

JAN 19 2023

A BILL FOR AN ACT

RELATING TO SPECIAL MANAGEMENT AREAS.

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

1 SECTION 1. The legislature finds that targeted amendments
2 to the definition of "development" as it relates to special
3 management areas will promote, not undercut, the environmental
4 controls and quality that special management area regulations
5 are intended to protect. Currently, the broad definition of
6 "development" coupled with rising labor and materials costs can
7 result in a special management area use permit review being
8 required for improvements, facilities, and incidental structures
9 that may not warrant such intense scrutiny and the associated
10 costs and delays that go along with it.

11 The legislature further finds that exclusions from the
12 special management area definition of "development" are
13 desirable for the following activities:

14 (1) Installation, maintenance, repair, and replacement of
15 public pedestrian and bicycle facilities to reduce
16 reliance on vehicles;



1 (2) Trash removal, invasive vegetation removal or control,
2 and fencing for invasive species control or
3 preservation of native habitats to improve the quality
4 of the environment;

5 (3) Installation, maintenance, repair, and replacement of
6 lighting, fixtures, and equipment to comply with
7 standards at public facilities, including health and
8 safety standards, to protect native seabird
9 populations and reduce light pollution; and

10 (4) Installation, maintenance, repair, and replacement of
11 security measures for existing public facilities.

12 The purpose of this Act is to expand exclusions to the
13 definition of "development" in chapter 205A, Hawaii Revised
14 Statutes, to reduce the need for special management area permits
15 for certain activities.

16 SECTION 2. Section 205A-22, Hawaii Revised Statutes, is
17 amended by amending the definition of "development" to read as
18 follows:

19 ""Development" [~~means~~]:



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

4 ~~[(1)]~~ (A) Placement or erection of any solid material
5 or any gaseous, liquid, solid, or thermal waste;

6 ~~[(2)]~~ (B) Grading, removing, dredging, mining, or
7 extraction of any materials;

8 ~~[(3)]~~ (C) Change in the density or intensity of use of
9 land, including but not limited to the division
10 or subdivision of land;

11 ~~[(4)]~~ (D) Change in the intensity of use of water,
12 ecology related thereto, or of access thereto;
13 and

14 ~~[(5)]~~ (E) Construction, reconstruction, or alteration
15 of the size of any structure.

16 ~~["Development" does]~~ (2) Does not include the following:

17 ~~[(1)]~~ (A) Construction or reconstruction of a
18 single-family residence that is less than ~~[seven~~
19 ~~thousand five hundred]~~ five thousand square feet
20 of floor area~~[7]~~; is not situated on a shoreline
21 parcel or a parcel that is impacted by waves,



- 1 storm surges, high tide, or shoreline erosion~~[7]~~;
- 2 and is not part of a larger development;
- 3 ~~[(2)]~~ (B) Repair or maintenance of roads and highways
- 4 within existing rights-of-way;
- 5 ~~[(3)]~~ (C) Routine maintenance dredging of existing
- 6 streams, channels, and drainage ways;
- 7 ~~[(4)]~~ (D) Repair and maintenance of underground
- 8 utility lines, including but not limited to
- 9 water, sewer, power, and telephone and minor
- 10 appurtenant structures such as pad mounted
- 11 transformers and sewer pump stations;
- 12 ~~[(5)]~~ (E) Zoning variances, except for height,
- 13 density, parking, and shoreline setback;
- 14 ~~[(6)]~~ (F) Repair, maintenance, or interior alterations
- 15 to existing structures;
- 16 ~~[(7)]~~ (G) Demolition or removal of structures, except
- 17 those structures located on any historic site as
- 18 designated in national or state registers;
- 19 ~~[(8)]~~ (H) Use of any land for the purpose of
- 20 cultivating, planting, growing, and harvesting
- 21 plants, crops, trees, and other agricultural,



1 horticultural, or forestry products or animal
2 husbandry, or aquaculture or mariculture of
3 plants or animals, or other agricultural
4 purposes~~[7]~~, including all traditional fishpond
5 and traditional agricultural practices;

6 ~~[(9)]~~ (I) Transfer of title to land;

7 ~~[(10)]~~ (J) Creation or termination of easements,
8 covenants, or other rights in structures or land;

9 ~~[(11)]~~ (K) Subdivision of land into lots greater than
10 twenty acres in size;

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

18 ~~[(13)]~~ (M) Installation of underground utility lines
19 and appurtenant aboveground fixtures less than
20 four feet in height along existing corridors;



1 ~~[-14-]~~ (N) Structural and nonstructural improvements
2 to existing single-family residences, where
3 otherwise permissible;

4 ~~[-15-]~~ (O) Nonstructural improvements to existing
5 commercial or noncommercial structures; ~~[and~~

6 ~~[-16-]~~ (P) Construction, installation, maintenance,
7 repair, and replacement of emergency management
8 warning or signal devices and sirens;

9 (Q) Installation, maintenance, repair, and
10 replacement of public pedestrian and bicycle
11 facilities, including sidewalks, paths, bikeways,
12 crosswalks, stairs, ramps, traffic control
13 barriers, signs, signals, and associated
14 improvements;

15 (R) Trash removal or invasive vegetation removal or
16 control, excluding the use of herbicides;

17 (S) Installation of fencing, including associated
18 improvements and incidental structures, for
19 invasive species control or preservation of
20 native habitats on conservation land;



1 (T) Installation, maintenance, repair, and
 2 replacement of lighting, fixtures, and equipment
 3 to establish compliance with current standards at
 4 existing public facilities;

5 (U) Installation, maintenance, repair, and
 6 replacement of security measures, including
 7 fencing, to existing public facilities; and

8 (V) Traditional and customary practices, including
 9 work conducted by traditional means near, in, or
 10 related to loko i`a, traditional Hawaiian
 11 fishponds;

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 SECTION 3. This Act does not affect rights and duties that
 18 matured, penalties that were incurred, and proceedings that were
 19 begun before its effective date.

20 SECTION 4. Statutory material to be repealed is bracketed
 21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____
By Request



S.B. NO. 207

Report Title:

Hawaii State Association of Counties Package; Special Management Areas; Land Use

Description:

Expands exclusions to the definition of "development" for purposes of special management areas to reduce the need for special management area permits for certain activities.

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