

JAN 18 2019

A BILL FOR AN ACT

RELATING TO COASTAL ZONE MANAGEMENT.

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

- 1 SECTION 1. The legislature finds that the coastal zone
2 management program was established pursuant to Act 188, Session
3 Laws of Hawaii 1977. The Act declared that it is state policy
4 to:
- 5 (1) Protect, preserve, and where desirable, restore or
6 improve the quality of coastal scenic and open space
7 resources;
- 8 (2) Protect valuable coastal ecosystems from disruption
9 and minimize adverse impacts on all coastal
10 ecosystems;
- 11 (3) Reduce hazards to life and property from tsunami,
12 storm waves, stream flooding, erosion, and subsidence;
13 and
- 14 (4) Improve the development review process, communication,
15 and public participation in the management of coastal
16 resources and hazards.



1 The legislature also finds that a 2012 collaborative study
2 by the United States Geological Survey and the university of
3 Hawaii indicates that seventy per cent of beaches in Hawaii are
4 undergoing a trend of chronic sand loss and shoreline retreat.
5 Further, more than thirteen miles of beach in the State have
6 been completely lost to erosion fronting seawalls and
7 revetments. The Hawaii sea level rise vulnerability and
8 adaptation report, accepted in 2017 by the Hawaii climate change
9 mitigation and adaptation commission, finds that with just 1.1
10 feet of sea level rise, many more miles of beach could be lost
11 to erosion if widespread shoreline armoring is allowed. This
12 could mean a loss of five miles of beach on Kauai, seven miles
13 of beach on Oahu, and eight miles of beach on Maui. Based on
14 its findings, the report recommends enabling beaches to persist
15 with sea level rise and suggests integrating sea level rise
16 considerations into Hawaii's laws regarding coastal zone
17 management.

18 The legislature further finds that the convergence of dense
19 development along shorelines, increasing landward migration of
20 shoreline due to sea level rise and other human and natural
21 impacts, and extensive beach loss fronting shoreline armoring



1 necessitates revision of existing policies and regulations.
2 Revision of these existing policies and regulations would both
3 protect beaches and other coastal environments from further
4 degradation and reduce the exposure of shorefront communities to
5 increasing erosion and flooding hazards caused by sea level
6 rise.

7 The legislature also finds that a recent study by the
8 University of Hawaii coastal geology group identified several
9 primary causes for the State's failure to meet coastal zone
10 management policy objectives. Specifically, the study found
11 that current policies, ordinances, and practices allow for:

12 (1) The hardening of shorelines through a hardship
13 variance that is granted based upon demonstrated
14 hardship brought on by coastal erosion. When granted,
15 these hardship variances set into motion a cycle of
16 shoreline armoring that causes "flanking", or
17 amplified erosion, on properties adjacent to armored
18 shorelines. This continuous cycle of hardening and
19 flanking can extend along an entire beach and, in a
20 section of northeast Oahu, approximately forty-five
21 per cent of observed shoreline hardening was



1 implemented in response to adjacent hardening. This
2 cycle, caused by a combination of beach erosion and
3 coastal policy, has resulted in the narrowing and even
4 elimination of beaches to the extent that they can no
5 longer be used for public recreation or cultural
6 practice; and

- 7 (2) Renovation and expansion of single-family homes in
8 erosion and flood-prone coastal areas, thereby
9 extending building lifetimes indefinitely and allowing
10 for virtually complete coverage of coastal parcels by
11 these structures. The average building surface area
12 increased by twenty per cent following the
13 establishment of the State's coastal zone management
14 program and, combined with sea level rise, this
15 development increases the likelihood of mass
16 structural failure and deposit of debris on public
17 beaches.

18 The purpose of this Act is to strengthen coastal zone
19 management policy by amending chapter 205A, Hawaii Revised
20 Statutes, to protect state beaches and to reduce residential
21 exposure to coastal hazards.



1 SECTION 2. Section 205A-2, Hawaii Revised Statutes, is
2 amended by amending subsections (b) and (c) to read as follows:

3 "(b) Objectives.

