

A Bill for an Act Relating to Ocean Resources.

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

SECTION 1. In 1988, the legislature found that although many government agencies have responsibilities for different marine and coastal resources and uses, Hawaii needs a more coordinated and consistent marine and coastal zone policy framework. The legislature created a Hawaii ocean resources management program through chapter 228, Hawaii Revised Statutes, to develop a comprehensive and integrated framework for managing the state's marine and coastal uses and resources. This ocean resources management program established the Hawaii ocean and marine resources council and mandated that the council prepare the Hawaii ocean resources management plan. The plan reflects the state's commitment to nurture its marine and coastal zone resources and protect their quality and diversity. The legislature finds that the Hawaii ocean resources management plan as adopted by the seventeenth legislature in 1994 by means of H.C.R. No. 246, S.D.1, strengthens the State's ability to coordinate marine and coastal policy development and resources management responsibilities.

In this regard, the legislature finds that the purposes of the Hawaii ocean resources management plan can best be achieved by integrating the Hawaii ocean resources management plan with state coastal zone management program. The coastal zone management program was created in 1977, as the policy umbrella for land and water use activities in the state, with the mission to balance land and water resource protection and economic development. Therefore, the purpose of this Act is to amend the coastal zone management law, chapter 205A, Hawaii Revised Statutes, to integrate the Hawaii ocean resources management plan with the state coastal zone management program.

SECTION 2. Chapter 205A of the Hawaii Revised Statutes is amended by adding a new part to be appropriately designated and to read as follows:

“PART . MARINE AND COASTAL AFFAIRS

§205A- Definitions. As used in this part:

“Exclusive economic zone” or “EEZ” means that area set forth in the Presidential Proclamation 5030 issued on 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.

“Marine” means ocean and ocean-related resources.

“Plan” means the Hawaii ocean resources management plan, created and approved by the Hawaii ocean and marine resources council, as amended by the lead agency.

§205A- Duties and responsibilities of the lead agency. The lead agency shall have the following duties and responsibilities:

- (1) Coordinate overall implementation of the plan, giving special consideration to the plan's priority recommendations;
- (2) Review and periodically update the plan;
- (3) Coordinate the development of state agency work plans to implement the ocean resources management plan. The work plans shall be revised on a biennial basis and coordinated with the budget process. State

agencies with responsibilities relating to marine and coastal zone management include but are not limited to:

- (A) The department of agriculture;
 - (B) The department of business, economic development, and tourism;
 - (C) The department of defense;
 - (D) The department of education;
 - (E) The department of health;
 - (F) The department of land and natural resources;
 - (G) The department of public safety;
 - (H) The department of transportation; and
 - (I) The University of Hawaii;
- (4) Ensure that state agency work plans are closely coordinated with the work plans of relevant federal and county agencies;
 - (5) Analyze, resolve conflicts between, and prioritize, in cooperation with relevant agencies and as part of the work plan development process, the sector-specific recommendations included in the plan;
 - (6) Coordinate exclusive economic zone and other marine-related issues with state and county agencies;
 - (7) Provide technical assistance to the agencies on policy and issue-related matters regarding marine and coastal resources management;
 - (8) Coordinate marine and coastal education activities; and
 - (9) Adopt rules pursuant to chapter 91 to carry out the purposes of this part.

§205A- Agency duties to coordinate related programs. All agencies managing marine and coastal resources, shall:

- (1) Actively work toward the goals, objectives, and policies established by this chapter; and
- (2) Coordinate the development of the state or county agency's programs with the plan.

§205A- Public participation. The lead agency and the advisory group shall involve citizens and interested groups and organizations in the updating and implementation of the plan."

SECTION 3. Chapter 205A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§205A- Advisory group; establishment; composition. (a) There is established within the lead agency a marine and coastal zone management advisory group.

(b) The advisory group shall be composed of twenty members. Advisory group membership shall include:

- (1) The directors of the departments of planning in the counties of Hawaii, Kauai, and Maui and the director of the department of land utilization in the city and county of Honolulu;
- (2) The attorney general, the chairperson of the board of agriculture, the director of business, economic development, and tourism, the adjutant general, the director of health, the chairperson of the board of land and natural resources, the director of public safety, the director of transportation, and the dean of the school of ocean and earth sciences and technology of the University of Hawaii;
- (3) The executive director of the Kahoolawe island reserve commission; and

(4) Six non-government members, who shall be appointed by the governor for staggered terms of not more than two years. These members shall be selected with consideration given to the following criteria:

- (A) Statewide geographic distribution; and
- (B) Balanced representation from among commercial, environmental, native Hawaiian, recreational, and research interests.

Prior to the appointment of the non-governmental members, the lead agency shall undertake widespread solicitation of applications from persons who are interested in serving on the advisory group.

(c) The director of the lead agency shall serve as the chair of the advisory group and shall serve in a voting capacity.

(d) A coordinating committee may be established to assist the advisory group.

(e) Advisory group and coordinating committee members shall serve without compensation.

(f) The advisory group shall advise the lead agency regarding marine and coastal zone management planning, coordination, and facilitation of functions of the program. The non-government members of the advisory group shall prepare and submit to the legislature, prior to each regular session, a summary of the recommendations appearing in the minutes of the meetings of the advisory group during the prior calendar year and actions resulting from those recommendations. The advisory group shall work toward the establishment and implementation of an integrated and comprehensive management system for marine and coastal zone resources, consistent with the objectives and policies established in this chapter.”

SECTION 4. Section 205A-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Advisory group” means the marine and coastal zone management advisory group established in section 205A-_____.”

SECTION 5. Section 205A-2, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Objectives.

