

ACT 235

S.B. NO. 2024

A Bill for an Act Relating to Ocean Resources.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Findings.** The legislature finds that:

- (1) The Pacific Ocean and its many resources are of environmental, economic, aesthetic, recreational, social, and historic importance to the people of this State;
- (2) Exploration, development, and production of ocean resources likely to result from both federal agency programs in federal waters of the outer continental shelf and initiatives of private companies within state waters will increase the chance of conflicting demands on ocean resources for food, energy, and minerals, as well as waste disposal and assimilation, and may jeopardize ocean resources and values of importance to this State;
- (3) There are several state agencies with particular regulatory or program interests in the ocean, but no comprehensive program exists to ensure that state interests are protected and promoted both within state waters and beyond;
- (4) The fluid, dynamic nature of the ocean and the migration of many of its living resources beyond state boundaries extend the ocean management interests of this State beyond the territorial sea currently managed by the State pursuant to the federal Submerged Lands Act;

- (5) Existing federal laws, the Coastal Zone Management Act of 1972, the Magnuson Fisheries Management and Conservation Act of 1976, and the Outer Continental Shelf Lands Act of 1978, recognize the interests of coastal states in management of ocean resources in federal waters and provide for state participation in ocean resources management decisions;
- (6) The 1983 proclamation of the two hundred mile United States exclusive economic zone has created an opportunity for all coastal states to more fully exercise and assert their responsibilities pertaining to the protection, conservation, and development of ocean resources under United States jurisdiction;
- (7) The 1985 State of Hawaii ocean management plan, which is being updated, has created an opportunity for all state agencies to more fully exercise and assert their responsibilities pertaining to the protection, conservation, and development of ocean resources under state jurisdiction;
- (8) It is important that the State of Hawaii implement and maintain a program of ocean resources management to promote and ensure effective management of living and nonliving marine resources within state jurisdiction, to ensure effective participation in federal agency planning and management of ocean resources and uses which may affect this State, and to coordinate state agency management of ocean resources with county government management of coastal shorelands and resources;
- (9) While much is known about the ocean, its composition, characteristics, and resources, additional study and research is required to gain information and understanding necessary for effective ocean planning and management; and
- (10) New and innovative technologies are needed to ensure future development of ocean resources in an environmentally responsible manner.

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

“CHAPTER OCEAN RESOURCES MANAGEMENT

§ -1 **Policy.** It is the policy of the State to:

- (1) Exercise an overall conservation ethic in the use of Hawaii’s ocean resources;
- (2) Encourage ocean resources development which is environmentally sound and economically beneficial;
- (3) Provide for efficient and coordinated ocean resources and activities management;
- (4) Assert the interests of this State as a partner with federal agencies in the sound management of the ocean resources within the United States exclusive economic zone;
- (5) Promote research, study, and understanding of ocean processes, marine life, and other ocean resources to acquire the scientific inventory information necessary to understand the impacts and relationship of ocean development activities to ocean and coastal resources; and
- (6) Encourage research and development of new, innovative marine technologies for exploration and utilization of ocean resources.

§ -2 **Hawaii ocean resources management program; establishment.** To assure the conservation and development of ocean resources affecting Hawaii that are consistent with the purposes of this chapter, a coordinated program for the planning of ocean resources and activities management is established. This program shall be known as the Hawaii ocean resources management program. The Hawaii ocean resources management program shall consist of:

- (1) The Hawaii ocean and marine resources council as established in this chapter, any successor to the council, and any cooperative agreements entered into by the council or its successor; and
- (2) The Hawaii ocean resources management plan as prepared and implemented pursuant to this chapter.

§ -3 **Definitions.** As used in this chapter unless the context requires otherwise:

“Council” means the Hawaii ocean and marine resources council.

“Exclusive economic zone” has the meaning set forth in Presidential Proclamation 5030 issued March 10, 1983, whereby the United States proclaimed jurisdiction from the seaward boundary of the State out to two hundred nautical miles from the baseline from which the breadth of the territorial sea is measured.

“Plan” means the Hawaii ocean resources management plan.

