues an order to show cause, the developer has substantially commenced use of the land in accordance with representations made in seeking the boundary amendment.



Your Committees further find that currently the Land Use Commission must rely on the county planning departments to enforce conditions contained in its orders. This has proven problematic in that counties do not often have the motivation or resources to enforce conditions. Further, many conditions in a Land Use Commission order relate to improvements required by state agencies to affected state facilities, such as highways and schools, which the counties may not have the expertise or knowledge to enforce. The county process does not allow interested parties, either communities who relied upon specific community benefits in supporting a project or state agencies that depend on developer improvements, to contest a failure to enforce a condition. The Commission allows an aggrieved party, including members of the public at large, to bring a request for an order to show cause before the Commission and to have its grievance heard and present evidence to support its claim. This measure would allow the Commission the ability to fairly and beneficially deal with violations as they arise.

Your Committees have amended this measure by:

- (1) Allowing the Land Use Commission to vacate, void, modify, or amend district boundaries without repeating the district boundary amendment procedures;
- (2) Allowing the Land Use Commission to vacate, void, modify, or amend any special permit issued by the Commission without repeating a hearing by a county planning commission; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Water and Land and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 511, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 511, S.D. 1, and be referred to the Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committees on Water and Land
and Agriculture,



RUSSELL E. RUDERMAN, Chair

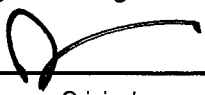


LAURA H. THIELEN, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i


Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB 511	Committee Referral: WTL/AGL, WAM	Date: 2/2/15		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
THIELEN, Laura H. (C)	✓			
GALUTERIA, Brickwood (VC)	✓			
IHARA, Jr., Les				✓
RIVIERE, Gil	✓			
RUDERMAN, Russell E.	✓			
SHIMABUKURO, Maile S.L.	✓			
SLOM, Sam	✓			
TOTAL	6			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Agriculture
AGL

Bill / Resolution No.:* SB 511	Committee Referral: WTL/AGL, WAM	Date: 2/2/15		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RUDERMAN, Russell E. (C)	X			
RIVIERE, Gil (VC)	X			
CHUN OAKLAND, Suzanne				X
TANIGUCHI, Brian T.				X
THIELEN, Laura H.	X			
WAKAI, Glenn				X
SLOM, Sam	X			
TOTAL	4			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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