

JAN 28 2015

A BILL FOR AN ACT

RELATING TO THE MANAGEMENT OF OCEAN RESOURCES.

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

1 SECTION 1. The legislature finds that the State has
2 historically relied on the federal government to pay for state
3 personnel performing duties relating to the State's
4 co-management of the Hawaiian islands humpback whale national
5 marine sanctuary and the Papahānaumokuākea marine national
6 monument. This situation has created a perception that a
7 conflict of interests may prevent the federally funded state co-
8 managers from adequately representing the interests of the
9 State. Further, for the past several years the federal
10 government has reduced funding for the state co-manager
11 positions and federal funding will be eliminated for the
12 upcoming fiscal year.

13 The purpose of this Act is to:

- 14 (1) Establish the Hawaiian islands humpback whale national
15 marine sanctuary program within the department of land
16 and natural resources;



(2) Establish the Papahānaumokuākea marine national monument program within the department of land and natural resources;

(3) Establish the co-managed marine area special fund within the state treasury; and

(4) Appropriate funds to the co-managed marine area special fund to initially support the programs to provide sufficient time for moneys to be deposited into the special fund for the administration and management of the programs.

PART I

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER A

HAWAIIAN ISLANDS HUMPBACK WHALE NATIONAL MARINE SANCTUARY

§A-1 Purpose. The purpose of this chapter is to establish the Hawaiian islands humpback whale national marine sanctuary program to coordinate and fulfill the State's role and responsibility in co-managing the Hawaiian islands humpback whale national marine sanctuary.



1 §A-2 Definitions. As used in this chapter:

2 "Board" means the board of land and natural resources.

3 "Department" means the department of land and natural
4 resources.

5 "Fund" means the co-managed marine area special fund.

6 "Monument" shall have the same meaning as in section B-2.

7 "Monument program" shall have the same meaning as in
8 section B-2.

9 "Sanctuary" means the Hawaiian islands humpback whale
10 national marine sanctuary as designated by Congress in the 1992
11 Hawaiian Islands National Marine Sanctuary and Protection Act
12 (Subtitle C of Public Law 102-587, as amended by Public Law 104-
13 283) and as may be amended or renamed in accordance with the
14 five-year sanctuary management plan review process established
15 by section 304(e) of the Marine Protection, Research, and
16 Sanctuaries Act of 1972, as amended (16 U.S.C. 1434), title III
17 of which Act is known as the National Marine Sanctuaries Act (16
18 U.S.C. 1431-1445c).

19 "Sanctuary program" means the Hawaiian islands humpback
20 whale national marine sanctuary program.



1 **SA-3 Lead agency to co-manage sanctuary.** The department
2 is designated as the lead state agency to co-manage the
3 sanctuary in accordance with the National Marine Sanctuaries Act
4 and a compact agreement between the State and the National
5 Oceanic and Atmospheric Administration regarding the management
6 of the sanctuary. As the lead agency, the department shall
7 conduct its stewardship responsibility for managing,
8 administering, and exercising control over lands, waters, and
9 natural resources within the State's jurisdiction.

10 **SA-4 Sanctuary program.** The Hawaiian islands humpback
11 whale national marine sanctuary program is established and
12 placed within the department to coordinate and fulfill the
13 State's management responsibilities with regard to the
14 sanctuary. The sanctuary program may:

- 15 (1) Issue permits as consistent with applicable state laws
16 to fulfill its responsibilities;
- 17 (2) Provide advice and recommendations to the governor,
18 the department, and other state departments and
19 agencies on matters relating to the management of the
20 sanctuary;



(3) Adopt rules in accordance with chapter 91 to effectuate the purposes of this chapter; and

(4) Solicit and accept grants, donations, and contributions to support the purposes of this chapter.

§A-5 Fees. The department may charge fees pursuant to a schedule of fees established by administrative rules.

§A-6 Penalties. (a) Any person who violates this chapter or any rule adopted pursuant to section A-4(3), including non-compliance with the terms or conditions of a permit issued pursuant to this chapter, shall be subject to administrative penalties established by rules that provide at a minimum that the offender shall be fined not less than:

(1) \$250 for a first offense;

(2) \$500 for a second offense; and

(3) \$1,000 for each offense thereafter.

(b) The fines specified in this section and in rules adopted pursuant to section A-4(3) shall not be suspended or waived.

(c) Any administrative penalty assessed pursuant to this section shall not preclude the State from pursuing a criminal action or forfeiture proceeding as otherwise provided by law.



1 (d) Except as otherwise provided by law, the board or its
2 duly authorized delegate may impose administrative penalties as
3 provided by section 187A-12.5.

4 §A-7 Co-managed marine area special fund. (a) There is
5 established in the state treasury the co-managed marine area
6 special fund, into which shall be deposited:

7 (1) Administrative fees and penalties assessed pursuant to
8 chapters A and B;

9 (2) Fees for permits and licenses charged by the
10 department relating to the sanctuary program and the
11 monument program;

12 (3) Moneys received from the federal government or an
13 agency or department thereof for the management of the
14 sanctuary or the monument; and

15 (4) Appropriations made by the legislature to the fund.

16 (b) Moneys in the fund shall be used by the department for
17 the administration and management, including the hiring of
18 necessary staff, of the sanctuary program and the monument
19 program."

20 PART II



SECTION 3. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER B

PAPAHANAUMOKUAKEA MARINE NATIONAL MONUMENT

§B-1 Purpose. The purpose of this chapter is to establish the Papahanaumokuakea marine national monument program to coordinate and fulfill the State's role and responsibility in co-managing the Papahanaumokuakea marine national monument.

