A BILL FOR AN ACT

RELATING TO CLIMATE CHANGE.

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

PART I

SECTION 1. As reflected in the findings of Act 32, Session Laws of Hawaii 2017 (Act 32), the legislature recognizes that climate change is not only real but it is also the overriding challenge of the twenty-first century and one of the priority issues of the legislature. Climate change poses immediate and long-term threats to the State's economy, sustainability, security, and way of life.

Act 32 established the Hawaii climate change mitigation and adaptation commission and directed the commission, as a first step, to focus on and develop sea level rise vulnerability and adaptation reports that are required to include:

(1) Identification of the major areas of sea level rise impacts affecting the State and counties through 2050;

(2) Identification of expected impacts of sea level rise based on the latest scientific research for each area through 2050;
(3) Identification of the economic ramifications of sea level rise;

(4) Identification of applicable federal laws, policies, or programs that impact affected areas; and

(5) Recommendations for planning, management, and adaptation for hazards associated with increasing sea level rise.

The Hawaii climate change mitigation and adaptation commission submitted a Hawaii sea level rise vulnerability and adaptation report in December 2017. The report identifies, with maps at tax map key detail, areas that are susceptible to sea level rise impacts based on a 3.2-foot increase in sea level projected to occur by mid-century or earlier. These areas are designated as the sea level rise exposure area projection, which the commission recommends be adopted as a sea level rise exposure area overlay to guide state and county adaptation strategies and standards for development. The Hawaii sea level rise vulnerability and adaptation report also made a number of recommendations to state and county agencies based on emerging good practices to strengthen Hawaii's overall readiness to face sea level rise and climate change.
The purpose of this Act is to implement the recommendations of the Hawai‘i sea level rise vulnerability and adaptation report.

PART II

SECTION 2. The purpose of this part is to require all state departments and agencies to implement the recommendations of the Hawai‘i sea level vulnerability and adaptation report.

SECTION 3. Chapter 27, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . SEA LEVEL RISE ADAPTATION

§27- Responsibilities. (a) Each department and agency of the State shall:

(1) Review its existing policies, regulatory processes, and administrative rules to assess whether the department or agency's regulatory framework supports the smart redevelopment of urban areas as part of sea level rise adaptation planning; provided that the first review shall be completed no later than July 1, 2021, and subsequent reviews shall be conducted at least once every five years;
(2) Update capital improvement planning to:
   (A) Incorporate sea level rise projections; and
   (B) Prioritize infrastructure improvements for urban
        areas identified as priority redevelopment areas
        by the standing committee on sea level rise and
        managed retreat established pursuant to section
        225M-A(d);

(3) Adopt a review and approval process to ensure that new
devotions and capital improvement projects having
an expected life span of thirty years or more
incorporate sea level rise in the development or
project's design and siting. The State shall require:
   (A) New developments and capital improvement projects
to include in-depth analyses of sea level rise
impacts based on elevation, tolerance for risk,
and lifetime of the structure; and
   (B) Redevelopment within existing development
footprints to be dependent on established,
resilient building design guidelines or otherwise
be subject to relocation to more suitable areas;
(4) Develop design standards for existing and proposed land uses that limit urban growth and increase flood resiliency within sea level rise exposure areas;

(5) Develop guidance for developers to assist with the integration of sea level rise in project design and encourage the use of best management practices for incorporating green and sustainable approaches in all stages of project development;

(6) If applicable, consider adopting rules or policies that encourage property owners at risk due to coastal flooding to purchase flood insurance;

(7) Incorporate projected sea level rise into hazard mitigation plans;

(8) Adopt a statewide program that supports county participation in the building code effectiveness grading schedule program, administered by the International Organization for Standardization;

(9) Develop a pre-disaster recovery framework that incorporates opportunities to adapt to sea level rise through disaster recovery;
(10) Prioritize the preservation of coral reefs when taking actions that may affect the health of the coral reefs of the State; and

(11) Conduct an in-depth assessment of critical infrastructure that is at risk due to climate change and sea level rise, including critical infrastructure within sea level rise exposure areas. The assessment shall examine the vulnerability and evaluation of adaptation strategies for the infrastructure. The assessment shall consider the current condition of the infrastructure and the remaining years of useful life. The State shall use the assessment to prioritize investments to protect, retrofit, or relocate the infrastructure. The first assessment shall be completed no later than December 31, 2023, and subsequent assessments shall be conducted at least once every five years.

(b) Except for subsection (a)(1), the governor may delegate the duties required by subsection (a) to one or more specific executive departments or agencies.
(c) For purposes of this section, "sea level rise exposure area" means a sea level rise exposure area identified and officially designated by the Hawaii climate change mitigation and adaptation commission or its successor.

§27- Report. The office of the governor shall report to the legislature on its progress regarding the implementation of this part. The governor shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of each regular session."