“Program” means the Hawaii ocean resources management plan, background studies and analysis undertaken in the development of the plan, the implementation activities recommended by the plan, and the Hawaii ocean and marine resources council.

“Territorial sea” means the waters and seabed extending seaward from the coastline of each island of the State as provided in the federal Submerged Lands Act including the archipelagic waters.

§ -4 **Department of business and economic development; primary coordinating agency.** (a) The department of business and economic development is designated the primary agency for coordination of the program.

(b) The department of business and economic development, coordinating with the expertise within the department of land and natural resources, the department of transportation, the University of Hawaii, and the office of state planning shall provide technical, clerical, and other necessary support services for carrying out the purposes of this chapter.

§ -5 **Hawaii ocean and marine resources council; establishment.** (a) There is established within the department of business and economic development the Hawaii ocean and marine resources council for the purpose of advising and assisting the governor and legislature on matters relating to the use, development, and management of Hawaii’s ocean resources. The council shall be composed of eleven voting members as follows:

- (1) Six shall be voting ex officio members to consist of the chairperson of the board of land and natural resources, the director of state planning, the director of business and economic development, the director of transportation, the director of health, and the president of the University of Hawaii; and
- (2) Five voting members appointed by the governor representing each of the following:
 - (A) Commercial ocean interests which shall include two members from any of the following activities: aquaculture, mariculture, commercial fishing, maritime, recreation/tourism, mineral development, and energy development;

- (B) Recreational ocean interests;
- (C) Environmental interests; and
- (D) Ocean research interests from the public or private sector, such as marine mining, ocean energy, and marine biotechnology.

(b) There shall be only one designated representative selected by each of the six ex officio members. The designee shall be a person with knowledge and experience in matters relating to the development, conservation, or management of ocean resources. The director of business and economic development shall serve as the chairperson of the council. The department of business and economic development shall provide staff services to the council as needed. All members of the council shall serve without compensation and shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities of the council.

§ -6 Powers and duties of the council.

The council shall advise and assist the governor and the legislature on matters relating to marine affairs of the State by:

- (1) Serving as a forum for comprehensive ocean policy formulation and public and private sector coordination, and information dissemination;
- (2) Planning, coordinating, and facilitating development and implementation of the Hawaii ocean resources management plan;
- (3) Performing such services and activities as may be required by the governor and legislature;
- (4) Preparing and submitting a report on the implementation of this chapter to the governor and the legislature prior to each regular session; and
- (5) Developing procedures to conduct its business to carry out the purposes of this chapter.

§ -7 State agency responsibilities and cooperation. (a) The provisions of this chapter do not change statutorily and constitutionally mandated responsibilities of the state agencies.

(b) The council may request and shall receive from any department, division, board, bureau, commission, or agency of the State or any political subdivision thereof such assistance and data as it deems necessary or desirable to carry out its powers and duties.

§ -8 Coordination with federal agency programs. To ensure that the Hawaii ocean resources management program is coordinated with federal agency programs for coastal and ocean resources, the council shall invite federal agencies with responsibility for the study and management of ocean resources or regulation of ocean activities to designate a liaison to the council to attend council meetings, respond to council requests for technical and policy information, and review materials prepared by the council.

§ -9 Compatibility with county plans. (a) The program shall be compatible to the maximum extent practicable with acknowledged comprehensive plans of each county.

(b) To ensure that the program is compatible with the comprehensive plans of each county, the council shall consult with county officials, and solicit comments on council activities.

§ -10 Public participation. The council shall involve citizens and interested groups and organizations in the development and implementation of the plan. The council shall:

- (1) Provide citizens, coastal and ocean interest groups, organizations, and ocean resource users:
 - (A) Opportunities for involvement; and
 - (B) Opportunities for comment on issues and topics which should be addressed;
- (2) Conduct appropriate public workshops to solicit ideas, opinions, and facts to be considered in developing and implementing the plan; and
- (3) Distribute the plan to all public libraries statewide and to interested individuals and groups, upon request.

§ -11 Preparation of plan. (a) The council shall prepare and coordinate implementation of a proposed Hawaii ocean resources management plan.

