

LATE TESTIMONY

Report Title:

Shoreline Setback

Description:

Allows the BLNR to establish interim construction moratoriums to protect development from coastal hazards, to conserve and protect beach lands, to preserve recreational uses of coastal resources, or to minimize future impacts to the coastal ecosystem.

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

H.B. NO. 593

A BILL FOR AN ACT

RELATING TO SHORELINE SETBACKS.

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

SECTION 1. The legislature finds that beaches are unique assets of the State that are the product of a decades-long natural process of erosion and accretion. As an example, for the past several decades, the beachfront of Kailua beach has increased to the benefit of beach users from around the State and the nation. Kailua beach is special within the State, as one of only a few beaches that is fully urban, accreting, and entirely unarmored. However, this asset remains subject to erosion related to sand deficiencies at Kailua beach park, as well as future impacts related to sea-level rise. Because the southern end of Kailua beach is now subject to long-term erosion, which is migrating northward with time, it is

perspective, it is more effective for either one agency to steward the entire resource, or multiple agencies to follow a single integrated management plan for the entire resource. As there are currently no shoreline structures on Kailua beach, with the exception of the boat ramp and ancillary structures at the south end of the beach, there is a significant opportunity to proactively and comprehensively manage the coastal sediment and environmental systems from the nearshore waters to the mauka extent of the shoreline setback area in the best interest of the coastal landowners, public, resource, State, and City and County of Honolulu. Such a comprehensive shoreline management scheme will not affect ownership of private property nor dictate the issuance of building permits from the city and county of Honolulu's department of planning and permitting, in conformance with special management area ordinances.

The purpose of this Act is to preserve beaches for the use and enjoyment of future generations.

Section 2. Chapter 205A, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

"§205A- Construction moratorium. (a) Notwithstanding any other law to the contrary, the board of land and natural resources, pursuant to Chapter 92, HRS may establish an interim coastal construction moratorium in an area or region where in

the opinion of the department of land and natural resources the following has occurred:

1. Since the establishment of the shoreline setback pursuant to section 205A-43, HRS the shoreline has shown evidence of migration through accretion or erosion;
2. Due to the migration of the shoreline, the shoreline setback established pursuant to section 205A-43, HRS may not offer adequate long-term protection of beach resources, public access, and coastal communities; and
3. An interim coastal construction moratorium, through a coastal construction control line, is deemed appropriate to protect development from coastal hazards, to conserve and protect beach lands, to preserve recreational uses of coastal resources, or to minimize future impacts to the coastal ecosystem.

(b) The interim coastal construction moratorium shall not apply to a development for which all necessary building permits have been approved.

(c) Any interim coastal construction moratorium established pursuant to this section shall expire on June 1, 2011."

SECTION 3. Prior to the sunset date of the interim coastal construction moratorium, the Department of Land and Natural

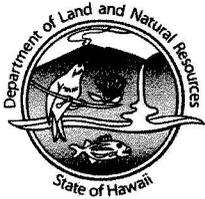
Resources and University of Hawaii, in consultation with the applicable agency(s), shall make recommendations for future actions for the protection and management of beaches in which an interim coastal construction moratorium has been established pursuant to this chapter.

Section 4. New statutory material is underscored.

Section 5. This Act shall take effect upon its approval and shall be repealed on June 1, 2011.

INTRODUCED BY: _____

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the House Committee on
WATER, LAND, AND OCEAN RESOURCES**

**Friday, February 06, 2009
9:15 AM**

State Capitol, Conference Room 325

**In consideration of
HOUSE BILL 593
RELATING TO SHORELINE SETBACKS**

House Bill 593 directs the Board of Land and Natural Resources to adopt rules for determining the shoreline setback and mauka extent of the conservation district for Kailua Beach and establishes an interim coastal construction setback line. The Department of Land and Natural Resources (Department) supports this bill to provide sorely needed protection for defined types of beaches and shorelines, including Kailua Beach.