SECTION 4. Section 27-1, Hawaii Revised Statutes, is amended to read as follows:

"§27-1 Functions of statewide concern. The purpose of the chapter is to fix responsibility for certain functions, which are of statewide concern, in the state government. These functions which are declared to be state functions are as follows:

(1) Planning, construction, improvement and maintenance of public school facilities and grounds and the transportation of school children; provided that nothing in this paragraph shall preclude the several
counties from expending their own funds to supplement state funds;
(2) Burial of indigents;
(3) Planning, construction, improvement, maintenance, and operation of public hospitals and other public health and medical facilities;
(4) Rendering of medical treatment and hospitalization services to state and county pensioners;
(5) Administration and operation of district courts; [and]
(6) Providing information and services to the public through joint cooperation with the several counties[; and]
(7) Developing, adapting, and implementing recommendations, policies, and practices related to climate change mitigation and adaptation."

PART III
SECTION 5. The purpose of this part is to require the counties to implement recommendations of the Hawai‘i sea level vulnerability and adaptation report.
SECTION 6. Chapter 46, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . SEA LEVEL RISE ADAPTATION

§46- Responsibilities. (a) Each county shall:

(1) Review its existing policies, regulatory processes, and administrative rules to assess whether the county's regulatory framework supports the smart redevelopment of urban areas as part of sea level rise adaptation planning; provided that the first review shall be completed no later than July 1, 2021, and subsequent reviews shall be conducted at least once every five years;

(2) In consultation with the State, conduct a comprehensive regional market assessment for each urban area identified as a priority redevelopment area by the standing committee on sea level rise and managed retreat established pursuant to section 225M-A(d). The assessment shall:
(A) Provide defensible estimates of current market
conditions and opportunities for supportable
future growth across various economic sectors;

(B) Identify specific opportunities for future growth
across various economic sectors;

(C) Consider the depth of the market for potential
uses by analyzing workforce, demographic, and
economic data sets; and

(D) Include quantitative and qualitative information
that presents a comprehensive assessment of the
market and defines supportable residential,
commercial, and industrial development potential;

(3) In consultation with the State, and based on the
comprehensive regional market assessments required by
paragraph (2), develop detailed redevelopment
strategies for each urban area identified as a
priority redevelopment area by the standing committee
on sea level rise and managed retreat established
pursuant to section 225M-A(d). The strategy shall
include:
(A) Site-level assessments recommending the highest and best use for the priority redevelopment site; and

(B) Detailed redevelopment strategies to support successful redevelopment of priorities areas, including specific recommendations that tailor to the unique local conditions of each redevelopment area;

(4) Update capital improvement planning to:

(A) Incorporate sea level rise; and

(B) Prioritize infrastructure improvements for urban areas identified as priority redevelopment areas by the standing committee on sea level rise and managed retreat established pursuant to section 225M-A(d);

(5) Adopt a review and approval process to ensure that new developments and capital improvement projects having an expected life span of thirty years or more incorporate sea level rise in the development or project's design and siting. The counties shall require:
(A) New developments and capital improvement projects to include in-depth analyses of sea level rise impacts based on elevation, tolerance for risk, and lifetime of the structure; and

(B) Redevelopments within existing footprints to be dependent on established, resilient building design guidelines, or otherwise be subject to relocation to more suitable areas;

(6) Develop design standards for existing and proposed land uses that limit urban growth and increase flood resiliency within sea level rise exposure areas;

(7) Develop guidance for developers to assist with the integration of sea level rise in project design and encourage the use of best management practices for incorporating green and sustainable approaches in all stages of project development;

(8) Take into consideration future sea level rise when adopting or revising flood standards and flood maps;

(9) Consider adopting ordinances that require structures built in coastal zone A flood zones to be constructed in compliance with zone V flood zone construction
standards. For purposes of this paragraph, "coastal zone A" and "zone V" shall refer to areas designated as a zone A or zone V, respectively, by the National Flood Insurance Program;

(10) Participate in the National Flood Insurance Program's Community Rating System;

(11) Consider adopting ordinances or policies that encourage owners of property at risk due to coastal flooding to purchase flood insurance;

(12) Incorporate projected sea level rise into hazard mitigation plans;

(13) Develop a pre-disaster recovery framework that incorporates opportunities to adapt to sea level rise through disaster recovery;

(14) Prioritize the preservation of coral reefs when taking actions that may affect the health of the coral reefs of the respective county;

(15) Conduct an in-depth assessment of critical infrastructure that is at risk to climate change and sea level rise, including critical infrastructure within sea level rise exposure areas. The assessment
shall examine the vulnerability and evaluation of adaptation strategies for the infrastructure. The assessment shall consider the current condition of the infrastructure and the remaining years of useful life. The counties shall use the data to prioritize investment to protect, retrofit, or relocate the infrastructure; and

(16) Consider ordinances that create transfer of development rights and purchase of development rights programs; provided that the programs are created to facilitate the managed retreat from sea level rise exposure areas and preserve beaches from the effects of sea level rise.

