

Report Title:

Coastal Construction Moratorium

Description:

Allows DLNR to establish coastal construction moratoriums to protect beaches statewide; requires DLNR to establish an interim coastal construction moratorium for Kailua beach. (SD1)

A BILL FOR AN ACT

RELATING TO SHORELINE SETBACKS.

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

1 SECTION 1. (a) The legislature finds that beaches are
2 unique assets of the State created by a decades-long natural
3 process of erosion and accretion. In the past several decades,
4 the beachfront of Kailua beach, for example, has increased to
5 the benefit of beach users from around the state and the nation.
6 Kailua beach is one of the few beaches that is fully urban,
7 accreting, and entirely unarmored. This asset, however, remains
8 impacted by erosion related to sand deficiencies at Kailua beach
9 park, as well as the threat of future sea-level rise. Because
10 the southern end of Kailua beach is now subject to long-term
11 erosion, which is migrating northward with time, the protection
12 and conservation of Kailua beach by minimizing current and
13 future impacts of shoreline erosion is imperative.

14 All beaches in the State require proper management,
15 achieved through appropriate shoreline setbacks within which
16 construction is prohibited. Proper long-term, comprehensive
17 management will:

18 (1) Help to protect development from coastal hazards;

- 1 (2) Conserve and protect the beaches;
- 2 (3) Preserve recreational uses of coastal resources; and
- 3 (4) Minimize future impacts to the coastal ecosystem.

4 With long-term sea-level rise and without necessary coastal
5 management planning, these issues will become more critical.

6 Accreted beach land, in the form of coastal dunes and dry
7 beach area, is still an integral portion of the beach system.
8 Accreted land holds the fragile carbonate sands, which the
9 active beach relies upon during periods of episodic erosion.
10 These same lands will once again transition back into active
11 beach area as the shoreline migrates and sea-level rises. As
12 the shoreline migrates through accretion and erosion, so too
13 does the conservation district boundary, where all submerged
14 lands are zoned as resource sub-zone. The accreted lands,
15 originally within the conservation district, will not only
16 return to the conservation district with subsequent erosion, but
17 also have a significant impact on the function and health of the
18 beach resources to be conserved and protected within the
19 existing conservation district boundaries. From a management
20 perspective, it is more effective for one agency to steward the
21 entire resource, or multiple agencies to follow a single
22 integrated management plan for the entire resource. There is a

1 significant opportunity for the State to proactively and
2 comprehensively manage the coastal sediment and environmental
3 systems in the best interest of the public, the resource, and
4 the State.

5 (b) The purpose of this Act is to:

6 (1) Allow the department of land and natural resources to
7 establish coastal construction moratoriums to preserve
8 beaches for the use and enjoyment of future
9 generations; and

10 (2) Require the department of land and natural resources
11 to implement an interim coastal construction
12 moratorium for Kailua beach.

13 SECTION 2. Chapter 205A, Hawaii Revised Statutes, is
14 amended by adding a new section to part III to be appropriately
15 designated and to read as follows:

16 "§205A- Construction moratorium. (a) Notwithstanding
17 any other law to the contrary, the department of land and
18 natural resources may establish a coastal construction
19 moratorium where the department determines that the following
20 conditions exist:

- 1 (1) Since the establishment of the shoreline setback
2 pursuant to section 205A-43, the shoreline has shown
3 evidence of migration through accretion or erosion;
- 4 (2) Due to the migration of the shoreline, the shoreline
5 setback established pursuant to section 205A-43 may
6 not offer adequate long-term protection of beach
7 resources, public access, and coastal communities; and
- 8 (3) An interim coastal construction moratorium, through a
9 coastal construction control line, is deemed
10 appropriate to protect development from coastal
11 hazards, to conserve and protect beach lands, to
12 preserve recreational uses of coastal resources, or to
13 minimize future impacts to the coastal ecosystem.
- 14 (b) The coastal construction moratorium shall not apply to
15 a structure for which all necessary building permits have been
16 approved prior to the establishment of the moratorium.
- 17 (c) Any coastal construction moratorium established
18 pursuant to this section shall expire on the earlier of:
- 19 (1) Two years from the date of its establishment; or
20 (2) Upon the determination of the department of land and
21 natural resources that the moratorium is no longer
22 appropriate."

1 SECTION 3. Upon a determination by the board of land and
2 natural resources that Kailua beach meets the following
3 conditions:

4 (1) Since the establishment of the shoreline setback
5 pursuant to section 205A-43, the shoreline has shown
6 evidence of migration through accretion or erosion;

7 (2) Due to the migration of the shoreline, the shoreline
8 setback established pursuant to section 205A-43 may
9 not offer adequate long-term protection of beach
10 resources, public access, and coastal communities; and

11 (3) An interim coastal construction moratorium, through a
12 coastal construction control line, is deemed
13 appropriate to protect development from coastal
14 hazards, to conserve and protect beach lands, to
15 preserve recreational uses of coastal resources, or to
16 minimize future impacts to the coastal ecosystem;

17 the board of land and natural resources shall establish an
18 interim coastal construction moratorium for Kailua beach,
19 pursuant to this Act.

20 The department of land and natural resources, in
21 conjunction with the University of Hawaii, shall submit a report
22 to the legislature no later than twenty days prior to the

1 convening of the 2011 regular session of findings and
2 recommendations for future actions for the protection and
3 management of Kailua beach, including any proposed legislation.

4 For the purposes of this Act, "Kailua beach" means that
5 part of the east shoreline of the island of Oahu between
6 Kawainui canal to the north and Alala point to the south, in the
7 Koolaupoko district.

8 SECTION 4. If any provision of this Act, or the
9 application thereof to any person or circumstance is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act, which can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 5. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2009.