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## 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 generate  
3 problems in the coastal waters surrounding Hawai`i. While user  
4 conflicts are sometimes limited to verbal confrontations, at  
5 other times they can be deadly, as was the case with the tragic  
6 passing in 2009 of diver Keahi Lum, who was killed when a  
7 speedboat ran over him and his warning buoy and flag at Maunalua  
8 Bay on Oahu. Although these problems have been dealt with  
9 through piecemeal legislation in the past, a more effective  
10 approach would be to adopt ocean area use zoning in the same way  
11 land use is zoned. The State has recognized the necessity of a  
12 more integrated approach in the form of the Hawai`i ocean  
13 resources management plan, a model developed through the  
14 concerted efforts of several state agencies.

15           The time has long since come to recognize the brilliance of  
16 the ancient Hawaiians' ahupua`a system, in which three area  
17 types--the mountains, the plains, and the sea--are considered



1 united by the flowing water of the State's streams. Not only  
2 did the ancient Hawaiians utilize their land resources wisely,  
3 they also extended the concept of management and conservation to  
4 the near-shore ocean waters.

5 Unlike land use zoning, where one of the primary functions  
6 is setting parameters for the use of private property, ocean  
7 zoning serves to govern access to areas that are held in common.  
8 The ocean is a public resource that is subject to increasing  
9 demands for a wide range of uses, many of which are by private  
10 enterprises that are considered to have public value, such as  
11 food and energy production, communications, and transportation.  
12 Legitimate use of targeted areas for biodiversity conservation,  
13 including greater management emphasis on fully protected marine  
14 reserves, is also a priority.

15 In light of the profusion of disparate and conflicting uses  
16 of ocean waters surrounding Hawai'i, the recommendations of the  
17 Hawai'i ocean resources management plan, and the wisdom of the  
18 ahupua'a system, the legislature finds that the department of  
19 land and natural resources is the appropriate agency to design  
20 and administer, through a newly created ocean zoning board, a  
21 comprehensive ocean zoning master plan. However, in light of  
22 the current budget situation and the complexity of such an



1 endeavor, it is also the finding of the legislature that a  
2 scaled down pilot project may be a more pragmatic approach.  
3 Accordingly, the purpose of this Act is to lay the foundation of  
4 a comprehensive ocean zoning master plan through a pilot project  
5 focusing on Maunalua Bay on Oahu.

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

8 "Ahupua`a system," means the traditional system of Hawaiian  
9 land division and management based on watershed boundaries.

10 "Board" means the ocean board.

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

14 "Ocean board" means the entity established in this Act to  
15 develop and implement an ocean zoning plan.

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

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



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

2 "Ocean zoning master plan" means the comprehensive  
3 statement in words, maps, or other permanent media of  
4 communication, prepared, approved for submission by the State,  
5 and that describes objectives, policies, laws, standards, and  
6 procedures to guide and regulate public and private uses in  
7 discrete ocean zones.

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

11 SECTION 3. (a) There is established an ocean board to be  
12 placed within the department of land and natural resources for  
13 administrative purposes, as provided in section 26-35. The  
14 board shall consist of nine voting members appointed by the  
15 governor for staggered terms pursuant to section 26-34, as  
16 follows:

17 (1) One member to be appointed by the governor from a list  
18 of nominations submitted by the office of Hawaiian  
19 affairs;

20 (2) One member to be appointed by the governor from a list  
21 of nominations submitted by the president of the  
22 senate;



1 (3) One member to be appointed by the governor from a list  
2 of nominations submitted by the speaker of the house  
3 of representatives;

4 (4) Two members appointed by the governor;

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

8 (b) The board shall elect a chairperson from among its  
9 members. Members shall receive no compensation for their  
10 services but shall be reimbursed for actual expenses incurred in  
11 the performance of their duties.

12 (c) The board may hire employees necessary to perform its  
13 duties, including administrative personnel and an executive  
14 officer. The executive officer, who shall be exempt from  
15 chapters 76 and 78, shall be appointed by the board. All state  
16 agencies shall make available to the board any data, facilities,  
17 and personnel that may be necessary for the board to perform its  
18 duties. The board shall adopt bylaws and rules in accordance  
19 with chapter 91 for its organization and internal management,  
20 and to implement its purposes, powers, and programs.

21 SECTION 4. (a) To prepare the foundation for a  
22 comprehensive ocean zoning plan, the board shall develop and



1 implement an ocean zoning plan to manage development activity  
2 and to protect ocean waters in Maunalua Bay based on the  
3 recommendations articulated in the 2006 final report of the  
4 Hawai`i ocean resources management plan.

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

7 (1) Integration of the recommendations proposed in the  
8 2006 final report of the Hawai`i ocean resources  
9 management plan;

10 (2) Identification and designation of the ocean waters of  
11 Maunalua Bay as an ocean zone;

12 (3) An outreach, education, and participation program that  
13 shall include early and continuing interaction with  
14 the public, business sector, and county, state and  
15 federal officials, and the opportunity for notice,  
16 public comment, and public meetings on the proposed  
17 ocean zoning master plan for Maunalua Bay;

18 (4) Regular consultations with the city and county of  
19 Honolulu; the departments of land and natural  
20 resources; business, economic development, and  
21 tourism; and transportation; and other county, state,  
22 and federal agencies having jurisdiction over



1 resources or activities within or affecting the  
2 Maunalua Bay ocean zone, to achieve maximum feasible  
3 compatibility with the plans, programs, or projects  
4 for which other departments, divisions, boards, and  
5 agencies are responsible;

6 (5) Identification of management measures, including but  
7 not limited to performance standards, mitigation  
8 requirements, and use limitations to be employed in  
9 the control of any development or other activities in  
10 the Maunalua Bay ocean zone;

11 (6) Identification of marine protected areas to protect  
12 areas of special, sensitive, and unique estuarine and  
13 marine habitat and life (marine mammals, birds,  
14 reptiles, soft corals, and other bottom dwelling  
15 plants and animals), physical or submerged cultural  
16 resources, to protect important fisheries and fishing  
17 activities from other uses, and to protect and study  
18 marine biodiversity and ecosystems;

19 (7) An implementation strategy that specifies an  
20 arrangement that will ensure effective application of  
21 the identified management measures within the Maunalua  
22 Bay ocean zone. The department of land and natural



1 resources and all other state and county agencies  
2 shall enforce laws and regulations within their  
3 jurisdictions, conduct regulatory reviews, administer  
4 programs, disburse funds, perform or supervise  
5 construction activities, or otherwise conduct their  
6 activities in a manner that is consistent with the  
7 ocean zoning master plan as well as this Act.

8 Implementation arrangements may include, as  
9 appropriate, memoranda of understanding or other  
10 instruments of agreement to ensure coordination  
11 between the board and all relevant state and county  
12 agencies;

13 (8) Incorporation of traditional Hawaiian concepts of  
14 management and conservation found in the ahupua`a  
15 system;

16 (9) An operation term of \_\_\_\_\_ years of the Maunalua Bay  
17 ocean plan and the proposed date when the plan will be  
18 re-evaluated, amended, and renewed; and

19 (10) Any other elements that may be deemed appropriate by  
20 the board.





1 (d) The Maunalua Bay master plan shall be submitted to the  
2 legislature no later than twenty days prior to the convening of  
3 the regular session of 2012.

4 SECTION 5. 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 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

*Ken Ward*

*SP Levine*

*Barbara Mammoto*

JAN 20 2011



**Report Title:**

Ocean Board and Zoning Master Plan; Maunalua Bay Pilot Project

**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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

