
A BILL FOR AN ACT

RELATING TO COASTAL ZONE MANAGEMENT.

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

1 SECTION 1. The legislature finds that currently shoreline
2 erosion rate data is available to the city and county of
3 Honolulu and the counties of Maui and Kauai but is not presently
4 available in the county of Hawaii.

5 The purpose of this Act is to exempt a county from
6 establishing a shoreline setback line based on a long-term
7 annual shoreline erosion rate until the time when erosion rate
8 data is available.

9 SECTION 2. Section 205A-2, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§205A-2 Coastal zone management program; objectives and
12 policies. (a) The objectives and policies in this section
13 shall apply to all parts of this chapter.

14 (b) Objectives.

15 (1) Recreational resources;

16 (A) Provide coastal recreational opportunities
17 accessible to the public.

18 (2) Historic resources;



- 1 (A) Protect, preserve, and, where desirable, restore
2 those natural and manmade historic and
3 prehistoric resources in the coastal zone
4 management area that are significant in Hawaiian
5 and American history and culture.
- 6 (3) Scenic and open space resources;
- 7 (A) Protect, preserve, and, where desirable, restore
8 or improve the quality of coastal scenic and open
9 space resources.
- 10 (4) Coastal ecosystems;
- 11 (A) Protect valuable coastal ecosystems, including
12 reefs [7] and coastal dunes, from disruption and
13 minimize adverse impacts on all coastal
14 ecosystems.
- 15 (5) Economic uses;
- 16 (A) Provide public or private facilities and
17 improvements important to the State's economy in
18 suitable locations.
- 19 (6) Coastal hazards;
- 20 (A) Reduce hazard to life and property from tsunami,
21 storm waves, stream flooding, erosion,



- 1 subsidence, impacts related to projected sea
2 level rise and climate change, and pollution.
- 3 (7) Managing development;
- 4 (A) Improve the development review process,
5 communication, and public participation in the
6 management of coastal resources and planning for
7 coastal hazards.
- 8 (8) Public participation;
- 9 (A) Stimulate public awareness, education, and
10 participation in coastal management.
- 11 (9) Beach protection;
- 12 (A) Protect beaches for public use and recreation.
- 13 (10) Marine resources;
- 14 (A) Promote the protection, use, and development of
15 marine and coastal resources to assure their
16 sustainability.
- 17 (c) Policies.
- 18 (1) Recreational resources;
- 19 (A) Improve coordination and funding of coastal
20 recreational planning and management; and



- 1 (B) Provide adequate, accessible, and diverse
- 2 recreational opportunities in the coastal zone
- 3 management area by:
- 4 (i) Protecting coastal resources uniquely suited
- 5 for recreational activities that cannot be
- 6 provided in other areas;
- 7 (ii) Requiring [~~replacement~~] restoration of
- 8 coastal resources having significant
- 9 recreational value including, but not
- 10 limited to coral reefs, surfing sites,
- 11 fishponds, and sand beaches, when such
- 12 resources will be unavoidably damaged by
- 13 development; or requiring reasonable
- 14 monetary compensation to the State for
- 15 recreation when [~~replacement~~] restoration is
- 16 not feasible or desirable;
- 17 (iii) Providing and managing adequate public
- 18 access, consistent with conservation of
- 19 natural resources, to and along shorelines
- 20 with recreational value;



- 1 (iv) Providing an adequate supply of shoreline
2 parks and other recreational facilities
3 suitable for public recreation;
- 4 (v) Ensuring public recreational uses of county,
5 state, and federally owned or controlled
6 shoreline lands and waters having
7 recreational value consistent with public
8 safety standards and conservation of natural
9 resources;
- 10 (vi) Adopting water quality standards and
11 regulating point and nonpoint sources of
12 pollution to protect, and where feasible,
13 restore the recreational value of coastal
14 waters;
- 15 (vii) Developing new shoreline recreational
16 opportunities, where appropriate, such as
17 artificial lagoons, artificial beaches, and
18 artificial reefs for surfing and fishing;
19 and
- 20 (viii) Encouraging reasonable dedication of
21 shoreline areas with recreational value for