4 (1) Recreational resources;

5 (A) Provide coastal recreational opportunities
6 accessible to the public.

7 (2) Historic resources;

8 (A) Protect, preserve, and, where desirable, restore
9 those natural and manmade historic and
10 prehistoric resources in the coastal zone
11 management area that are significant in Hawaiian
12 and American history and culture.

13 (3) Scenic and open space resources;

14 (A) Protect, preserve, and, where desirable, restore
15 or improve the quality of coastal scenic and open
16 space resources.

17 (4) Coastal ecosystems;

18 (A) Protect valuable coastal ecosystems, including
19 reefs, beaches, and coastal dunes, from
20 disruption and minimize adverse impacts on all
21 coastal ecosystems.



- 1 (5) Economic uses;
- 2 (A) Provide public or private facilities and
- 3 improvements important to the State's economy in
- 4 suitable locations.
- 5 (6) Coastal hazards;
- 6 (A) Reduce hazard to life and property from tsunami,
- 7 storm waves, stream flooding, erosion,
- 8 subsidence, sea level rise, and pollution.
- 9 (7) Managing development;
- 10 (A) Improve the development review process,
- 11 communication, and public participation in the
- 12 management of coastal resources and hazards.
- 13 (8) Public participation;
- 14 (A) Stimulate public awareness, education, and
- 15 participation in coastal management.
- 16 (9) Beach protection;
- 17 (A) Protect beaches [~~for public use and recreation.~~]
- 18 and coastal dunes:
- 19 (i) For public use, public recreation, and
- 20 ecosystem services; and
- 21 (ii) As natural barriers to coastal hazards;



- 1 (B) Improve coordination and funding of coastal
2 resource planning and management.
- 3 (10) Marine resources;
- 4 (A) Promote the protection, use, and development of
5 marine and coastal resources to assure their
6 sustainability.
- 7 (c) Policies.
- 8 (1) Recreational resources;
- 9 (A) Improve coordination and funding of coastal
10 recreational planning and management; and
- 11 (B) Provide adequate, accessible, and diverse
12 recreational opportunities in the coastal zone
13 management area by:
- 14 (i) Protecting coastal resources uniquely suited
15 for recreational activities that cannot be
16 provided in other areas;
- 17 (ii) Requiring [~~replacement~~] protection of
18 coastal resources having significant
19 recreational and ecosystem value including,
20 but not limited to coral reefs, surfing
21 sites, fishponds, [~~and~~] sand beaches, and



1 ~~coastal dunes; [when such resources will be~~
2 ~~unavoidably damaged by development; or~~
3 ~~requiring reasonable monetary compensation~~
4 ~~to the State for recreation when replacement~~
5 ~~is not feasible or desirable;]~~

6 (iii) Providing and managing adequate public
7 access, consistent with conservation of
8 natural resources, to and along shorelines
9 with recreational value;

10 (iv) Providing an adequate supply of shoreline
11 parks and other recreational facilities
12 suitable for public recreation;

13 (v) Ensuring public recreational uses of county,
14 state, and federally owned or controlled
15 shoreline lands and waters having
16 recreational value consistent with public
17 safety standards and conservation of natural
18 resources;

19 (vi) Adopting water quality standards and
20 regulating point and nonpoint sources of
21 pollution to protect, and where feasible,

- 1 restore the recreational value of coastal
- 2 waters;
- 3 (vii) Developing new shoreline recreational
- 4 opportunities, where appropriate, such as
- 5 artificial lagoons, artificial beaches, and
- 6 artificial reefs for surfing and fishing;
- 7 and
- 8 (viii) Encouraging reasonable dedication of
- 9 shoreline areas with recreational value for
- 10 public use as part of discretionary
- 11 approvals or permits by the land use
- 12 commission, board of land and natural
- 13 resources, and county authorities; and
- 14 crediting such dedication against the
- 15 requirements of section 46-6;
- 16 (2) Historic resources;
- 17 (A) Identify and analyze significant archaeological
- 18 resources;
- 19 (B) Maximize information retention through
- 20 preservation of remains and artifacts or salvage
- 21 operations; and