(b) For purposes of this section, "sea level rise exposure area" means a sea level rise exposure area identified and officially designated by the Hawaii climate change mitigation and adaptation commission or its successor.

PART IV

SECTION 7. The purpose of this part is to implement provisions of the Hawai‘i sea level vulnerability and adaptation report relating to the office of planning.
SECTION 8. Chapter 225M, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

§225M-A Sea level rise; exposure areas; mitigation. (a) The office of planning shall integrate into state planning the recommendations from the Hawaii climate change mitigation and adaptation commission regarding sea level rise exposure areas. Specifically, the office of planning shall consider:

1. Immediate opportunities to implement sea level rise adaptation actions;
2. The promotion of managed retreat from the shoreline where feasible, including the planning of new developments outside of sea level rise exposure areas;
3. The protection of coastal areas and beaches from inappropriate development in light of potential sea level rise; and
4. The creation of incentives for flood risk avoidance.

(b) The office of planning shall develop specific guidance to apply:

1. The climate change adaptation priority guidelines established by section 226-109; and
(2) Actions recommended by the Hawai'i sea level rise vulnerability and adaptation report, issued by the Hawaii climate change mitigation and adaptation commission or its successor, to address sea level rise impacts,

in plans and programs within the state planning system.

(c) The office of planning shall maintain an inventory of lands suitable for future development outside of sea level rise exposure areas. The inventory shall:

(1) Request the counties to identify, assess, and prioritize underutilized land within urban zoned areas that could be redeveloped in a manner that is resilient to sea level rise;

(2) Assess potential developable lands outside of urban growth boundaries that are suitable for future development;

(3) Review existing redevelopment plans or studies to assess the consistency of the plans with state goals relating to sea level rise and managed retreat;

(4) Include the following factors relating to the lands included in the inventory:
(A) Existing land use classification and ownership;

(B) Historic land use patterns;

(C) Critical land uses such as agriculture and conservation for water resources;

(D) An assessment of current erosion;

(E) An assessment of existing shoreline armoring;

(F) An assessment of the high potential for landward migration;

(G) An assessment of the land's particular social, cultural, economic, or environmental value;

(H) A determination of whether the land currently supports critical infrastructure; and

(I) An assessment of the anticipated vulnerability of the land to sea level rise impacts; and

(5) Be developed in coordination with the counties.

(d) The office of planning shall establish a standing committee on sea level rise and managed retreat. The director of the office of planning shall serve as the chairperson and shall invite any relevant state or county officials to serve on the committee. The committee shall conduct detailed risk
analyses of urban areas vulnerable to sea level rise. The risk analyses shall:

(1) Use data from:

(A) Vulnerability assessment results compiled by the Hawaii climate change mitigation and adaptation commission and published in the Hawai'i sea level rise vulnerability and adaptation report; and

(B) The land inventory compiled pursuant to subsection (c);

(2) Quantify, to the extent possible, potential losses for the identified urban areas, including:

(A) Structural losses;

(B) Economic losses;

(C) Income level losses;

(D) Job losses;

(E) Wage losses;

(F) Tax revenue losses; and

(G) Social justice losses;

(3) Identify priority areas for smart redevelopment as part of a managed retreat strategy using the data
(4) Conduct an analysis comparing the costs and benefits of taking specific actions to mitigate or reduce the impacts of sea level rise compared to the costs and benefits of not taking those actions.

The committee on sea level rise and managed retreat shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of each regular session.

(e) For purposes of this section, "sea level rise exposure area" means a sea level rise exposure area identified and officially designated by the Hawaii climate change mitigation and adaptation commission or its successor.

§225M-B Beach preservation; willing seller program. (a) The office of planning shall establish a program to identify property owners who are willing to sell property that they own within a sea level rise exposure area or relocate outside of a sea level rise exposure area; provided that:
(1) The property being sold or relocated from is adjacent to a beach that is at risk of erosion due to sea level rise; and

(2) The office of planning determines that acquisition of the property would be useful to protect the at-risk beach.

(b) The office of planning may adopt rules pursuant to chapter 91 to effectuate the purposes of this section.

SECTION 9. (a) The office of planning shall develop a financing strategy to address the costs of adaptation to sea level rise. The strategy shall consider potential federal, state, county, private sector, and philanthropic sources to secure significant and sustainable funding for investments that reduce risks, harm to persons, and spending in response to disasters associated with sea level rise.