The Department recognizes the need to address shoreline setback determinations in a comprehensive, resource and place based approach. The Department understands that the potential impacts of future coastal erosion and sea-level rise necessitate planning beyond current environmental parameters. As such, the Department affirms the importance of proactively working toward a stewardship plan that benefits affected landowners, the resource, the State, and the City and County of Honolulu.

Currently, the Department is working with the University of Hawaii and private consultants on a project to create a long-term, comprehensive management plan for Kailua Beach. The Management Plan will be vetted through both the local community and the City and County Department of Planning and Permitting, to ensure its efficacy as a resource and location based planning document.

This bill will be an effective aid in halting the potentially hazardous seaward creep of shoreline developments until the project is complete.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

BEACH ACCESS HAWAII

www.beachaccesshawaii.org

Contact: Rich Figel
801 Kainui Drive, Kailua, HI 96734

Phone: (808) 262-5073
Email: richfigel@gmail.com

Date: Feb. 3, 2009

To: House Water, Land & Ocean Resources Committee

Re: TESTIMONY IN STRONG SUPPORT OF HB593

Aloha Chair Ken Ito and Vice-Chair Sharon Har,

As co-founder of Beach Access Hawaii, a group that represents hundreds of concerned residents, I implore the committee to approve this measure in order to protect Kailua Beach.

I live in Kailua and became alarmed last year when I saw a house on Namala Place being built much closer to the ocean than the old house that used to be on the lot. It cut off the view of the adjacent home, and I predicted other owners would soon do the same if nothing was done about the current setback requirements.

Not long after that, another new home was built on Laiki Place, much closer to the ocean than the surrounding older homes. And now there is a third house being re-built closer to the sea down by the house that President Obama stayed in while vacationing here.

We've seen what happens when houses are allowed to be built close to the ocean in Lanakai and on Kahala Beach. The homeowners will grow naupaka and other vegetation in front of their houses to grab more beach land for themselves, and in the process they will interfere with the natural sand dunes that used to be there. That in all likelihood will accelerate the rate of beach erosion. Then those same homeowners will say they need to build seawalls, which only make matters worse.

The Honolulu City Council has been derelict in its duties to protect Oahu's shorelines. We need stronger setback requirements enacted on this island before it's too late. This bill will at least buy a little time to address the very real problem of erosion and potential sea level rise.

Thanks for your time and consideration!

Sincerely,

Rich Figel

Testimony for HB593 on 2/6/2009 9:15:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 05, 2009 4:40 PM

To: WLOtestimony

Cc: [REDACTED]

LATE TESTIMONY

Testimony for WLO 2/6/2009 9:15:00 AM HB593

Conference room: 325

Testifier position: support

Testifier will be present: Yes

Submitted by: Chip Fletcher

Organization: Individual

Address:

Phone: [REDACTED]

E-mail: [REDACTED]

Submitted on: 2/5/2009

Comments:

Support as amended by state agencies.

Testimony for HB593 on 2/6/2009 9:15:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 05, 2009 4:35 PM

To: WLOtestimony

Cc: [REDACTED]

Attachments: Aloha Lawmakers.doc (24 KB)

LATE TESTIMONY

Testimony for WLO 2/6/2009 9:15:00 AM HB593

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: John Stallings

Organization: Individual

Address: [REDACTED]

Phone: [REDACTED]

E-mail: [REDACTED]

Submitted on: 2/5/2009

Comments:

Aloha Lawmakers,

During the past number of years, more and more of Hawaii's beaches, our most precious resource, is be stolen by private landowners. I strongly oppose these practices and encourage you to act quickly to protect the beaches and the accesses to the beaches.

Please vote for the following:

HB1447

HB593

HB1808

Mahal for your Kokua, let's do the right thing for the keiki.