- 1 (C) Support state goals for protection, restoration,
2 interpretation, and display of historic
3 resources;
- 4 (3) Scenic and open space resources;
- 5 (A) Identify valued scenic resources in the coastal
6 zone management area;
- 7 (B) Ensure that new developments are compatible with
8 their visual environment by designing and
9 locating [~~such~~] those developments to minimize
10 the alteration of natural landforms and existing
11 public views to and along the shoreline;
- 12 (C) Preserve, maintain, and, where desirable, improve
13 and restore shoreline open space and scenic
14 resources; and
- 15 (D) Encourage those developments that are not coastal
16 dependent to locate in inland areas;
- 17 (4) Coastal ecosystems;
- 18 (A) Exercise an overall conservation ethic, and
19 practice stewardship in the protection, use, and
20 development of marine and coastal resources;



- 1 (B) Improve the technical basis for natural resource
2 management;
- 3 (C) Preserve valuable coastal ecosystems [~~including~~
4 ~~reefs,~~] of significant biological or economic
5 importance [~~+~~], including reefs, beaches, and
6 dunes;
- 7 (D) Minimize disruption or degradation of coastal
8 water ecosystems by effective regulation of
9 stream diversions, channelization, and similar
10 land and water uses, recognizing competing water
11 needs; and
- 12 (E) Promote water quantity and quality planning and
13 management practices that reflect the tolerance
14 of fresh water and marine ecosystems and maintain
15 and enhance water quality through the development
16 and implementation of point and nonpoint source
17 water pollution control measures;
- 18 (5) Economic uses;
- 19 (A) Concentrate coastal dependent development in
20 appropriate areas;



1 (B) Ensure that coastal [~~dependent~~] development such
2 as residential and commercial development,
3 transportation infrastructure, harbors and ports,
4 and coastal related development such as visitor
5 industry facilities and energy generating
6 facilities, are located, designed, and
7 constructed to minimize [~~adverse~~]:

- 8 (i) Exposure to coastal hazards, including
9 projected impacts from sea level rise; and
10 (ii) Adverse social, visual, and environmental
11 impacts in the coastal zone management area;
12 and

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

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



- 1 (ii) Adverse environmental effects and risks from
2 coastal hazards and sea level rise are
3 minimized; and
- 4 (iii) The development is important to the State's
5 economy;
- 6 (6) Coastal hazards;
 - 7 (A) Develop and communicate adequate information
8 about [~~storm wave,~~] high wave event, hurricane,
9 tsunami, flood, erosion, subsidence, sea level
10 rise, and point and nonpoint source pollution
11 hazards;
 - 12 (B) [~~Control~~] Minimize risks to development in areas
13 subject to storm wave, tsunami, flood, sea level
14 rise, erosion, hurricane, wind, subsidence, and
15 point and nonpoint source pollution hazards;
 - 16 (C) Establish zoning controls to minimize hazards
17 exposure of residential and commercial
18 development in areas subject to impacts related
19 to sea level rise, including erosion, wave
20 inundation, and high tide flooding;



- 1 [~~(C)~~] (D) Ensure that developments comply with
2 requirements of the [~~Federal Flood Insurance~~
3 ~~Program; and~~] national flood insurance program;
4 [~~(D)~~] (E) Prevent coastal flooding from inland
5 projects; and
6 (F) Avoid grading of and damage to coastal dunes.
7 (7) Managing development;
8 (A) Use, implement, and enforce existing law
9 effectively to the maximum extent possible in
10 managing present and future coastal zone
11 development;
12 (B) Facilitate timely processing of applications for
13 development permits and resolve overlapping or
14 conflicting permit requirements; and
15 (C) Communicate the potential short and long-term
16 impacts of proposed significant coastal
17 developments early in their life cycle and in
18 terms understandable to the public to facilitate
19 public participation in the planning and review
20 process;
21 (8) Public participation;



