

STAND. COM. REP. NO. 1686

Honolulu, Hawaii

April 9, 2009

RE: S.B. No. 468
S.D. 1
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 468, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT,"

begs leave to report as follows:

The purpose of this bill is to update and improve the management of coastal zones by, among other things:

- (1) Clarifying the objectives and policies of the Coastal Zone Management (CZM) Program;
- (2) Requiring the counties to ensure that there is reasonable street parking near public access areas in special management areas;
- (3) Adding additional conditions, relating to risk mitigation of coastal hazards and reasonable and adequate public access to the shoreline or beach area, to the list of conditions that must be met for the approval of developments in special management areas;
- (4) Exempting existing Waikiki beach structures and properties subject to the Waikiki Beach Reclamation Agreement from shoreline setback requirements;



- (5) Allowing public hearings to be waived prior to action on a variance application for temporary emergency protection of a legal inhabited dwelling or major infrastructure, if the structure is at risk of immediate damage from shoreline erosion or other coastal hazard;
- (6) Requiring the use of average annual shoreline erosion rates, where appropriate, in determining shoreline setbacks when establishing shoreline setback lines at distances greater than the statutorily established minimum distances; and
- (7) Requiring the counties to:
 - (A) Use the shoreline setback as a tool to minimize the damage from coastal hazards, and to consider measures such as early planning, variances for innovative design, and minimum buildable areas; and
 - (B) Ensure that any subdivided parcels are large enough to accommodate a shoreline setback based on average annual erosion rates or other means to mitigate environment damage and hazard exposure, and that public safety, public access, and public shoreline areas are protected.

The Department of Planning and Permitting of the City and County of Honolulu and Land Use Research Foundation of Hawaii supported this bill. The Office of Hawaiian Affairs, Hawaii Audubon Society, and Sierra Club, Hawaii Chapter, supported this bill with amendments. The Center for Island Climate and Adaptation, Kyo-ya Hotels & Resorts, LP, Hawaii Hotel & Lodging Association, and Waikiki Improvement Association supported the intent of this bill. The Office of Planning opposed this measure. The Hawaii Association of REALTORS and Outrigger Hotels submitted comments.

Upon further consideration, your Committee has amended this measure by:

- (1) Revising the beach protection policy of the CZM Program:
 - (A) To allow construction of private erosion-protection structures seaward of the shoreline when the structures enhance beach restoration; and



- (B) To exempt from the "minimize construction" policy statement, construction of public coastal hazard protection structures that enhance beach conservation or restoration;
- (2) Specifically including the repair, maintenance, or interior alterations to hardened shorelines to the list of exclusions to the definition of the term "development";
- (3) Increasing the maximum valuation, from \$125,000, to \$250,000, for developments that may be authorized under the definitions of "special management area minor permit" and "special management area use permit";
- (4) Revising the exemptions to the shoreline setback requirements for Waikiki by clarifying that the exemption applies to:
 - (A) Any structure that abuts the shoreline within the Waikiki Special District as defined in the Land Use Ordinance, Chapter 21, Revised Ordinances of Honolulu, as of the effective date of this measure; or
 - (B) Properties that abut beaches that are subject to the Waikiki Beach Reclamation Agreement, as amended;
- (5) Providing that the waiver of public hearing prior to action on a variance application applies to temporary emergency protection of a legal structure or improvement costing more than \$50,000, if the structure or improvement is at risk of immediate damage from shoreline erosion or other coastal hazard;
- (6) Deleting the provision that requires the use of average annual shoreline erosion rates, where appropriate, when establishing shoreline setback lines at distances greater than the statutorily established minimum distances;
- (7) Adding private facilities or improvements that are mauka of an existing hardened shoreline to the list of allowable variances, subject to determination by the county planning commission; and

- (8) Changing its effective date to January 1, 2046, to promote further discussion.

Technical, nonsubstantive amendments were also made for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 468, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 468, S.D. 1, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,


JOV RIKI KARAMATSU, Chair