Aloha Mr. Ito, Al Gonzales in Kailua - Re: Senate Bill 593

Al Gonzales [al@808ebiz.com]

Sent: Thursday, February 05, 2009 3:50 PM

To: WLOtestimony

Cc: John Foster; Rep. Cynthia Thielen

LATE TESTIMONY

Testimony on Senate Bill 593

Hearing Date: Feb. 6, 2009

To: Committee on Water, Land, and Ocean Resources,
Committee Chairman: Representative Ken Ito

From: Al Gonzales, concerned resident of Kailua, Hawai`i

I support Senate Bill 593.

It's about time that someone has introduced legislation like Senate Bill 593. That is the first step in the right direction. However, the ongoing erosion of Kailua Beach will not be stopped by this bill, only. It is a well known fact, especially to we kupuna, that the problem lies with man and NOT Mother Nature. Also, to solve the erosion of Kailua Beach you need to look up-current, mostly in Lanikai.

I am almost 70 years old and have been lucky enough to have lived in the "old" and the "new" Hawai`i. When I was born, we lived in Waikiki where the Hilton Lagoon now stands. My playground was Waikiki Beach in the mid-1940's and the early 1950's. Waikiki beach was 3 times the size it is now. A sandy beach extended from where the Hawaiian Village is, today, all the way to the Natatorium.

As the years went by, the beach dwindled in size as breakwaters, seawalls, etc. were installed to protect hotels that were built too close to the ocean, in the first place. I still remember some of the kupuna, whose roots went back generations in Waikiki, saying that the result would be the eventual loss of all of the sand in Waikiki. Nobody listened!

I still remember, the family that had a hukilau net and used it to fish, a couple of times a week, offshore of where the "wall" now stands. It was sandy back then! When my friends and I used to go diving off of Waikiki it was all sand, with only a few rocks and reefs visible. Now, it all rocky and most of the reef is exposed.

When we moved to Kailua in 1954, you could walk from Lanikai Point to the end of Lanikai and sometimes all the way to Bellows. Of course, during the different season the sand would migrate from Lanikai to Kailua then back again.

Here is an excerpt from a study done concerning Kailua and Lanikai Beaches:

Annual and interannual changes on a reef-fringed pocket beach: Kailua Bay, Hawaii

References and further reading may be available for this article. To view references and further reading you must purchase this article.

Zoe M. Norcross^{✉, ✉, a}, **Charles H. Fletcher**^{✉, a} and **Mark Merrifield**^{✉, b}

^a Department of Geology and Geophysics, School of Ocean and Earth Science and Technology, University of Hawaii, 1680 East-West Road, Honolulu, HI 96822, USA

^b Department of Oceanography, School of Ocean and Earth Science and Technology, University of Hawaii, 1000 Pope Road, Honolulu, HI 96822, USA

Received 11 May 2001;

revised 20 June 2002;

accepted 19 July 2002.

Available online 28 September 2002.

Abstract

Historical aerial photographs and topographic survey sheets are used to establish a 70-year shoreline history (1926–1996) for Kailua Beach, Oahu, Hawaiian Islands. The shoreline has migrated seaward over this period at an average rate of 0.5 m/yr, with a maximum net accretion along the beach of 58.7 m and a maximum net erosion of –13.2 m. Net accretion has taken place even while sea levels have risen on the order of 0.1 m. Semi-annual and monthly beach profile surveys (1995–1999) at seven transects reveal short-term variations of shoreline position, sand volume, and beach shape. A relationship between beach width and corresponding sand volume fluctuations, established from the beach profile data, is applied to the historical shoreline change data to establish a history of sand volume fluctuations. Results show that Kailua has experienced a net accretion of 673 000 m³ of sand over the period 1926–1996, with average annual rates of volume change varying between 6.8 m³/m/yr and –0.1 m³/m/yr. The most recent period (1989–1996) shows a net volume increase of 41 000 m³. Given the lack of sand inputs at the ends of the beach, exchange with offshore deposits is a likely mechanism for long-term accretional trends. Seasonal fluctuations in Kailua Beach morphology dominate the variability with a response to seasonal wave state that varies along the length of the beach in magnitude and sign. At least four alongshore zones are observed, with the first and third zones exhibiting high/low sand volumes

during the summer/winter, and the second and fourth zones exhibiting opposite behavior with high/low volumes during the winter/summer. Although seasonal sand accumulation varies along the beach, the overall beach profile is largely maintained. Moreover, changes in sand volume occur in phase over the subaqueous and subaerial sections of the beach. This behavior suggests that longshore rather than cross-shore sand transport is important at annual time scales. A simple seasonal transport pattern is proposed to account for these observed fluctuations, which depends in part on the topography of the offshore reef

