

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committees on
ENERGY AND ENVIRONMENTAL PROTECTION
and
WATER, LAND, & HAWAIIAN AFFAIRS**

**Thursday, February 6, 2020
9:15am
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 2194
RELATING TO COASTAL ZONE MANAGEMENT**

House Bill2194 proposes to defines “beaches” and “coastal hazards” and includes specific references to “coastal dunes” to clarify Coastal Zone Management (CZM) polices in Chapter 205A, Hawaii Revised Statutes (HRS) including special management Areas, shoreline setbacks, and variances. **The Department of Land and Natural Resources (Department) supports this measure and offers the following comments.**

In 2017, the Legislature passed legislation which Governor Ige signed into law as Act 32, establishing the Hawaii Climate Change Mitigation and Adaptation Commission (Climate Commission). Act 32 also established a Climate Change Mitigation and Adaptation Coordinator (Climate Coordinator) position. The Climate Commission and Climate Coordinator are housed within the Department’s, Office of Conservation and Coastal Lands.

In their September 2018 meeting, the Hawaii Climate Change Mitigation and Adaptation Commission (Climate Commission), on which the Chair of the Board of Land and Natural Resources is a co-chair, agreed to five priority recommendations for countering impacts of sea level rise, including requesting that all new development, redevelopment, and modifications be directed away from beach areas; urging counties to incorporate the 3.2 foot sea level rise exposure area (SLR-XA) as detailed in the Hawaii Sea Level Rise Vulnerability and Adaptation Report (Hawaii Sea Level Rise Report) into their general and community plans; and bring

resources to assist in planning and implementing for sea level rise and other climate related impacts.

Further, the Hawaii Sea Level Rise Report, accepted by the Climate Commission in December 2017, recommendations include that the State support sustainable and resilient land use and community development; seek opportunities to development outside the SLR-XA; develop shoreline (i.e., beach and dune) protection, conservation, and restoration priorities and guidelines; integrate sea level rise vulnerability considerations into the Hawaii Coastal Zone Management Act (Chapter 205A, Hawaii Revised Statutes (HRS)); and enable “legacy” beaches to persist with sea level rise.

It is the mission of the Department to manage public lands and ocean resources, including beaches throughout the State. The Department is very much at the forefront of addressing impacts related to coastal erosion and beach loss in Hawaii. Beaches are central to our culture and economy. As described in SECTION 1 of the bill, our beaches are being lost at alarming rates due to natural processes and human impacts including sea level rise and concentrated shoreline development, threatening alongshore public access and upland development.

When shore-front property and homes are threatened by coastal erosion and flooding, the Department often faces intense pressure from landowners to permit erosion-protection structures such as seawalls and rock revetments. The science is clear that installing coastal armoring on a chronically eroding beach leads to beach narrowing and loss and increased erosion to unprotected neighboring properties. Increasing protection for beaches and other coastal resources, as well as strengthening prohibitions against seawalls and revetments, and strengthening zoning controls and shoreline building setbacks through the proposed updates to Chapter 205A, HRS, are critical if we want to allow our beaches to persist with sea level rise while improving resilience of our beachfront communities.

The Department brings attention to the issue of “hardship.” Section 205A-46(a)(8)(9) allows for the application of variances for uses otherwise prohibited in Chapter 205A, HRS. House Bill 2194 appears to allow for the application of a variance if there is a “risk of imminent property damage.” If the intent of such a measure is to protect our vanishing beaches, we recommend the following language be inserted in lieu language proposed in House Bill 2194 SECTION (9)(A)&(B):

(9) Private facilities or improvements that may artificially fix the shoreline[;], provided that the ~~[authority also finds that shoreline erosion is likely to cause hardship to the applicant if the facilities or improvements are not allowed within the shoreline area and the authority imposes conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interest]~~ authority may consider hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area, and provided further that a variance may not be granted in areas with sand beaches and in areas where artificially fixing the shoreline may interfere with existing recreational and waterline activities; or

Thank you for the opportunity to comment on this measure.



