

ACT 84

H.B. NO. 1183

A Bill for an Act Relating to Beach Lands.

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

SECTION 1. The State has provided for the regulation and management of land use and development throughout the State under chapters 171, 183C, and 205A, Hawaii Revised Statutes, and has provided through these laws for the protection of beach lands which have natural, environmental, ecological, economic, recreational, scenic, cultural, or historic value and which protect property from flooding and erosion. However, these lands, though protected by these laws, may in many instances require restoration to serve various functions, including hazard mitigation, recreation, cultural appreciation, and ecological well-being, and generally be made accessible to all of the people of the State. The purpose of this Act is to provide for the restoration of public beach lands in those instances in which such restoration is considered to benefit the people of the State.

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . RESTORATION OF BEACH LANDS

§171- Definitions. For the purposes of this part:

“Beach lands” means all lands in the shoreline area including sand, rocky, or cobble beaches, dune systems, landward and seaward sand reserves, and all such lands subject to the natural processes of erosion and accretion. The term includes easements and rights in such land and any improvements on land.

“Beach restoration” means the placement of sand, with or without stabilizing structures, on an eroded beach from an outside source such as offshore sand deposits, streams, channels or harbor mouths, or an upland sand quarry.

“Coastal lands” means all land within the state coastal zone management area; provided that any leasing or development of public lands shall be limited to all fast lands up to one mile mauka of the shoreline and all submerged lands.

§171- General powers. (a) In carrying out its functions under this part, the board may do all things necessary, useful, and convenient in connection with the restoration of beach lands, subject to all applicable laws, and may provide any necessary assistance to any county or nongovernmental organization in the restoration of beach lands so long as the public interest is served; provided that for beach restoration on privately-owned lands, the board shall be required to obtain authorization from affected property owners.

(b) The board or the board’s designee, subject to this chapter and chapters 183C and 205A, shall maintain and manage beach lands restored pursuant to this part as well as a beach restoration plan described in section 171- , subject to available funds.

§171- Beach restoration plan. The department shall prepare and, from time to time, revise plans for the restoration of beach lands of the State. These plans shall guide the board in identifying those beach lands in need of restoration which have been degraded as a result of natural or human actions and shall designate suitable coastal lands for the purpose of generating revenues to carry out the purposes of this section. In preparing these plans, the department may institute studies pertaining to the need for restoration of such lands and shall consider any plan relating to the restoration of such lands that has been prepared by any federal, state, county, or private agency or entity. The department may also institute other studies as necessary to support the development of beach restoration projects, including the development of socioeconomic profiles, environmental studies pertaining to sand source analysis, and ecological effects of beach restoration, cost-benefit analysis for project viability, and coastal engineering studies including data gathering.

§171- Authority to lease coastal lands. The board, subject to this chapter, may lease public coastal lands under the board’s jurisdiction for the purpose of generating revenues to be deposited into the beach restoration fund. Any terms and conditions imposed by the board on the lessee shall run with the land and shall be binding on the lessee’s heirs, successors, and assigns. The board may seek enforcement of such terms and conditions in any court of appropriate jurisdiction.

§171- Development of public coastal lands. On the lands subject to this part, the board may undertake appropriate development to generate revenues for beach restoration which is consistent with this chapter and chapters 183C and 205A and other applicable laws. These revenues shall be deposited in the beach restoration fund. For purposes of this section, “development” includes:

- (1) Any building or mining operation;
- (2) Any material change in use, intensity of use, or appearance of any structure or land, fast or submerged; or
- (3) The division of land into two or more parcels.

§171- Beach restoration special fund. (a) There is established in the state treasury a special fund to be designated as the “beach restoration special fund” to carry out the purposes of this part. The following moneys shall be deposited into the beach restoration special fund:

- (1) Proceeds from the lease or development of public coastal lands designated pursuant to a beach restoration plan, subject to the Hawaiian Homes Commission Act of 1920, as amended, and section 5(f) of the Admission Act of 1959;
- (2) Proceeds from the lease of public lands pursuant to this part for an existing seawall or revetment;
- (3) Fines collected for unauthorized shoreline structures on state submerged land or conservation district land;
- (4) Appropriations made by the legislature for deposit into this fund;
- (5) Donations and contributions made by private individuals or organizations for deposit into this fund;
- (6) Fees collected for the processing of applications for coastal and beach erosion control projects; and
- (7) Grants provided by governmental agencies or any other source.

(b) The beach restoration special fund may be used by the department for one or more of the following purposes:

- (1) Planning, designing, development, or implementation of beach restoration projects pursuant to this part; and
- (2) Providing grants to the counties, nongovernmental organizations, and the University of Hawaii for the restoration of beach lands and for research or engineering studies necessary to support beach restoration projects, subject to this part.”

SECTION 3. There is appropriated out of the special land and development fund the sum of \$250,000 or so much thereof as may be necessary for fiscal year 1999-2000 for deposit into the beach restoration special fund created in section 2.

SECTION 4. There is appropriated out of the beach restoration special fund the sum of \$250,000 or so much thereof as may be necessary for fiscal year 1999-2000 for the restoration of beach lands.

SECTION 5. The sums appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 6. This Act shall take effect on July 1, 1999.

(Approved June 22, 1999.)