(b) The financing strategy shall address any costs anticipated due to sea level rise, including but not limited to:

(1) Land acquisition, including land acquisition for wetland and beach migration and public access;

(2) Relocation or retrofitting of critical infrastructure;
(3) Relocation or retrofitting of residential areas to increase flood resiliency; and

(4) Costs identified by:

(A) A comprehensive market assessment developed by a county pursuant to section 46-A(a)(2);

(B) A redevelopment strategy developed by a county pursuant to section 46-A(a)(3); and

(C) The climate change resilience study conducted by the department of land and natural resources pursuant to section 22 of this Act.

(c) The office of planning may consider as part of the strategy proposed laws or ordinances to:

(1) Develop tax incentive programs and special tax districts;

(2) Create incentives to encourage landward relocation, infrastructure retrofitting, siting of new development, conservation of open space, and preservation or restoration of natural flood buffers;

(3) Utilize private sector funding sources, including voluntary contribution of funding or compensatory payment of assessments such as impact fees,
sustainability fees on permit applications for new
development, or other assessments on real property;
(4) Identify grant opportunities from philanthropic
interests; and
(5) Create a statewide nonprofit organization to raise
funds for projects to protect vulnerable populations,
including persons who are economically disadvantaged,
seniors, disabled persons, and veterans.
(d) The office of planning shall submit a report of its
findings and recommendations, including any proposed
legislation, to the legislature no later than twenty days prior
to the convening of the regular session of 2022.

PART V

SECTION 10. The purpose of this part is to make changes to
the State's coastal zone management law as recommended by the
Hawai'i sea level rise vulnerability and adaptation report.

SECTION 11. Section 205A-2, Hawaii Revised Statutes, is
amended by amending subsections (b) and (c) to read as follows:
"(b) Objectives.
(1) Recreational resources;
(A) Provide coastal recreational opportunities accessible to the public.

(2) Historic resources;

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

(3) Scenic and open space resources;

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

(4) Coastal ecosystems;

(A) Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.

(5) Economic uses;

(A) Provide public or private facilities and improvements important to the State's economy in suitable locations.

(6) Coastal hazards;
(A) Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.

(7) Managing development;
(A) Improve the development review process, communication, and public participation in the management of coastal resources and hazards.

(8) Public participation;
(A) Stimulate public awareness, education, and participation in coastal management.

(9) Beach protection;
(A) Protect beaches for public use and recreation.

(10) Marine resources;
(A) Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

(11) Sea level rise;
(A) Promote adaptation strategies for accommodation, protection, and retreat in response to sea level rise.

(c) Policies.
(1) Recreational resources;

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

(B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:

(i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;

(ii) Requiring replacement of coastal resources having significant recreational value including, but not limited to surfing sites, fishponds, and sand beaches, when such those resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable;

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

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

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

(vi) Adopting water quality standards and
regulating point and nonpoint sources of
pollution to protect, and where feasible,
restore the recreational value of coastal
waters;

(vii) Developing new shoreline recreational
opportunities, where appropriate, such as
artificial lagoons, artificial beaches, and
artificial reefs for surfing and fishing;

and
(viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, and county authorities; and crediting the dedication against the requirements of section 46-6[.]

(2) Historic resources;

(A) Identify and analyze significant archaeological resources;

(B) Maximize information retention through preservation of remains and artifacts or salvage operations; and

(C) Support state goals for protection, restoration, interpretation, and display of historic resources[.]

(3) Scenic and open space resources;

(A) Identify valued scenic resources in the coastal zone management area;
(B) Ensure that new developments are compatible with their visual environment by designing and locating the developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;

(C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and

(D) Encourage those developments that are not coastal dependent to locate in inland areas.

(4) Coastal ecosystems;

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

(B) Improve the technical basis for natural resource management;

(C) Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;

(D) Minimize disruption or degradation of coastal water ecosystems by effective regulation of
stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and

(E) Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and maintain and enhance water quality through the development and implementation of point and nonpoint source water pollution control measures.[†]

(5) Economic uses;

(A) Concentrate coastal dependent development in appropriate areas;

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

(C) Direct the location and expansion of coastal dependent developments to areas presently
designated and used for those developments and permit reasonable long-term growth at those areas, and permit coastal dependent development outside of presently designated areas when:

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

(ii) Adverse environmental effects are minimized; and

(iii) The development is important to the State's economy.[*]

(6) Coastal hazards;

(A) Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;

(B) Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards;
(C) Ensure that developments comply with requirements of the Federal Flood Insurance Program; and

(D) Prevent coastal flooding from inland projects.

(7) Managing development;

(A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;

(B) Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements; and

(C) Communicate the potential short- and long-term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the public to facilitate public participation in the planning and review process.

(8) Public participation;

(A) Promote public involvement in coastal zone management processes;
(B) Disseminate information on coastal management
issues by means of educational materials,
published reports, staff contact, and public
workshops for persons and organizations concerned
with coastal issues, developments, and government
activities; and

(C) Organize workshops, policy dialogues, and site-
specific mediations to respond to coastal issues
and conflicts.