- 1 (A) Promote public involvement in coastal zone
2 management processes;
- 3 (B) Disseminate information on coastal management
4 issues by means of educational materials,
5 published reports, staff contact, and public
6 workshops for persons and organizations concerned
7 with coastal issues, developments, and government
8 activities; and
- 9 (C) Organize workshops, policy dialogues, and site-
10 specific mediations to respond to coastal issues
11 and conflicts;
- 12 (9) Beach protection;
- 13 (A) Locate new structures inland from the shoreline
14 setback to conserve open space, minimize
15 interference with natural shoreline processes,
16 and minimize loss of improvements due to erosion;
- 17 (B) Prohibit construction of private coastal erosion-
18 protection structures [~~seaward of the shoreline,~~
19 ~~except when they result in improved aesthetic and~~
20 ~~engineering solutions to erosion at the sites~~
21 ~~and~~], including seawall and rock revetments,



1 except at sites where the private erosion-
 2 protection structures do not interfere with beach
 3 processes and existing recreational and waterline
 4 activities; and

5 (C) Minimize the construction of public coastal
 6 erosion-protection structures [~~seaward of the~~
 7 ~~shoreline,~~], including seawalls and rock
 8 revetments;

9 ~~[(D) Prohibit private property owners from creating a~~
 10 ~~public nuisance by inducing or cultivating the~~
 11 ~~private property owner's vegetation in a beach~~
 12 ~~transit corridor; and~~

13 ~~(E) Prohibit private property owners from creating a~~
 14 ~~public nuisance by allowing the private property~~
 15 ~~owner's unmaintained vegetation to interfere or~~
 16 ~~encroach upon a beach transit corridor;]~~

17 (10) Marine and coastal resources;

18 (A) Ensure that the use and development of marine and
 19 coastal resources are ecologically and
 20 environmentally sound and economically
 21 beneficial;



1 (B) Coordinate the management of marine and coastal
2 resources and activities to improve effectiveness
3 and efficiency;

4 (C) Assert and articulate the interests of the State
5 as a partner with federal agencies in the sound
6 management of ocean resources within the United
7 States exclusive economic zone;

8 (D) Promote research, study, and understanding of
9 ocean and coastal processes, climate change and
10 sea level rise, marine life, and other ocean
11 resources to acquire and inventory information
12 necessary to understand how [~~ocean~~] coastal
13 development activities relate to and impact
14 [~~upon~~] ocean and coastal resources; and

15 (E) Encourage research and development of new,
16 innovative technologies for exploring, using, or
17 protecting marine and coastal resources."

18 SECTION 3. Section 205A-22, Hawaii Revised Statutes, is
19 amended to read as follows:

20 1. By amending the definition of "development" to read:



1 "Development" means any of the uses, activities, or
2 operations on land or in or under water within a special
3 management area that are included below:

- 4 (1) Placement or erection of any solid material or any
5 gaseous, liquid, solid, or thermal waste;
- 6 (2) Grading, removing, dredging, mining, or extraction of
7 any materials;
- 8 (3) Change in the density or intensity of use of land,
9 including but not limited to the division or
10 subdivision of land;
- 11 (4) Change in the intensity of use of water, ecology
12 related thereto, or of access thereto; and
- 13 (5) Construction, reconstruction, demolition, or
14 alteration of the size of any structure.

15 "Development" does not include the following:

- 16 (1) Construction or reconstruction of a single-family
17 residence that [~~is less than seven thousand five~~
18 ~~hundred square feet of floor area and~~] is not part of
19 a larger development;
- 20 (2) Repair or maintenance of roads and highways within
21 existing rights-of-way;



