

JAN 24 2007

---

---

## A BILL FOR AN ACT

RELATING TO CREATION OF AN OCEAN BOARD AND OCEAN ZONING MASTER PLAN.

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

SECTION 1. The legislature finds that user conflicts, economic exploitation and unlicensed operators are creating problems in the coastal waters surrounding Hawaii. The user conflicts in the ocean present a grave challenge to the good people of Hawaii. In the past, such problems have been dealt with peacefully through legislation. However, these legislative solutions have often-times been "piecemeal" in form. A more effective approach is for the State and counties to address these issues by zoning ocean areas out to the state water limits in the same way land use is zoned. Indeed, the State has recognized the necessity of a more integrated approach in the form of the Hawaii Ocean Resources Management Plan, a model developed through the concerted efforts of several state agencies.

The time has long since come to recognize the brilliance of the ancient Hawaiians' ahupua'a system, in which three area



types - the mountains, the plains, and the sea - are considered united by the flowing water of our streams. Not only did the ancient Hawaiians' utilize their land resources intelligently, they also extended the concept of use to the near-shore ocean waters.

Unlike zoning on land, where one of the primary functions is setting parameters for the use of private property, ocean zoning serves to govern access to areas that are held in common. The oceans are a public resource - yet one that is subject to increasing demand for a wide range of uses, many of which are private enterprises that are considered to have public value: food production, energy production, communications and transportation, to name a few. Not least in this list is the legitimate use of targeted areas for biodiversity conservation, including greater management emphasis on fully protected marine reserves.

In consideration of the profusion of disparate and conflicting uses of ocean waters surrounding Hawaii, the recommendations forwarded in the Hawaii Ocean Resources Management Plan, and the wisdom of the ahupua'a system, the legislature finds that the department of land and natural resources is the appropriate agency to design and administer,



through a newly created ocean zoning board, a comprehensive Ocean Zoning Master Plan.

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

**"CHAPTER**

**OCEAN ZONING ACT**

§ -1 Definitions. As used in this chapter, unless context clearly requires otherwise:

"Aha pua'a system" means the traditional system of Hawaiian land division and management based on watershed boundaries.

"Board" means the ocean board.

"Ocean waters" means all waters seaward of the shoreline within the jurisdiction of the State.

"Ocean zone" means a discrete area of ocean waters designated for particular uses, from the surface to the seabed, and located within the region extending seaward from the shoreline to the limit of the State's police power and management authority;

"Ocean zoning" means the process of creating ocean zones.



"Ocean zoning master plan" means the comprehensive statement in words, maps, or other permanent media of communication, prepared, approved for submission by the State, and which describes objectives, policies, laws, standards, and procedures to guide and regulate public and private uses in discrete ocean zones, provided however the "ocean zoning master plan" is consistent with the intent, purpose, and provisions of this chapter;

"Shoreline" means the upper reaches of the wash of the waves, usually evidenced by the edge of vegetation growth or by the upper limit of debris left by the wash of the waves.

§ -2 Ocean board; establishment; staff. (a) There is established an ocean board to be placed within the department of land and natural resources for administrative purposes, as provided in section 26-35. The board shall consist of nine voting members appointed by the governor for staggered terms pursuant to section 26-34, as follows:

- (1) One member to be appointed by the governor from a list of nominations submitted by the Office of Hawaiian Affairs;



- (2) One member to be appointed by the governor from a list of nominations submitted by the president of the senate;
  - (3) One member to be appointed by the governor from a list of nominations submitted by the speaker of the house of representatives;
  - (3) Two members to be appointed directly by the governor;
  - (4) One member representing each of the respective counties to be appointed by the governor from a list of nominations submitted by each mayor of a county;
- (b) The board shall elect its chairperson from one of its members. The members shall receive no compensation for their services on the board, but shall be reimbursed for actual expenses incurred in the performance of their duties.
- (c) The board may engage employees necessary to perform its duties, including administrative personnel and an executive officer. The executive officer shall be appointed by the board and the executive officer's position shall be exempt from civil service. Departments of the state government shall make available to the board such data, facilities, and personnel as are necessary for it to perform its duties. The board shall adopt bylaws and rules in accordance with chapter 91 for its



organization, internal management, and to carry into effect its purposes, powers, and programs.

§ -3 Ocean zoning master plan. (a) The board shall develop and implement a comprehensive ocean zoning plan, hereinafter referred to as the "ocean zoning master plan", to protect ocean waters of the State and more effectively plan for and manage development activity in state ocean waters based on the recommendations articulated in the 2006 final report of the Hawaii ocean resources management plan.

(b) The preparation of an ocean zoning master plan shall include, but not be limited to, the following:

- (1) Integration of the recommendations proposed in the 2006 final report of the Hawaii ocean resources management plan;
- (2) Identification and designation of areas within ocean waters of the State as ocean zones;
- (3) An outreach and participation program which shall include early and continuing interaction with the public, business sector, and municipal, county, state and federal officials, and the opportunity for notice of the contents, public comment and a public meeting or meetings on the proposed ocean zoning master plan;



- (4) Regular consultation with the counties, the department of land and natural resources, the department of business, economic development and tourism, the department of transportation, and other county, state, and federal agencies having jurisdiction over resources or activities within or affecting the ocean zones, in order to achieve maximum feasible compatibility with the plans, programs, or projects for which such departments, divisions, boards and other agencies are responsible;
- (5) Identification of management measures, including but not limited to, performance standards, mitigation requirements, and use limitations, to be employed in the control of any development or other activities in the ocean zones;
- (6) Identification of marine protected areas, to protect areas of special, sensitive, and unique estuarine and marine habitat and life (marine mammals, birds, reptiles, soft corals, and other bottom dwelling plants and animals), physical or submerged cultural resources, the protection of important fisheries and



fishing activities from other uses, and the protection and study of marine biodiversity and ecosystems;

- (7) An implementation strategy that specifies the arrangements that will ensure effective application of the identified management measures within the ocean zone in question. All offices of the department of land and natural resources, and all other agencies, departments, divisions, units, commissions, boards and authorities of the State and counties shall enforce laws and regulations within their jurisdiction, conduct regulatory reviews, administer programs, disburse funds, perform or supervise construction activities, and otherwise conduct their activities in a manner that is consistent with the applicable provisions of the ocean zoning master plan as well as any provisions of this Act. Implementation arrangements may include, as appropriate, memoranda of understanding or other instruments of agreement to ensure coordination between the board and all relevant state and county agencies;





(8) Incorporation of traditional Hawaiian concepts of management and conservation found in the aha pua'a system;

(9) An effective time period of the ocean plan not to exceed five years and the proposed date when it will be re-evaluated, amended and renewed; and

(10) Such other elements as may be deemed appropriate by the board to serve the purposes of this Act.

1 (e) The ocean zoning master plan shall be submitted to the  
2 legislature no later than twenty days prior to the convening of  
3 the regular session of 2009."

4 SECTION 3. This Act does not affect rights and duties that  
5 matured, penalties that were incurred, and proceedings that were  
6 begun, before its effective date.

7 SECTION 4. This Act shall take effect upon its approval.

8

INTRODUCED BY:

*[Handwritten signatures: Buckminster, Samuelson, Dale, Mike Hubbard]*



**Report Title:**

Ocean Board; Ocean Zoning Master Plan

**Description:**

Creates an ocean board to develop and implement, in consultation with relevant county, state, and federal agencies, a comprehensive ocean zoning master plan that incorporates ideas from the traditional ahupua'a system and the Hawaii ocean resources management plan, and addresses user conflicts in Hawaiian ocean waters through the designation of discrete ocean zones.