According to this report the beaches actually grew, up until 1996, despite the fact the sea level was increasing over this time period. As soon as homeowners, in Lanikai, started building sea walls, hardened structures, etc., the sand in Lanikai started moving to Kailua Beach. What these structures did was prevent the sand from returning and replenishing Lanikai Beach.

Senate Bill 593 is a great step in the right direction. The next step is to resolve the problem at its source, up-current at Lanikai Beach. If all of the man-made structures, erected since the mid-1990's were removed, the beaches would come back. It would be even better if ALL of the structures since 1960 were removed. Same goes for Waikiki Beach. The problems of Waikiki are up-current, also.

Google "Kailua Beach Erosion", there are numerous reports, books, etc. on the subject. Also, go to books.google.com and see the tons of stuff on the subject. There is stuff that has been written about "longshore transport", since the 50's and the 60's.

Back in 1983, Chairman of the Oceanography Department, E.D. Stroup, said: "Mess with longshore transport and you'll pay a price." In this case, the price is dear.

Mahalo,
Al Gonzales
Cell: 808-282-5620
eMail: al@808ebiz.com

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LATE TESTIMONY



OFFICE OF HAWAIIAN AFFAIRS
Legislative Testimony

HB 593, RELATING TO SHORELINE SETBACKS

House Committee on Water, Land, & Ocean Resources

February 6, 2009

9:15 a.m.

Room: 325

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB593, which would direct the Board of Land and Natural Resources (BLNR) to adopt rules for determining the shoreline setback and mauka extent of the conservation district for Kailua Beach, instead of the City and County of Honolulu, and would establish an interim coastal construction setback line for Kailua Beach.

While OHA supports the intent of this bill in terms of better coastal management and a limit for construction at Kailua Beach for beach preservation purposes, we are unsure that the BLNR, at the state level instead of the local level as is traditional for shoreline setback determinations, is the appropriate agency to do this.

OHA notes that Congress declared a national policy in the Coastal Zone Management Act (CZMA) to "restore or enhance the resources of the Nation's coastal zone for this and succeeding generations." The federal CZMA enables Hawai'i and its Office of Planning to ensure that proposed federal activities are consistent with state coastal protections. The federal government acknowledges that because of our proximity to, and reliance upon, the ocean and its resources, Hawai'i has substantial and significant interest in the protection, management, and development of our coastal resources. We fully agree that Kailua is a "unique asset" of our state; in fact we feel that all beaches are unique assets of this state that now, more than ever, require greater attention and care.

It is vital that these areas be managed with local expertise and that neither Kailua, nor any other subsequent portion of our shorelines, be managed with a patchwork approach. OHA is concerned that this bill will create different areas - such as conservation vs. non-conservation districts - in Kailua that will have differing authorities, jurisdictions and rules.

Counties have been delegated the authority to create such things as shoreline setbacks because they have the most authority and expertise to deal with the areas they are most familiar with.

Therefore, OHA urges the Committee to HOLD HB 593. Thank you for the opportunity to testify.

Testimony for HB593 on 2/6/2009 9:15:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 05, 2009 9:10 PM

To: WLOtestimony

Cc: robertharris@mac.com

Attachments: HB 593 - Protection of Kai~1.pdf (211 KB)

LATE TESTIMONY

Testimony for WLO 2/6/2009 9:15:00 AM HB593

Conference room: 325

Testifier position: support

Testifier will be present: Yes

Submitted by: Robert D. Harris

Organization: Sierra Club, Hawai`i Chapter

Address: P.O. Box 2577 Honolulu, HI

Phone: 8085386616

E-mail: robertharris@mac.com

Submitted on: 2/5/2009

Comments:



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.537.9019 hawaii.chapter@sierraclub.org

LATE TESTIMONY

HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

February 6, 2009, 9:15 A.M.