- 1 (3) Routine maintenance dredging of existing streams,
2 channels, and drainage ways;
- 3 (4) Repair and maintenance of underground utility lines,
4 including but not limited to water, sewer, power, and
5 telephone and minor appurtenant structures such as pad
6 mounted transformers and sewer pump stations;
- 7 (5) Zoning variances, except for height, density, parking,
8 and shoreline setback;
- 9 (6) Repair, maintenance, or interior alterations to
10 existing structures;
- 11 (7) Demolition or removal of structures, except those
12 structures located on any historic site as designated
13 in national or state registers;
- 14 (8) Use of any land for the purpose of cultivating,
15 planting, growing, and harvesting plants, crops,
16 trees, and other agricultural, horticultural, or
17 forestry products or animal husbandry, or aquaculture
18 or mariculture of plants or animals, or other
19 agricultural purposes;
- 20 (9) Transfer of title to land;



1 (10) Creation or termination of easements, covenants, or
2 other rights in structures or land;

3 [~~(11)~~ ~~Final subdivision approval; provided that in counties~~
4 ~~that may automatically approve tentative subdivision~~
5 ~~applications as a ministerial act within a fixed time~~
6 ~~of the submission of a preliminary plat map, unless~~
7 ~~the director takes specific action, a special~~
8 ~~management area use permit if required, shall be~~
9 ~~processed concurrently with an application for~~
10 ~~tentative subdivision approval or after tentative~~
11 ~~subdivision approval and before final subdivision~~
12 ~~approval;]~~

13 [~~(12)~~] (11) Subdivision of land into lots greater than
14 twenty acres in size;

15 [~~(13)~~] (12) Subdivision of a parcel of land into four or
16 fewer parcels when no associated construction
17 activities are proposed; provided that any land that
18 is so subdivided shall not thereafter qualify for this
19 exception with respect to any subsequent subdivision
20 of any of the resulting parcels;



1 [~~(14)~~] (13) Installation of underground utility lines and
2 appurtenant aboveground fixtures less than four feet
3 in height along existing corridors;

4 [~~(15)~~] (14) Structural and nonstructural improvements to
5 existing single-family residences, where otherwise
6 permissible;

7 [~~(16)~~] (15) Nonstructural improvements to existing
8 commercial structures; and

9 [~~(17)~~] (16) Construction, installation, maintenance, repair,
10 and replacement of [~~emergency management~~] civil
11 defense warning or signal devices and sirens;

12 provided that whenever the authority finds that any excluded
13 use, activity, or operation may have a cumulative impact, or a
14 significant environmental or ecological effect on a special
15 management area, that use, activity, or operation shall be
16 defined as "development" for the purpose of this part."

17 2. By amending the definition of "special management area
18 emergency permit" to read:

19 ""Special management area emergency permit" means an action
20 by the authority authorizing development in cases of emergency
21 requiring immediate action to prevent substantial physical harm



1 to persons or property or to allow the reconstruction of
2 structures damaged by natural hazards to their original form;
3 provided that [~~such~~] those structures were previously found to
4 be in compliance with requirements of the [~~Federal Flood~~
5 ~~Insurance Program.~~] national flood insurance program."

6 3. By amending the definition of "special management area
7 minor permit" to read:

8 "Special management area minor permit" means an action by
9 the authority authorizing development [~~the valuation of which is~~
10 ~~not in excess of \$500,000~~] valued at \$125,000 or less and
11 [~~which~~] that has no substantial adverse environmental or
12 ecological effect, taking into account potential cumulative
13 effects."

14 4. By amending the definition of "special management area
15 use permit" to read:

16 "Special management area use permit" means an action by
17 the authority authorizing development [~~the valuation of which~~
18 ~~exceeds \$500,000~~] valued at more than \$125,000 or [~~which~~] that
19 may have a substantial adverse environmental or ecological
20 effect, taking into account potential cumulative effects."