§B-2 Definitions. As used in this chapter:

"Board" means the board of land and natural resources.

"Department" means the department of land and natural resources.

"Fund" means the co-managed marine area special fund.

"Monument" means the Papahanaumokuakea marine national monument as established by Presidential Proclamation 8031 of June 15, 2006 (71 Fed. Reg. 36443), under the authority of the United States Antiquities Act (16 U.S.C. 431).

"Monument program" means the Papahanaumokuakea marine national monument program.



1 §B-3 Lead agency to co-manage monument. The department is
2 designated as the lead state agency to co-manage the monument in
3 accordance with Presidential Proclamation 8031 of June 15, 2006
4 (71 Fed. Reg. 36443) and the December 8, 2006 memorandum of
5 agreement between the department, United States Fish and
6 Wildlife Service, and National Oceanic and Atmospheric
7 Administration. As the lead agency, the department shall
8 conduct its stewardship responsibility for managing,
9 administering, and exercising control over lands, waters, and
10 natural resources within the State's jurisdiction. Further, as
11 the lead agency, the department shall also collaborate with the
12 office of Hawaiian affairs in the perpetuation of Hawaiian
13 cultural resources within the monument, including the customary
14 and traditional rights and practices of native Hawaiians
15 exercised for subsistence, cultural, and religious purposes
16 under section 7 of article XII of the Constitution of the State
17 of Hawaii.

18 §B-4 Monument program. The Papahānaumokuākea marine
19 national monument program is established and placed within the
20 office of the chairperson of the board to coordinate and fulfill



1 the State's management responsibilities with regard to the
2 monument. The monument program may:

- 3 (1) Issue permits as part of the co-trustee monument
4 permit process consistent with applicable state laws,
5 the Presidential Proclamation 8031 (71 Fed. Reg.
6 36443, and 50 C.F.R. part 404);
- 7 (2) Provide advice and recommendations to the governor,
8 the department, and other state departments and
9 agencies on matters relating to the management of the
10 monument area;
- 11 (3) Adopt rules in accordance with chapter 91 to
12 effectuate the purposes of this chapter; and
- 13 (4) Solicit and accept grants, donations, and
14 contributions to support the purposes of this chapter.

15 **§B-5 Fees.** The department may charge fees pursuant to a
16 schedule of fees established by administrative rules.

17 **§B-6 Penalties.** (a) Any person who violates this chapter
18 or any rule adopted pursuant to section B-4(3), including non-
19 compliance with the terms or conditions of a permit issued
20 pursuant to this chapter, shall be subject to administrative



1 penalties established by rules that provide at a minimum that
2 the offender shall be fined not less than:

- 3 (1) \$250 for a first offense;
4 (2) \$500 for a second offense; and
5 (3) \$1,000 for each offense thereafter.

6 (b) The fines specified in this section and in rules
7 adopted pursuant to section B-4(3) shall not be suspended or
8 waived.

9 (c) Any administrative penalty assessed pursuant to this
10 section shall not preclude the State from pursuing a criminal
11 action or forfeiture proceeding as otherwise provided by law.

12 (d) Except as otherwise provided by law, the board or its
13 duly authorized delegate may impose administrative penalties as
14 provided by section 187A-12.5."

15 PART III

16 SECTION 4. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$135,000 or so much
18 thereof as may be necessary for fiscal year 2015-2016 and the
19 sum of \$67,500 or so much thereof as may be necessary for fiscal
20 year 2016-2017 for the funding of one state co-manager of the
21 Hawaiian islands humpback whale national marine sanctuary and



one state co-manager of the Papahānaumokuākea marine national monument, within the department of land and natural resources.

The sums appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 5. There is appropriated out of the co-managed marine area special fund of the State of Hawaii the sum of \$102,600 or so much thereof as may be necessary for fiscal year 2016-2017 for the funding of one state co-manager of the Hawaiian islands humpback whale national marine sanctuary and one state co-manager of the Papahānaumokuākea marine national monument, within the department of land and natural resources.

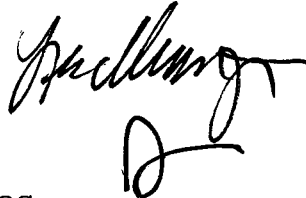
The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

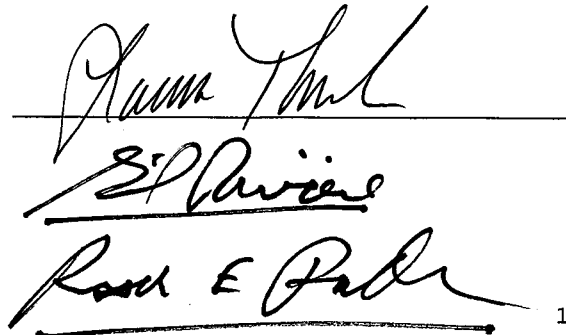
SECTION 6. In codifying the new sections added by section 2 and 3 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 7. This Act shall take effect on July 1, 2015.



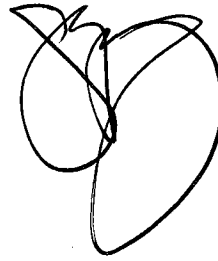
INTRODUCED BY:







S.B. NO. **1165**

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S.B. NO. 1165

Report Title:

Hawaiian Islands Humpback Whale National Marine Sanctuary;
Papahānaumokuākea Marine National Monument; State Co-Management;
Co-Managed Marine Area Special Fund; Appropriation

Description:

Establishes the Hawaiian islands humpback whale national marine sanctuary program and the Papahānaumokuākea marine national monument program within DLNR; establishes the co-managed marine area special fund; appropriates general funds and special funds.

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

