
A BILL FOR AN ACT

RELATING TO THE CREATION OF A PILOT PROJECT FOR AN OCEAN MASTER PLAN.

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

1 SECTION 1. The legislature finds that user conflicts,
2 economic exploitation and unlicensed operators are creating
3 problems in the coastal waters surrounding Hawai`i. The user
4 conflicts in the ocean present a grave challenge to the good
5 people of Hawai`i. While these problems sometimes manifest
6 themselves in verbal conflict, at unfortunate times, user
7 conflicts can end in tragedy, as was the case with the tragic
8 passing of diver Keahi Lum in 2009 due to a speedboat running
9 over him and his warning buoy and flag at Maunalua Bay. In the
10 past, such problems have been dealt with peacefully through
11 legislation. However, these legislative solutions have often
12 times been "piecemeal" in form. A more effective approach is
13 for the State and counties to address these issues by zoning
14 ocean areas out to the state water limits in the same way land
15 use is zoned. Indeed, the State has recognized the necessity of
16 a more integrated approach in the form of the Hawaii Ocean



1 Resources Management Plan, a model developed through the
2 concerted efforts of several state agencies.

3 The time has long since come to recognize the brilliance of
4 the ancient Hawaiians' ahupua`a system, in which three area
5 types - the mountains, the plains, and the sea - are considered
6 united by the flowing water of our streams. Not only did the
7 ancient Hawaiians' utilize their land resources intelligently,
8 they also extended the concept of use to the near-shore ocean
9 waters.

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

21 In consideration of the profusion of disparate and
22 conflicting uses of ocean waters surrounding Hawai`i, the



1 recommendations forwarded in the Hawaii ocean resources
2 Management Plan, and the wisdom of the ahupua`a system, the
3 legislature finds that the department of land and natural
4 resources is the appropriate agency to design and administer,
5 through a newly created ocean zoning board, a comprehensive
6 Ocean Zoning Master Plan. However, in light of the current
7 budget situation, and the complexity of such an endeavor, it is
8 also the finding of the legislature that a scaled down pilot
9 project may be the more prudent approach. Accordingly, the
10 purpose of this Act is to lay the foundation of a comprehensive
11 Ocean Zoning Master Plan through a pilot project focusing on
12 Maunalua Bay.

13 SECTION 2. As used in this Act, unless the context clearly
14 requires otherwise:

15 "Aha pua`a system," means the traditional system of
16 Hawaiian land division and management based on watershed
17 boundaries.

18 "Board" means the ocean board.

19 "Maunalua Bay" means the bay on the south side of Oahu
20 spanning from Kawaihoa (Koko Head Point/Portlock) to
21 Kupikipiki'o (Black Point/Wailupe Peninsula).



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

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

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

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

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

20 SECTION 3. (a) There is established an ocean board to
21 be placed within the department of land and natural resources
22 for administrative purposes, as provided in section 26-35. The



1 board shall consist of nine voting members appointed by the
2 governor for staggered terms pursuant to section 26-34, as
3 follows:

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

7 (2) One member to be appointed by the governor from a list
8 of nominations submitted by the president of the
9 senate;

10 (3) One member to be appointed by the governor from a list
11 of nominations submitted by the speaker of the House
12 of Representatives;

13 (4) Two members appointed directly by the governor;

14 (5) One member representing each of the respective
15 counties to be appointed by the governor from a list
16 of nominations submitted by each mayor of a county;

17 (b) The board shall elect its chairperson from one of its
18 members. The members shall receive no compensation for their
19 services on the board, but shall be reimbursed for actual
20 expenses incurred in the performance of their duties.

21 (c) The board may engage employees necessary to perform
22 its duties, including administrative personnel and an executive



1 officer. The executive officer shall be appointed by the board
2 and the executive officer's position shall be exempt from civil
3 service. Departments of the state government shall make
4 available to the board such data, facilities, and personnel as
5 are necessary for it to perform its duties. The board shall
6 adopt bylaws and rules in accordance with chapter 91 for its
7 organization, internal management, and to carry into effect its
8 purposes, powers, and programs.

9 SECTION 4. (a) As a precursor to a comprehensive ocean
10 zoning plan, the board shall develop and implement an ocean
11 zoning plan to protect ocean waters of Maunalua Bay and more
12 effectively plan for and manage development activity in the
13 ocean waters of Maunalua Bay based on the recommendations
14 articulated in the 2006 final report of the Hawaii ocean
15 resources management plan.

16 (b) The preparation of an ocean zoning master plan for
17 Maunalua Bay shall include, but not be limited to, the
18 following:

19 (1) Integration of the recommendations proposed in the
20 2006 final report of the Hawaii ocean resources
21 management plan;



- 1 (2) Identification and designation of the ocean waters of
2 Maunalua bay as an ocean zone;
- 3 (3) An outreach and participation program which shall
4 include early and continuing interaction with the
5 public, business sector, and municipal, county, state
6 and federal officials, and the opportunity for notice
7 of the contents, public comment and public meeting or
8 meetings on the proposed ocean zoning master plan for
9 Maunalua Bay;
- 10 (4) Regular consultations with counties, the department of
11 land and natural resources, the department of
12 business, economic development and tourism, the
13 department of transportation, and other county, state,
14 and federal agencies having jurisdiction over
15 resources or activities within or affecting the
16 Maunalua Bay ocean zone, in order to achieve maximum
17 feasible compatibility with the plans, programs, or
18 projects for which such departments, divisions,
19 boards, and other agencies are responsible;
- 20 (5) Identification of management measures, including but
21 not limited to, performance standards, mitigation
22 requirements, and use limitations, to be employed in



1 the control of any development or other activities in
2 the Maunalua Bay ocean zone;

3 (6) Identification of marine protected areas, to protect
4 areas of special, sensitive, and unique estuarine and
5 marine habitat and life (marine mammals, birds,
6 reptiles, soft corals, and other bottom dwelling
7 plants and animals), physical or submerged cultural
8 resources, the protection of important fisheries and
9 fishing activities from other uses, and the protection
10 and study of marine biodiversity and ecosystems;

11 (7) An implementation strategy that specifies the
12 arrangement that will ensure effective application of
13 the identified management measures within the Maunalua
14 Bay ocean zone. All offices of the department of land
15 and natural resources, and all other agencies,
16 departments, divisions, units, commissions, boards and
17 authorities of the State and counties shall enforce
18 laws and regulations within their jurisdiction,
19 conduct regulatory reviews, administer programs,
20 disburse funds, perform or supervise construction
21 activities, or otherwise conduct their activities in a
22 manner that is consistent with the applicable



1 provisions of the ocean zoning master plan as well as
2 any provisions of this Act. Implementation
3 arrangements may include, as appropriate, memoranda of
4 understanding or other instruments of agreement to
5 ensure coordination between the board and all relevant
6 state and county agencies;

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

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

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

15 (d) The Maunalua Bay master plan shall be submitted to the
16 legislature no later than twenty days prior to the convening of
17 the regular session of 2011

18 SECTION 5. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.

21 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 26 2010



Report Title:

Ocean Board and Zoning master Plan; pilot project; Maunalua Bay

Description:

Creates an ocean board to develop and implement, in consultation with relevant county, state, and federal agencies, a pilot project as a precursor to a comprehensive ocean zoning master plan that incorporates ideas from the traditional ahupua`a system and the Hawai`i Ocean Resources Management Plan, and addresses user conflicts in Hawaiian ocean waters through the designation of discrete ocean zones for Maunalua Bay.

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