**STATE OF HAWAII
HAWAII CLIMATE CHANGE MITIGATION & ADAPTATION
COMMISSION
POST OFFICE BOX 621
HONOLULU, HAWAII 96809**

Co-Chairs:
Chair, DLNR
Director, Office of Planning

Commissioners:
Chair, Senate AEN
Chair, Senate WTL
Chair, House EEP
Chair, House WTH
Chairperson, HTA
Chairperson, DOA
CEO, OHA
Chairperson, DHHL
Director, DBEDT
Director, DOT
Director, DOH
Chairperson, DOE
Director, C+C DPP
Director, Maui DP
Director, Hawai'i DP
Director, Kauai DP
The Adjutant General
Manager, CZM

**Testimony of
Anukriti Hittle
Coordinator, Hawaii Climate Change Mitigation and Adaptation Commission**

**Before the House Committees on
ENERGY AND ENVIRONMENTAL PROTECTION
and
WATER, LAND and HAWAIIAN AFFAIRS**

**Thursday, February 6, 2020
9:15 AM
State Capitol, Conference Room 325**

**In support of
HOUSE BILL 2194
RELATING TO COASTAL ZONE MANAGEMENT**

House Bill 2194 proposes to define “beaches” and “coastal hazards” and include specific references to “coastal dunes” to clarify CZM policies in Chapter 205A, HRS including special management Areas, shoreline setbacks, and variances. **On behalf of the Hawaii Climate Change Mitigation and Adaptation Commission (Commission) I offer the following comments in support of this measure.**

The Hawaii Climate Change Mitigation and Adaptation Commission “recognizes the urgency of climate threats and the need to act quickly. It promotes ambitious, climate-neutral, culturally responsible strategies for climate change adaptation and mitigation in a manner that is clean, equitable and resilient.” The Commission, established by Act 32 SLH 2017 to uphold the United States’ pledges under the Paris Agreement, is the coordinating body for policies on climate change mitigation and adaptation for the state. It is a high-level multi-jurisdictional body that guides the priorities of the state’s climate response. Co-chaired by DLNR and Office of Planning, it consists of 20 members—chairs of four legislative committees, and executive department heads at the county and state levels.

At its September 2018 meeting, the Climate Commission agreed to five priority recommendations for countering impacts of sea level rise, including requesting that all new development, redevelopment, and modifications be directed away from beach areas; urging counties to incorporate the 3.2 foot sea level rise exposure area (SLR-XA) as detailed in the Hawaii Sea Level Rise Vulnerability and Adaptation Report (Hawaii Sea Level Rise Report) into their general and

community plans; and bring resources to assist in planning and implementing for sea level rise and other climate related impacts.

This measure acts on the Commission's priority recommendations, and is a crucial component of Hawaii's adaptation to the impacts of sea level rise.

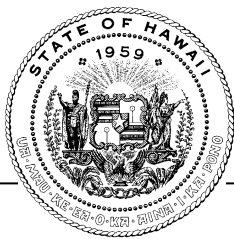
Thank you for the opportunity to offer comments in support of this measure.

References:

Habel, S.L., Anderson, T., Fletcher, C.H. and Thompson, P.R., 2019, September. COMPOUNDING MECHANISMS OF SEA LEVEL RISE INDUCED FLOODING PRODUCES DOUBLING OF CRITICAL INFRASTRUCTURE FAILURE IN HONOLULU BY THE 2030S. In *GSA Annual Meeting in Phoenix, Arizona, USA-2019*. GSA.

Habel, S.L., 2019. *SEA-LEVEL RISE FLOODING AND RELATED IMPACTS: PRIMARY URBAN CORE, HONOLULU, HAWAI 'I* (Doctoral dissertation, UNIVERSITY OF HAWAI 'I AT MĀNOA).

McKenzie, T., Habel, S.L. and Dulai, H., 2019, September. INCREASED COASTAL POLLUTION EXPECTED UNDER FUTURE SEA LEVEL STANDS: CHEMICAL EVIDENCE FOR TIDAL GROUNDWATER INUNDATION OF COASTAL WASTEWATER INFRASTRUCTURE. In *GSA Annual Meeting in Phoenix, Arizona, USA-2019*. GSA.



OFFICE OF PLANNING STATE OF HAWAII

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DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

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Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
**HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION
AND
ON WATER, LAND AND HAWAIIAN AFFAIRS**
Thursday, February 6, 2020
9:15 AM
State Capitol, Conference Room 325

in consideration of
HB 2194
RELATING TO COASTAL ZONE MANAGEMENT.

Chairs Lowen and Yamane, Vice Chairs Wildberger and Todd, and Members of the House Committees on Energy and Environmental Protection, and Water, Land and Hawaiian Affairs.

The Office of Planning (OP) supports **HB 2194**, and respectfully offers the following recommendations for further clarifications and updates.