1 SECTION 4. Section 205A-26, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§205A-26 Special management area guidelines.** In
4 implementing this part, the authority shall adopt the following
5 guidelines for the review of developments proposed in the
6 special management area:

7 (1) All development in the special management area shall
8 be subject to reasonable terms and conditions set by
9 the authority in order to ensure:

10 (A) Adequate access, by dedication or other means, to
11 publicly owned or used beaches, recreation areas,
12 and natural reserves is provided to the extent
13 consistent with sound conservation principles;

14 (B) Adequate and properly located public recreation
15 areas and wildlife preserves are reserved;

16 (C) Provisions are made for solid and liquid waste
17 treatment, disposition, and management [~~which~~]
18 that will minimize adverse effects upon special
19 management area resources; and

20 (D) Alterations to existing land forms and
21 vegetation, except crops, and construction of



1 structures shall cause minimum adverse effect to
2 water resources, beaches, coastal dunes, and
3 scenic and recreational amenities and [~~minimum~~
4 ~~danger of~~] minimize impacts from floods, wind
5 damage, storm surge, landslides, erosion, sea
6 level rise, siltation, or failure in the event of
7 earthquake.

8 (2) No development shall be approved unless the authority
9 has first found:

10 (A) That the development will not have any
11 [~~substantial~~] significant adverse environmental
12 or ecological effect, except as [~~such~~] any
13 adverse effect is minimized to the extent
14 practicable and clearly outweighed by public
15 health, safety, or compelling public interests.
16 [~~Such~~] Those adverse effects shall include, but
17 not be limited to, the potential cumulative
18 impact of individual developments, each [~~one~~] of
19 which taken [~~in~~] by itself might not have a
20 [~~substantial~~] significant adverse effect, and the
21 elimination of planning options;



- 1 (B) That the development is consistent with the
2 objectives, policies, and special management area
3 guidelines of this chapter and any guidelines
4 enacted by the legislature; and
- 5 (C) That the development is consistent with the
6 county general plan, community plan, and zoning [~~-~~
7 ~~Such~~]; provided that a finding of consistency
8 does not preclude concurrent processing where a
9 general plan, community plan, or zoning amendment
10 may also be required.
- 11 (3) The authority shall seek to minimize, where
12 reasonable:
- 13 (A) Dredging, filling or otherwise altering any bay,
14 estuary, salt marsh, river mouth, slough or
15 lagoon;
- 16 (B) Any development [~~which~~] that would reduce the
17 size of any beach or other area usable for public
18 recreation;
- 19 (C) Any development [~~which~~] that would reduce or
20 impose restrictions upon public access to tidal
21 and submerged lands, beaches, portions of rivers



1 and streams within the special management areas
2 and the mean high tide line where there is no
3 beach;

4 (D) Any development [~~which~~] that would substantially
5 interfere with or detract from the line of sight
6 toward the sea from the state highway nearest the
7 coast; and

8 (E) Any development [~~which~~] that would adversely
9 affect water quality, existing areas of open
10 water free of visible structures, existing and
11 potential fisheries and fishing grounds, wildlife
12 habitats, or potential or existing agricultural
13 uses of land."

14 SECTION 5. Section 205A-29, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) No agency authorized to issue permits pertaining to
17 any development within the special management area shall
18 authorize any development unless approval is first received in
19 accordance with the procedures adopted pursuant to this part.

20 For the purposes of this subsection, county general plan, state
21 land use district boundary amendments, and zoning changes are



1 not permits. This section shall not apply to permits for uses
2 within the state land use conservation district designated
3 pursuant to chapter 183C."

4 SECTION 6. Section 205A-43, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Setbacks along shorelines are established of not less
7 than [~~twenty feet and not more than~~] forty feet inland from the
8 shoreline. The department shall adopt rules pursuant to chapter
9 91, and shall enforce the shoreline setbacks and rules
10 pertaining thereto."

11 SECTION 7. Section 205A-43.5, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Prior to action on a variance application, the
14 authority shall hold a public hearing under chapter 91. By
15 adoption of rules under chapter 91, the authority may delegate
16 responsibility to the department. Public and private notice,
17 including reasonable notice to abutting property owners and
18 persons who have requested this notice, shall be provided, but a
19 public hearing may be waived prior to action on a variance
20 application for:



- 1 (1) Stabilization of shoreline erosion by the moving of
2 sand entirely on public lands;
- 3 (2) [~~Protection~~] Temporary protection of a legal structure
4 ~~[costing more than \$20,000,]~~ or public facility,
5 excluding shore protection structures, under and
6 emergency authorization issued by the authority;
7 provided that the structure or facility is at risk of
8 immediate damage from shoreline erosion[+] and the
9 authorization does not exceed three years;
- 10 (3) Other structures or activities; provided that no
11 person or agency has requested a public hearing within
12 twenty-five calendar days after public notice of the
13 application; or
- 14 (4) Maintenance, repair, reconstruction, and minor
15 additions or alterations of legal boating, maritime,
16 or watersports recreational facilities, [~~which~~] that
17 result in little or no interference with natural
18 shoreline processes."