(9) Beach protection;

(A) Locate new structures inland from the shoreline
setback to conserve open space, minimize
interference with natural shoreline processes,
and minimize loss of improvements due to erosion;

(B) Prohibit construction of private erosion-
protection structures seaward of the shoreline,
except when they result in improved aesthetic and
engineering solutions to erosion at the sites and
do not interfere with existing recreational and
waterline activities;
(C) Minimize the construction of public erosion-protection structures seaward of the shoreline;

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

(E) Prohibit private property owners from creating a public nuisance by allowing the private property owner's unmaintained vegetation to interfere or encroach upon a beach transit corridor.

(10) Marine resources;

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

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

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

(D) Promote research, study, and understanding of ocean processes, marine life, and other ocean resources to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and

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

(11) Sea level rise;

(A) Identify coastal areas that are vulnerable to sea level rise;

(B) Control development in areas subject to sea level rise and associated hazards, including coastal flooding, erosion, storm surge from hurricanes, beach loss, and pollution; and

(C) Promote development that takes into consideration adaptation strategies for accommodation,
protection, and retreat in response to sea level rise."

PART VI

SECTION 12. The purpose of this part is to implement parts of the Hawaii sea level vulnerability and adaptation report relating to the department of land and natural resources.

SECTION 13. Section 171-6, Hawaii Revised Statutes, is amended to read as follows:

"§171-6 Powers. Except as otherwise provided by law, the board of land and natural resources shall have the powers and functions granted to the heads of departments and the board of land and natural resources under chapter 26.

In addition to the foregoing, the board may:

(1) Adopt a seal;
(2) Administer oaths;
(3) Prescribe forms of instruments and documents;
(4) Adopt rules which, upon compliance with chapter 91, shall have the force and effect of law;
(5) Set, charge, demand, and collect reasonable fees for the preparation of documents to be issued, for the surveying of public lands, and for the issuing of
certified copies of its government records, which fees, when collected, shall be deposited into the state general fund, unless otherwise specified in this chapter;

(6) Establish additional restrictions, requirements, or conditions, not inconsistent with those prescribed in this chapter, relating to the use of particular land being disposed of, the terms of sale, lease, license, or permit, and the qualifications of any person to draw, bid, or negotiate for public land;

(7) Reduce or waive the lease rental at the beginning of the lease on any lease of public land to be used for any agricultural or pastoral use, or for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements to be placed thereon; provided that [such] the reduction or waiver shall not exceed two years for land to be used for any agricultural or pastoral use, or exceed one year for land to be used for resort, commercial, industrial, or other business use;
(8) Delegate to the chairperson or employees of the
department of land and natural resources, subject to
the board's control and responsibility, [such] powers
and duties as may be lawful or proper for the
performance of the functions vested in the board;
(9) Use arbitration under chapter 658A to settle any
controversy arising out of any existing or future
lease;
(10) Set, charge, and collect reasonable fees in an amount
sufficient to defray the cost of performing or
otherwise providing for the inspection of activities
permitted upon the issuance of a land license
involving a commercial purpose;
(11) Appoint masters or hearing officers to conduct public
hearings as provided by law and under [such]
conditions as the board by rules shall establish;
(12) Bring [such] actions as may be necessary to remove or
remedy encroachments upon public lands. Any person
causing an encroachment upon public land shall:
  (A) Be fined not more than $1,000 a day for the first
offense;
(B) Be fined not less than $1,000 nor more than $4,000 per day upon the second offense and thereafter;

(C) If required by the board, restore the land to its original condition if altered and assume the costs thereof;

(D) Assume [such] the costs [as] that may result from adverse effects from [such] the restoration; and

(E) Be liable for administrative costs incurred by the department and for payment of damages;

(13) Set, charge, and collect interest and a service charge on delinquent payments due on leases, sales, or other accounts. The rate of interest shall not exceed one per cent a month and the service charge shall not exceed $50 a month for each delinquent payment; provided that the contract shall state the interest rate and the service charge and be signed by the party to be charged;

(14) Set, charge, and collect additional rentals for the unauthorized use of public lands by a lessee, licensee, grantee, or permittee who is in violation of
any term or condition of a lease, license, easement, or revocable permit, retroactive to the date of the occurrence of the violation. Those amounts shall be considered delinquent payments and shall be subject to interest and service charges as provided in paragraph (13);

(15) Set, charge, and collect reasonable fines for violation of this chapter or any rule adopted thereunder. Any person engaging in any prohibited use of public lands or conducting any prohibited activity on public lands, or violating any of the other provisions of this chapter or any rule adopted thereunder, for which violation a penalty is not otherwise provided, shall be:

(A) Fined not more than $5,000 per violation for a first violation or a violation beyond five years of the last violation; provided that, after written or verbal notification from the department, an additional $1,000 per day per violation may be assessed for each day in which the violation persists;
(B) Fined not more than $10,000 per violation for a second violation within five years of the last violation; provided that, after written or verbal notification from the department, an additional $2,000 per day per violation may be assessed for each day in which the violation persists;

(C) Fined not more than $20,000 per violation for a third or subsequent violation within five years of the last violation; provided that, after written or verbal notification from the department, an additional $4,000 per day per violation may be assessed for each day in which the violation persists; and

(D) Liable for administrative costs and expenses incurred by the department and for payment for damages, including but not limited to natural resource damages.

In addition to the fines, administrative costs, and damages provided for hereinabove, for damage to or theft of natural resources, the board may also set, charge, and collect a fine that, in its discretion, is
appropriate considering the value of the natural resource that is damaged or the subject of the theft. In arriving at an appropriate fine, the board may consider the market value of the natural resource damaged or taken and any other factor it deems appropriate, such as the loss of the natural resource to its natural habitat and environment and the cost of restoration or replacement. The remedies provided for in this paragraph are cumulative and in addition to any other remedies allowed by law.

No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii Constitution;

(16) Issue revenue bonds, subject to the approval of the legislature. All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this chapter. All revenue bonds shall be issued in the name of the department and not in the name of the
State. The final maturity date of the revenue bonds may be any date not exceeding thirty years from the date of issuance;

(17) Pledge or assign all or any part of the receipts and revenues of the department. The revenue bonds shall be payable from and secured solely by the revenue derived by the department from the industrial park or parks for which the bonds are issued;

(18) Reimburse the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of this chapter;

(19) Notwithstanding part II of chapter 205A to the contrary, plan, design, construct, operate, and maintain any lands or facilities under the jurisdiction of the division of boating and ocean recreation of the department without the need to obtain a special management area minor permit or special management area use permit; [and]

(20) Develop and enter into public-private partnerships for coastal land acquisition, beach management, reef
protection, and other activities that preserve coastal resources; and

(21) Do any and all things necessary to carry out its purposes and exercise the powers granted in this chapter."

SECTION 14. (a) The department of land and natural resources shall conduct a climate change resilience study. The study shall:

(1) Determine incentives that the State may implement to promote improved flood risk management in the State, particularly incentives that focus on driving action in the private sector;

(2) Identify existing and potential new areas for coastal wildlife refuges throughout the State to support:

(A) New wetlands that may form due to sea level rise; and

(B) Wildlife migration from other coastal areas, including the northwestern Hawaiian islands; provided that the list shall be developed in consultation with federal agencies, the counties, and nongovernmental organizations;
(3) Identify near-term and long-term shoreline conservation and restoration guidelines to support adaptation to sea level rise, including:

(A) Recommendations on the use of seawalls, floodwalls, bulkheads, revetments, and other shoreline armoring;

(B) Policies to restrict the use of variances for seawalls, floodwalls, bulkheads, revetments, and other shoreline armoring; and

(C) Ways to discourage the use of seawalls, floodwalls, bulkheads, revetments, and other shoreline armoring as an option for shoreline protection, including:

   (i) Adoption of policies that favor non-structural armoring, such as beach nourishment;

   (ii) Adoption of fees or lease payments for the use of shoreline armoring; and

   (iii) Use of county ordinances to require property owners to consider relocation of structures
before the property owner may consider

shoreline armoring; and

(4) Consider the feasibility of establishing a statewide
buy-out program for residential property owners
vulnerable to the effects of sea level rise.
Specifically, the department of land and natural
resources shall examine the feasibility of a program
modeled after the flood mitigation assistance grant
program of the Federal Emergency Management Agency.

In conducting the study, the department of land and natural
resources shall solicit comments from the public and hold at
least one public hearing.

(b) The department of land and natural resources shall
submit a report of its findings and recommendations, including
any proposed legislation, to the legislature no later than
twenty days prior to the convening of the regular session of
2021.

SECTION 15. (a) The office of conservation and coastal
lands of the department of land and natural resources shall
conduct a statewide assessment to prioritize beaches that are
important for:
(1) Recreational uses;

(2) Cultural practices; and

(3) Wildlife habitat.

(b) The office of conservation and coastal lands shall consult with the appropriate federal, state, and county-level agencies, nongovernmental organizations, and local stakeholders in conducting the assessment required by this section.

(c) The office of conservation and coastal lands shall identify beaches where special adaptation measures, such as preservation of undeveloped lands, managed retreat, and prohibition of coastal armoring, may be implemented to ensure survival of the identified beaches.

(d) The office of conservation and coastal lands shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2022.