1. **Page 2, lines 6-11**, the OP recommends the definition of “Beach” as follows:
“Beach” means a coastal landform composed predominantly of sand from eroded rock, coral, and/or shell material that is established and shaped by wave action and tidal processes. Such coastal landform encompasses sand deposits in nearshore submerged areas, and sand dunes or upland beach deposits landward of the shoreline, and provides benefits for public use and recreation, for coastal ecosystems, and as a natural buffer against coastal hazards.
2. **Page 16, lines 6-11**, the OP recommends excluding the construction of a single-family residence situated on a shoreline parcel explicitly from the list of “not development” as follows:
 - (1) Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area, is not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion, and is not part of a larger development;
3. **Page 18, lines 19-21**, the OP recommends the end of excluded “Development” as follows:

- (17) Construction, installation, maintenance, repair, and replacement of civil defense warning or signal devices and sirens[;].

4. §205A-44(b), Hawaii Revised Statutes, is amended to read as follows:

(b) Except as provided in this section, structures are prohibited in the shoreline area without a variance pursuant to this part. Structures in the shoreline area shall not need a variance if:

- (1) They were completed prior to June 22, 1970;
- (2) They received either a building permit, board approval, or shoreline setback variance prior to June 16, 1989;
- (3) They are outside the shoreline area when they receive either a building permit or board approval;
- (4) They are necessary for or ancillary to continuation of existing agriculture or aquaculture in the shoreline area on June 16, 1989;
- (5) They are minor structures permitted under rules adopted by the department which do not affect beach processes or artificially fix the shoreline and do not interfere with public access or public views to and along the shoreline; or
- (6) Work being done consists of maintenance, repair, reconstruction, and minor additions or alterations of legal boating, maritime, or watersports recreational facilities, which are publicly owned, and which result in little or no interference with natural shoreline processes;

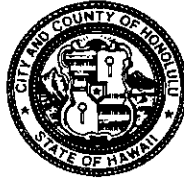
provided that permitted structures may be repaired, but shall not be enlarged, rebuilt or replaced within the shoreline area without a variance.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU

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HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR



MARK YONAMINE, P.E.
DIRECTOR

HAKU MILLES, P.E.
DEPUTY DIRECTOR

February 5, 2020

The Honorable Nicole E. Lowen, Chair
The Honorable Tina Wildberger, Vice-Chair
and Members of the Committee on Energy and Environmental Protection

The Honorable Ryan I. Yamane, Chair
The Honorable Chris Todd, Vice-Chair
and Members of the Committee on Water, Land and Hawaiian Affairs
The House
State Capitol, Room 325
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Lowen and Yamane, Vice-Chairs Wildberger and Todd, and Members:

SUBJECT: House Bill No. 2194
Relating to the Coastal Zone Management

The Department of Design and Construction (DDC) respectfully supports the intent of House Bill No. 2194. However, based on practical considerations, DDC requests that Section 4 of the bill be revised to amend Section 205A-22, Hawaii Revised Statutes, to revise the definition of "Development" as follows:

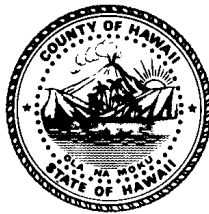
"Development" does not include the following:
...(2) Repair or maintenance of roads and highways, including appurtenances such as guardrails, retaining walls, and other structures intended for safe operation of the road or highway, within existing rights-of-way; ... (4) Repair and maintenance of underground utility lines, including but not limited to water, sewer, drainage, power, and telephone and minor appurtenant structures such as pad mounted transformers, drain structures, and sewer pump stations;

Thank you for the opportunity to provide our comments on House Bill No. 2194.

Sincerely,

Mark Yonamine, P.E.
Director

REBECCA VILLEGAS
Council Member
District 7, Central Kona



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EMAIL: Rebecca.villegas@hawaiicounty.gov

LATE

HAWAI'I COUNTY COUNCIL

*West Hawai'i Civic Center, Bldg. A
74-5044 Ane Keohokalole Hwy.
Kailua-Kona, Hawai'i 96740*

February 6, 2020

TESTIMONY OF REBECCA VILLEGAS
COUNCIL MEMBER, HAWAI'I COUNTY COUNCIL
ON HB 2194, RELATING TO COASTAL ZONE MANAGEMENT
Committee Energy & Environmental Protection
Committee on Water, Land, Hawaiian Affairs
Thursday, February 6, 2020
9:15 a.m.
Conference Room 325

Aloha Chair Lowen, Chair Yamane, and Members of the Committees:

I thank you for the opportunity to testify in support of HB 2194, relating to coastal zone management. My testimony is submitted in my individual capacity as a member of the Hawai'i County Council, and Chair of the Hawai'i County Council Public Safety Committee.