19 SECTION 8. Section 205A-44, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:



1 "(a) The mining or taking of sand, dead coral or coral
2 rubble, rocks, soil, or other beach or marine deposits from the
3 shoreline area is prohibited with the following exceptions:

4 ~~[(1) The inadvertent taking from the shoreline area of the
5 materials, such as those inadvertently carried away on
6 the body, and on clothes, toys, recreational
7 equipment, and bags;]~~

8 ~~[(2)]~~ (1) Where the mining or taking is authorized by a
9 variance pursuant to this part;

10 ~~[(3)]~~ (2) The clearing of these materials from existing
11 drainage pipes and canals and from the mouths of
12 streams including clearing for the purposes under
13 section 46-11.5; provided that the sand removed shall
14 be placed on adjacent areas unless the placement would
15 result in significant turbidity; or

16 ~~[(4)]~~ (3) The cleaning of the shoreline area for state or
17 county maintenance purposes, including the clearing
18 for purposes under section 46-12; provided that the
19 sand removed shall be placed on adjacent areas unless
20 the placement would result in significant turbidity[+



- 1 ~~(5) The taking of driftwood, shells, beach glass, glass~~
2 ~~floats, or seaweed;~~
- 3 ~~(6) The exercise of traditional cultural practices as~~
4 ~~authorized by law or as permitted by the department~~
5 ~~pursuant to article XII, section 7, of the Hawaii~~
6 ~~State Constitution; or~~
- 7 ~~(7) For the response to a public emergency or a state or~~
8 ~~local disaster]."~~

9 SECTION 9. Section 205A-46, Hawaii Revised Statutes, is
10 amended to read as follows:

11 1. By amending subsection (a) to read:

12 "(a) A variance may be granted for a structure or activity
13 otherwise prohibited in this part if the authority finds in
14 writing, based on the record presented, that the proposed
15 structure or activity is necessary for or ancillary to:

- 16 (1) Cultivation of crops;
- 17 (2) Aquaculture;
- 18 (3) Landscaping; provided that the authority finds that
19 the proposed structure or activity will not adversely
20 affect beach processes and will not artificially fix
21 the shoreline;



- 1 (4) Drainage;
- 2 (5) Boating, maritime, or watersports recreational
3 facilities;
- 4 (6) Facilities or improvements by public agencies or
5 public utilities regulated under chapter 269;
- 6 (7) Private facilities or improvements that are clearly in
7 the public interest;
- 8 (8) Private facilities or improvements [~~which~~] that will
9 neither adversely affect beach processes [~~nor~~
10 ~~artificially fix the shoreline; provided that the~~
11 ~~authority also finds that hardship will result to the~~
12 ~~applicant if the facilities or improvements are not~~
13 ~~allowed within the shoreline area;], result in
14 flanking of adjacent properties, or curtail public
15 access;~~
- 16 (9) Private facilities or improvements that may
17 artificially fix the shoreline; provided that the
18 authority also finds that [~~shoreline erosion is likely~~
19 ~~to cause hardship to the applicant if the facilities~~
20 ~~or improvements are not allowed within the shoreline~~
21 ~~area, and the authority imposes conditions to prohibit~~



1 ~~any structure seaward of the existing shoreline]~~ the
2 action will neither adversely affect beach processes,
3 result in flanking of adjacent properties, or curtail
4 public access unless it is clearly in the public
5 interest[~~;~~], such as an imminent threat of a road,
6 highway, or other critical public infrastructure
7 failure; or

8 (10) Moving of sand from one location seaward of the
9 shoreline to another location seaward of the
10 shoreline; provided that the authority also finds that
11 moving of sand will not adversely affect beach
12 processes, will not diminish the size of a public
13 beach, and will be necessary to stabilize an eroding
14 shoreline."