- (1) Recreational resources;
 - (A) Provide coastal recreational opportunities accessible to the public.
- (2) Historic resources;
 - (A) Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
- (3) Scenic and open space resources;
 - (A) Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.
- (4) Coastal ecosystems;
 - (A) Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.
- (5) Economic uses;
 - (A) Provide public or private facilities and improvements important to the State’s economy in suitable locations.
- (6) Coastal hazards;

- (A) Reduce hazard to life and property from tsunamis, storm waves, stream flooding, erosion, subsidence, and pollution.
- (7) Managing development;
 - (A) Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- (8) Public participation;
 - (A) Stimulate public awareness, education, and participation in coastal management.
- (9) Beach protection;
 - (A) Protect beaches for public use and recreation.
- (10) Marine resources;
 - (A) Implement the State's ocean resources management plan.
- (c) Policies.
 - (1) Recreational resources;
 - (A) Improve coordination and funding of coastal recreational planning and management; and
 - (B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
 - (i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;
 - (ii) Requiring replacement of coastal resources having significant recreational value, including but not limited to surfing sites, fishponds, and sand beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable;
 - (iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
 - (iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;
 - (v) Ensuring public recreational use of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;
 - (vi) Adopting water quality standards and regulating point and nonpoint sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;
 - (vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and
 - (viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, county planning commissions; and crediting such dedication against the requirements of section 46-6.
 - (2) Historic resources;
 - (A) Identify and analyze significant archaeological resources;
 - (B) Maximize information retention through preservation of remains and artifacts or salvage operations; and
 - (C) Support state goals for protection, restoration, interpretation, and display of historic resources.

- (3) Scenic and open space resources;
 - (A) Identify valued scenic resources in the coastal zone management area;
 - (B) Ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;
 - (C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and
 - (D) Encourage those developments which are not coastal dependent to locate in inland areas.
- (4) Coastal ecosystems;
 - (A) Improve the technical basis for natural resource management;
 - (B) Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;
 - (C) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and
 - (D) Promote water quantity and quality planning and management practices which reflect the tolerance of fresh water and marine ecosystems and prohibit land and water uses which violate state water quality standards.
- (5) Economic uses;
 - (A) Concentrate coastal dependent development in appropriate areas;
 - (B) Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor industry facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
 - (C) Direct the location and expansion of coastal dependent developments to areas presently designated and used for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:
 - (i) Use of presently designated locations is not feasible;
 - (ii) Adverse environmental effects are minimized; and
 - (iii) The development is important to the State's economy.
- (6) Coastal hazards;
 - (A) Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;
 - (B) Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards;
 - (C) Ensure that developments comply with requirements of the Federal Flood Insurance Program;
 - (D) Prevent coastal flooding from inland projects; and
 - (E) Develop a coastal point and nonpoint source pollution control program.
- (7) Managing development;
 - (A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;

- (B) Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements; and
 - (C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life-cycle and in terms understandable to the public to facilitate public participation in the planning and review process.
- (8) Public participation;
- (A) Maintain a public advisory body to identify coastal management problems and to provide policy advice and assistance to the coastal zone management program;
 - (B) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal-related issues, developments, and government activities; and
 - (C) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts.
- (9) Beach protection;
- (A) Locate new structures inland from the shoreline setback to conserve open space and to minimize loss of improvements due to erosion;
 - (B) Prohibit construction of private erosion-protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities; and
 - (C) Minimize the construction of public erosion-protection structures seaward of the shoreline.
- (10) Marine resources;
- (A) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;
 - (B) Assure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;
 - (C) Coordinate the management of marine and coastal resources and activities management to improve effectiveness and efficiency;
 - (D) Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;
 - (E) Promote research, study, and understanding of ocean processes, marine life, and other ocean resources in order to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and
 - (F) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.”

SECTION 6. Section 205A-3, Hawaii Revised Statutes, is amended to read as follows:

“**§205A-3 Lead agency.** The lead agency shall:

- (1) Receive, disburse, use, expend, and account for all funds that are made available by the United States and the State for the coastal zone management program;
- (2) Provide support and assistance in the administration of the coastal zone management program;
- (3) Review federal programs, permits, licenses, and development proposals for consistency with the coastal zone management program;
- (4) Consult with the counties and the public in preparing guidelines to further specify and clarify the objectives and policies of the chapter to be submitted twenty days prior to the convening of any regular session of the legislature for review, modification, or enactment by the legislature;
- (5) Conduct a continuing review of the administration of the coastal zone management program and of the compliance of state and county agencies with the objectives and policies of this chapter;
- (6) Facilitate public participation in the coastal zone management program;
- (7) Prepare and periodically update a plan for use of coastal zone management funds to resolve coastal problems and issues that are not adequately addressed by existing laws and rules;
- (8) Advocate agency compliance with chapter 205A;
- (9) Monitor the coastal zone management-related enforcement activities of the state and county agencies responsible for the administration of the objectives and policies of this chapter; [and]
- (10) Prepare an annual report to the governor and the legislature which shall include recommendations for enactment of any legislation necessary to require any agency to comply with the objectives and policies of this chapter and any guidelines enacted by the legislature[.]; and
- (11) Coordinate the implementation of the ocean resources management plan.^{1,2}

SECTION 7. Chapter 228, Hawaii Revised Statutes, is repealed.

SECTION 8. It is the intent of this Act not to jeopardize the receipt of any federal aid nor impair the obligation of the State or any agency thereof to persons with which it has existing contracts or to the holders of any bond issued by the State or by any such agency. To the extent, and only to the extent, necessary to implement this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 9. All acts passed during this regular session of 1995, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless the acts specifically provide that this Act is being amended.

SECTION 10.² This Act shall take effect on July 1, 1995.

(Approved June 8, 1995.)

Notes

1. Should be a period.
2. No Ramseyer clause.