PART VII

SECTION 16. The purpose of this part is to implement parts of the Hawai‘i sea level vulnerability and adaptation report relating to the office of Hawaiian affairs.
SECTION 17. (a) The office of Hawaiian affairs shall establish a coastal lands and water adaptation working group that shall consult with members of the Native Hawaiian community to develop adaptation plans to preserve access to coastal lands and water impacted by sea level rise.

(b) The coastal lands and water adaptation working group shall include:

(1) The chief executive officer of the office of Hawaiian affairs or the chief executive officer's designee;

(2) The chair of the department of Hawaiian home lands or the chair's designee;

(3) The chair of the aha moku advisory committee or the chair's designee;

(4) Three persons having a background in native Hawaiian cultural practices; provided that the speaker of the house of representatives, the president of the senate, and the governor shall each appoint one person pursuant to this paragraph; and

(5) Three persons having a background in climate change science; provided that the speaker of the house of representatives, the president of the senate, and the
governor shall each appoint one person pursuant to
this paragraph.

(c) The coastal lands and water adaptation working group
members shall select the working group chairperson from among
its members.

(d) The coastal lands and water adaptation working group
shall use data from the Hawai‘i sea level rise vulnerability and
adaptation report to conduct its duties.

(e) The members of the working group shall serve without
compensation but shall be reimbursed for expenses, including
travel expenses, necessary for the performance of their duties.

(f) The coastal lands and water adaptation working group
shall submit a report of its findings and recommendations,
including any proposed legislation, to the legislature no later
than twenty days prior to the convening of the regular session
of 2023.

PART VIII

SECTION 18. The purpose of this part is to implement
portions of the Hawai‘i sea level vulnerability and adaptation
report that relate to the department of health.
SECTION 19. (a) The department of health shall conduct a sea level rise mitigation review. The review shall:

(1) Identify sites or geographic areas having the highest probability of large or catastrophic failures or releases associated with increased coastal flooding due to sea level rise. In conducting this part of the review, the department of health shall:

(A) Review existing permits, site records, and agency files;

(B) Conduct a thorough review of hazardous material and waste storage facilities within sea level rise exposure areas; and

(C) Develop hazard mitigation measures that landowners, permittees, and operators of the identified sites or geographic areas can use to address the threats from sea level rise; and

(2) Conduct a comprehensive review and gap analysis of the State's laws, existing environmental regulations, guidance documents, and best management practices relating to the construction, maintenance, and mitigation of underground storage tanks, on-site
sewage disposal systems or wastewater treatment, and hazardous materials and waste storage facilities. The review and gap analysis shall focus on:

(A) Existing regulations that allow for siting new facilities in flood hazard prone areas;

(B) Monitoring or enforcement of existing vulnerable systems and facilities; and

(C) Identifying recommendations for changes and improvements to current regulations, guidance, and statutes for future updates.

(b) For purposes of this section, "sea level rise exposure area" means a sea level rise exposure area identified and officially designated by the Hawaii climate change mitigation and adaptation commission or its successor.

(c) The department of health shall submit an interim progress report to the legislature no later than twenty days prior to the convening of the regular sessions of 2021, 2022, and 2023, and a final report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2024.
SECTION 20. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2020-2021 for the department of health to conduct a sea level rise mitigation review.

The sum appropriated shall be expended by the department of health for the purposes of this part.

PART IX

SECTION 21. The purpose of this part is to implement parts of the Hawaii sea level vulnerability and adaptation report relating to the Hawaii climate change mitigation and adaptation commission.

SECTION 22. Section 225P-3, Hawaii Revised Statutes, is amended to read as follows:

"§225P-3 Hawaii climate change mitigation and adaptation commission; general functions, duties, and powers. (a) There is established the Hawaii climate change mitigation and adaptation commission that shall be placed within the department of land and natural resources for administrative purposes only.

(b) Coordination of the commission shall be headed jointly by the chairperson of the board of land and natural resources,
or the chairperson's designee, and the director of the office of planning, or the director's designee.

(c) The commission shall include the following members:

(1) The chairs of the standing committees of the legislature [with] having subject matter jurisdiction encompassing environmental protection and land use;

(2) The chairperson of the board of land and natural resources or the chairperson's designee, who shall be [the] a co-chair of the commission;

(3) The director of the office of planning or the director's designee, who shall be [the] a co-chair of the commission;

(4) The director of business, economic development, and tourism or the director's designee;

(5) The chairperson of the board of directors of the Hawaii tourism authority or the chairperson's designee;

(6) The chairperson of the board of agriculture or the chairperson's designee;

(7) The chief executive officer of the office of Hawaiian affairs or the officer's designee;
(8) The chairperson of the Hawaiian homes commission or the chairperson's designee;

(9) The director of transportation or the director's designee;

(10) The director of health or the director's designee;

(11) The adjutant general or the adjutant general's designee;

(12) The chairperson of the board of education or the chairperson's designee;

(13) The directors of each of the county planning departments, or the directors' designees; and

(14) The manager of the coastal zone management program.