15 2. By amending subsection (c) to read:

16 "(c) No variance shall be granted unless appropriate
17 conditions are imposed:

18 (1) To maintain safe lateral access to and along the
19 shoreline or adequately compensate for its loss;

20 (2) To minimize risk of adverse impacts on beach
21 processes;



1 (3) To minimize risk of structures failing and becoming
2 loose rocks, sharp or otherwise dangerous debris, or
3 rubble on public property; and

4 (4) To minimize adverse impacts on public views to, from,
5 and along the shoreline."

6 SECTION 10. Section 205A-62, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§205A-62 Duties and responsibilities of the lead agency.**

9 The lead agency shall have the following duties and
10 responsibilities:

11 (1) Coordinate overall implementation of the plan, giving
12 special consideration to the plan's priority
13 recommendations;

14 (2) Review and periodically update the plan;

15 (3) Coordinate the development of state agency work plans
16 to implement the ocean resources management plan. The
17 work plans shall be revised on a biennial basis and
18 coordinated with the budget process. State agencies
19 with responsibilities relating to marine and coastal
20 zone management include but are not limited to:

21 (A) The department of agriculture;



1 (B) The department of business, economic development,
2 and tourism;

3 (C) The department of defense;

4 (D) The department of education;

5 [~~(D)~~] (E) The department of health;

6 [~~(E)~~] (F) The department of land and natural
7 resources;

8 [~~(F)~~] (G) The department of public safety;

9 [~~(G)~~] (H) The department of transportation; and

10 [~~(H)~~] (I) The University of Hawaii;

11 (4) Ensure that state agency work plans are closely
12 coordinated with the work plans of relevant federal
13 and county agencies;

14 (5) Analyze, resolve conflicts between, and prioritize, in
15 cooperation with relevant agencies and as part of the
16 work plan development process, the sector-specific
17 recommendations included in the plan;

18 (6) Coordinate exclusive economic zone and other marine-
19 related issues with state and county agencies;



- 1 (7) Provide technical assistance to the agencies on policy
- 2 and issue-related matters regarding marine and coastal
- 3 resources management;
- 4 (8) Coordinate marine and coastal education activities;
- 5 and
- 6 (9) Adopt rules pursuant to chapter 91 to carry out the
- 7 purposes of this part."

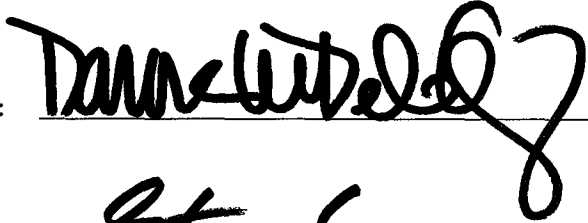
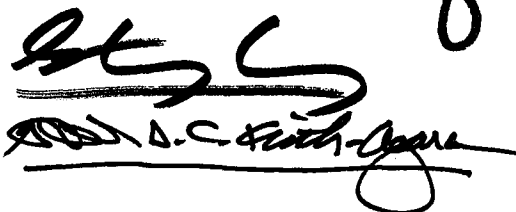
8 SECTION 11. This Act does not affect rights and duties
 9 that matured, penalties that were incurred, and proceedings that
 10 were begun before its effective date.

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

13 SECTION 13. This Act shall take effect upon its approval.

14

INTRODUCED BY:



S.B. NO. 393

Report Title:

DBEDT; Coastal Zone Management; Sea Level Rise; Coastal Erosion

Description:

Amends coastal zone management laws to further protect against impacts of sea level rise and coastal erosion. Requires new developments to plan for the impacts of projected sea level rise. Prohibits development in areas significantly affected by projected sea level rise.

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