(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF HB 593

Chair Ito and members of the Committees:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports HB 593, creating a pilot project to demonstrate an appropriate model to preserve our "jewel" public beaches from erosion. The Sierra Club suggests one amendment to ensure Kailua Beach is preserved for our keiki.

Kailua is consistently rated one of the top beaches in the world and is plainly one of the premier beaches on O`ahu. This bill showcases Kailua as a "new" methodology to preserve our beaches, specifically directing two specific concepts to protect our natural sand dunes, which are critical to prevent loss of sand and eventual hardening of our beaches.

First, HB 539 contemplates a managed retreat from the shoreline by establishing a temporary shoreline setback until a new setback can be adopted by rule. Given the realities of sea level rise caused by global climate change and the accompanying loss of shoreline-protecting coral reef, a policy of "managed retreat" makes the most sense to protect private property, taxpayers, and public shoreline. Setting an appropriate setback from the shoreline for new construction or redevelopments is the best managed retreat strategy for Hawai'i.

HB 539, however, does not go far enough. The Sierra Club suggests a complete moratorium on *all* development until BLNR adopts new rules for determining the shoreline. This makes sense -- if BLNR is truly tasked with the responsibility of protecting Kailua Beach, it must be given time to act before further construction is allowed.

Second, HB 593 attempts to avoid varying responsibility and disputes for the different beach zones and places control over the entire shoreline area under BLNR. This ensures no one can “pass the buck” and that one agency is squarely responsible for protecting the public beach.

This measure is a model for protecting our beaches that is, fittingly enough, based upon the ancient ahupua`a system. Sometimes to move into the future, you must look to the past? We strongly encourage you to pass this bill on for further hearing, as amended above.

Thank you for the opportunity to testify.

LATE TESTIMONY

Testimony for HB593 on 2/6/2009 9:15:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 05, 2009 8:38 PM

To: WLOtestimony

Cc: sipolanco@hotmail.com

Testimony for WLO 2/6/2009 9:15:00 AM HB593

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Susan Polanco de Couet

Organization: Individual

Address: [REDACTED]

Phone: [REDACTED]

E-mail: [REDACTED]

Submitted on: 2/5/2009

Comments:

I support a statewide set-back policy and examination of a statewide rolling set-back policy. We should also study the impacts on our nearshore infrastructure...roads, sewers, parks.

Thank you,
Susan Polanco de Couet

LATE TESTIMONY

TESTIMONY IN SUPPORT OF HOUSE BILL 593

**To: Chair Ken Ito
House Committee on Water, Land and Ocean Resources (WLO)**

**From: Leslie M. Tomasa
Kailua Resident**

Date: February 6, 2009

**Re: Testimony in Support of House Bill 593 Relating to Shoreline Setback,
Kailua Beach**

Good morning Chair Ito, Vice Chair Har and Committee members.

My name is Leslie Tomasa and I am testifying in support of House Bill 593.

I was raised in Kailua and spent 59 years of my life enjoying our wonderful beach – fishing, diving, and, at some point in time, camping over night on the beach and on Flat Island as well. My children have also been fortunate enough to enjoy the benefits of this wonderful beach.

Unfortunately, time has taken a toll on our beach due to changes-both man made and by Mother Nature. Unfortunately, we cannot control Mother Nature but we CAN control man-made actions. It is for this reason that I urge you to pass House Bill 593 and please move quickly to prevent further beach erosion and to start replenishing the Aina that my grandchildren can also enjoy.

Thank you for allowing me to testify in support of House Bill 593.

LATE TESTIMONY

TESTIMONY IN SUPPORT OF HOUSE BILL 593

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