(d) In addition to the members listed in subsection (c), the chairs of the commission may request the participation or input of members of the public; experts in the field; and county, state, or federal officials or others as necessary.

(e) The members of the commission shall serve without pay but shall be reimbursed for their actual and necessary expenses, including travel expenses, incurred in carrying out their duties.
(f) The commission shall provide policy direction, facilitation, coordination, and planning among state and county agencies, federal agencies, and other partners as appropriate.

(g) The commission shall establish climate change mitigation and adaptation strategies and goals to help guide planning and implementation statewide using the latest scientific analysis and risk assessment to monitor and forecast climate change related impacts at the regional, state, and local level, including any additional information deemed necessary.

(h) The commission shall identify vulnerable people, communities, industries, ecosystems, and the potential economic ramifications for climate change related impacts.

(i) The commission shall identify existing climate change mitigation and adaptation efforts at the federal, state, and local levels and make recommendations for how to meet or exceed Hawaii's state mitigation goals and shall adopt a liberal approach in preparation, so as to minimize future risk to the people and environment of Hawaii.

(j) The commission shall assess the capacity and availability of existing resources and identify new sources of revenue necessary to address climate change mitigation and
adaptation and shall advise the governor, legislature, and counties on the economic and budgetary ramifications of climate change impacts, mitigation, and adaptation.

(k) The commission shall identify the information necessary to track progress in implementing climate change mitigation and adaptation efforts, including an assessment of the implementation of the priorities identified by the report pursuant to subsection (n)(6), and shall submit an annual report to the governor and legislature no later than twenty days prior to the convening of each regular session of the legislature.

(l) The commission shall maintain a website that includes a mission statement as well as access to climate change related actions, plans, policies, and results.

(m) The commission shall conduct a comprehensive review of the implementation as required by this section and submit a report to the governor, legislature, and the counties no later than twenty days prior to the convening of the regular session of 2023 and every five years thereafter.

(n) The commission [shall], as a first step, shall focus on and develop sea level rise vulnerability and adaptation reports that shall include:
(1) Identification of the major areas of sea level rise impacts affecting the State and counties through 2050;
(2) Identification of expected impacts of sea level rise based on the latest scientific research for each area through 2050;
(3) Identification of the economic ramifications of sea level rise;
(4) Identification of applicable federal laws, policies, or programs that impact affected areas; [and]
(5) Recommendations for planning, management, and adaptation for hazards associated with increasing sea level rise[; and]
(6) Priorities derived from the recommendations developed pursuant to paragraph (5) and related data that convert the ideas and recommendations into specific actions that state and county agencies can use to mitigate and adapt to climate change and sea level rise.

The reports shall be made publicly available [no later than December 31, 2017,] and the commission shall establish a schedule to reevaluate and update the sea level rise.
vulnerability and adaptation report; provided that the
commission shall reevaluate and update the sea level rise
vulnerability and adaptation report no less than once every five
years. In creating a reevaluation schedule, the commission
shall consider the need to update coastal hazards modeling based
on the extent that new modeling would substantially change
exposure and vulnerability in sea level rise exposure areas.

(o) In developing the report, pursuant to subsection (n),
including updated versions of the report, the commission shall:

(1) Solicit public views and concerns; [and]

(2) Coordinate with the various county, state, and federal
agencies involved in ongoing climate change adaptation
planning initiatives;

(3) Convene multisectoral experts to identify, research,
assess, and monitor priorities to support the update
process; and

(4) Develop a monitoring and evaluation plan with
benchmarks and indicators to support the update
process.
(p) The commission shall coordinate community engagement among its member agencies to raise awareness of the impacts of sea level rise. Community engagement strategies may include:

(1) Community-based planning to educate communities on their risk to sea level rise;

(2) Creation of a software application to visualize sea level rise based on geolocation and projections;

(3) Development of photo simulations to depict potential future flooding due to climate change and sea level rise; and

(4) Coordination with museums, science centers, schools, and other organizations to educate communities about sea level rise and its impacts."

PART X

SECTION 23. In codifying the new sections added by section 8 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 24. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 25. This Act shall take effect on July 1, 2050.
Report Title:
State; Counties; Climate Change; Sea Level Rise Mitigation; Appropriation

Description:
Implements the recommendations of the Hawaii Sea Level Rise Vulnerability and Adaptation Report issued by the Hawaii Climate Change Mitigation and Adaptation Commission. Makes an appropriation to the Department of Health to conduct a sea level rise mitigation review and report to the Legislature. Effective 7/1/2050. (HD1)

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