The purpose of this measure is to strengthen state coastal zone management policies, reduce risk from coastal hazards including sea level rise, and to protect Hawai'i's beaches from shoreline hardening action. This measure will provide for the effective management, beneficial use, protection, and development of coastal zones, including protection of beaches, beach processes, and public beach access.

For the reasons stated above I urge the Committee on Energy & Environmental Protection, the Committee on Water, Land, and Hawaiian Affairs to support this measure as well. Should you have any questions, please feel free to contact me at (808) 323-4267.

Mahalo for your consideration.

Rebecca Villegas
Council Member, Hawai'i County Council

HB-2194

Submitted on: 2/4/2020 9:04:20 AM

Testimony for EEP on 2/6/2020 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Alexandra Kahn	Surfrider Oahu	Support	No

Comments:

HB-2194

Submitted on: 2/4/2020 3:42:17 PM

Testimony for EEP on 2/6/2020 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Henry Curtis	Life of the Land	Support	Yes

Comments:



SIERRA CLUB OF HAWAI'I

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

HOUSE COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

February 6, 2020 9:15 AM Room 325

In SUPPORT of HB2194: Relating to Coastal Zone Management

Aloha Chair Lowen, Chair Yamane, and members of the committees,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **strongly supports HB2194** Relating to Coastal Zone Management.

This bill updates Chapter 205A-the Hawaii Coastal Zone Management Act, to incorporate sea level rise within its objectives, policies, and permitting processes related to Special Management Areas and Shoreline Setbacks. This is necessary and timely, as sea level rise is here and will continue, at increasing rates, in future years. Its impacts are already being felt, especially in the form of narrowing or loss of beaches--a public trust resource which should be afforded the highest levels of protection.

A study by UH researchers titled "Failure to protect beaches under slowly rising sea levels" documents that over the time period covered by the study (1925-2015) more than thirteen miles of beach statewide have been completely lost to erosion fronting seawalls and revetments, due in part to a history of county agencies ("authorities" under Chapter 205A) frequently granting shoreline setback variances where the authorities have made a finding that denial of such variances would present a hardship to the private property applicants.

We strongly support the intent of this bill to halt, and reverse, the narrowing and loss of beaches and public access caused in large part by granting of shoreline setback variances, especially as we enter a new era of sea level rise. As the sea level rises we can expect a dramatic increase in the number of variances sought to armor coastal properties. It is appropriate to take measures now to guard against further coastal armoring and promote managed retreat alternatives where feasible.



SIERRA CLUB OF HAWAI'I
MĀLAMA I KA HONUA. *Cherish the Earth.*

Thank you very much for this opportunity to provide testimony on **HB2194**.

Mahalo,

Dave Raney
Co-Chair
Sierra Club Climate Adaptation and Restoration Team

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Nicole E. Lowen, Chair
Rep. Tina Wildberger, Vice Chair

Rep. Sharon E. Har Rep. Ryan I. Yamane
Rep. David A. Tarnas Rep. Cynthia Thielen
Rep. Chris Todd

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Rep. Ryan I. Yamane, Chair
Rep. Chris Todd, Vice Chair

Rep. Sharon E. Har Rep. Tina Wildberger
Rep. Nicole E. Lowen Rep. Gene Ward
Rep. David A. Tarnas

NOTICE OF HEARING

DATE: Thursday, February 6, 2020
TIME: 9:15AM
PLACE: Conference Room 325

TESTIMONY OF JAMES E COON IN SUPPORT OF HB 2194 RELATING TO COASTAL ZONE MANAGEMENT

Chair Lowen, Chair Yamane, Vice Chair Wildberger, Vice Chair Todd and Members of the EEP and WLH Committees:

My name is James E. Coon speaking in support of HB 2194 which clarifies and strengthens 205A.

By defining "Coastal Hazards"; "Beaches"; and "Coastal Dunes" the CZM and SMA programs will be strengthened and will better equip the State as it adapts to Climate Change in the coming years.

Please pass HB 2194

Sincerely,


James E. Coon, Vice Chair

Marine and Coastal Zone Advocacy Council

captcoon@gmail.com

808-870-9115