(b) The proposed plan shall be submitted to the legislature prior to the convening of the regular session of 1991.

(c) The council shall send the proposed plan for review and comment to the board or governing body of the agencies and groups represented on the council and to each county.

§ -12 Hawaii ocean resources management plan process. (a) The Hawaii ocean resources management plan shall address ocean issue areas to include overall ocean resources management, conservation and preservation, fisheries, ocean minerals, aquaculture, mariculture, recreation, coastal erosion, harbors, ocean and coastal energy facilities, and waste disposal and accidental spills. In developing the plan, the council shall consider:

- (1) Inventories of the existing state laws and agency rules, authorities, and programs which pertain to ocean resources;
 - (2) Inventories of federal laws, regulations, and agency programs which pertain to ocean resources management within or directly affecting Hawaii's territorial sea and exclusive economic zone;
 - (3) Analyses of state laws, rules, authorities, or programs which conflict with one another, that need to be modified or eliminated, as well as laws, rules, or programs which may need to be enacted in order to provide for coordinated, comprehensive management of ocean resources;
 - (4) Existing management plans developed by state agencies; and
 - (5) Current activities regarding computer and noncomputer maps of existing ocean conditions, uses, and resources of the coastline, territorial sea, and exclusive economic zone.
- (b) The plan shall include:
- (1) Specific recommendations to develop or improve state agency programs to manage ocean resources and activities consistent with this chapter. These recommendations:
 - (A) Shall be the basis for agency or legislative action and shall contain:
 - (i) A brief statement of the issues or need requiring the recommended action;
 - (ii) A description of how the recommendation will address the issues or meet the identified need;
 - (iii) Policies and objectives;
 - (iv) A brief work program describing the actions necessary to carry out the recommendation;
 - (v) A list of state agencies or programs to be affected by the recommendation;

- (vi) An estimate of the time and costs required to carry out the recommendation; and
- (vii) Any change in state law which may be needed;
- (B) Shall address the following as appropriate:
 - (i) Marine water quality, including ocean outfalls from municipal and industrial wastes, toxic and hazardous chemicals, water quality standards and monitoring, and research programs to ensure marine water quality;
 - (ii) Areas within the territorial sea and the exclusive economic zone which should be excluded from energy or non-energy mineral development, or for which special precautions must be taken;
 - (iii) Environmental or other scientific research required to make management decisions about ocean resources with emphasis on the information requirements of the statewide planning goals for ocean and coastal resources in relation to the energy and mineral development activities of the federal government in the exclusive economic zone off Hawaii;
 - (iv) Programs to encourage and facilitate research and development into technologies for the exploration and development of ocean resources;
 - (v) Strategies to promote private investment in Hawaii into responsible research, exploration, and development of ocean resources; and
 - (vi) Recommendations for alternative dispute resolution techniques to resolve conflicts among competing interests; and
- (2) Recommendations for a permanent ocean resources planning and management process, including consideration of:
 - (A) Options for an advisory coordinating body to succeed the council;
 - (B) Advisory committees;
 - (C) The role of the governor, state agencies, federal agencies, counties, citizens, interest groups, and ocean users; and
 - (D) A process for plan update and amendment including integration of new information and adoption and incorporation of plan amendments;
- (3) A summary of state and federal issues of ocean resource management and jurisdiction, including recommendations to the Hawaii congressional delegation for changes in federal law or agency programs;
- (4) Identification of issues which affect county planning programs and an analysis of additional work which may be needed to fully address those issues in the county plans; and
- (5) A summary of council actions to involve citizens of this State and to coordinate with county governments and federal agencies in development of the plan.

§ -13 Distribution of proposed plan copies. The department of business and economic development shall supply copies of the proposed plan to public libraries statewide and shall make copies available by request. The department may charge a small fee to recover the costs of mailing. The department shall supply copies, without charge, to the governor, the legislature, all affected state agencies, and each county government."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000, or so much thereof as may be necessary for fiscal

years 1988-1989 and 1989-1990, for use by the council to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of business and economic development for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 8, 1988.)