1 public use as part of discretionary
2 approvals or permits by the land use
3 commission, board of land and natural
4 resources, and county authorities; and
5 crediting such dedication against the
6 requirements of section 46-6;

7 (2) Historic resources;

8 (A) Identify and analyze significant archaeological
9 resources;

10 (B) Maximize information retention through
11 preservation of remains and artifacts or salvage
12 operations; and

13 (C) Support state goals for protection, restoration,
14 interpretation, and display of historic
15 resources;

16 (3) Scenic and open space resources;

17 (A) Identify valued scenic resources in the coastal
18 zone management area;

19 (B) Ensure that new developments are compatible with
20 their visual environment by designing and
21 locating such developments to minimize the



- 1 alteration of natural landforms and existing
2 public views to and along the shoreline;
- 3 (C) Preserve, maintain, and, where desirable, improve
4 and restore shoreline open space and scenic
5 resources; and
- 6 (D) Encourage those developments that are not coastal
7 dependent to locate in inland areas;
- 8 (4) Coastal ecosystems;
- 9 (A) Exercise an overall conservation ethic, and
10 practice stewardship in the protection, use, and
11 development of marine and coastal resources;
- 12 (B) Improve the technical basis for natural resource
13 management;
- 14 (C) Preserve valuable coastal ecosystems, including
15 reefs [,-] and coastal dunes, of significant
16 biological or economic importance;
- 17 (D) Minimize disruption or degradation of coastal
18 water ecosystems by effective regulation of
19 stream diversions, channelization, and similar
20 land and water uses, recognizing competing water
21 needs; and



- 1 (E) Promote water quantity and quality planning and
2 management practices that reflect the tolerance
3 of fresh water and marine ecosystems and maintain
4 and enhance water quality through the development
5 and implementation of point and nonpoint source
6 water pollution control measures;
- 7 (5) Economic uses;
- 8 (A) Concentrate coastal dependent development in
9 appropriate areas;
- 10 (B) Ensure that coastal dependent development such as
11 harbors and ports, and coastal related
12 development such as visitor industry facilities
13 and energy generating facilities, are [~~located,~~]
14 planned, designed, and constructed to minimize
15 exposure to coastal hazards, including impacts
16 related to projected sea level rise, and minimize
17 adverse social, visual, and environmental impacts
18 in the coastal zone management area; and
- 19 (C) Direct the location and expansion of coastal
20 [~~dependent developments~~] development to areas
21 presently designated and used for such



1 ~~[developments]~~ development and permit reasonable
2 long-term growth at such areas, and permit
3 coastal ~~[dependent]~~ development outside of
4 presently designated areas when:

- 5 (i) Use of presently designated locations is not
6 feasible;
7 (ii) Adverse environmental effects are minimized;
8 and
9 (iii) The development is important to the State's
10 economy;

11 (6) Coastal hazards;

- 12 (A) Develop and communicate adequate information
13 about ~~[storm-wave,]~~ tsunami, ~~[flood,]~~ hurricanes,
14 wind, storm waves, flooding, erosion, impacts
15 related to projected sea level rise, subsidence,
16 and point and nonpoint source pollution hazards;
17 (B) ~~[Control]~~ Minimize development in areas subject
18 to ~~[storm-wave,]~~ tsunami, ~~[flood,]~~ hurricanes,
19 wind, storm waves, flooding, erosion, impacts
20 related to projected sea level rise, subsidence,
21 and point and nonpoint source pollution hazards;



- 1 (C) Ensure that developments comply with requirements
- 2 of the [~~Federal~~] National Flood Insurance
- 3 Program; and
- 4 (D) Prevent coastal flooding from inland projects;
- 5 (7) Managing development;
- 6 (A) Use, implement, and enforce existing law
- 7 effectively to the maximum extent possible in
- 8 managing present and future coastal zone
- 9 development;
- 10 (B) Facilitate timely processing of applications for
- 11 development permits and resolve overlapping or
- 12 conflicting permit requirements; and
- 13 (C) Communicate the potential short and long-term
- 14 impacts of proposed significant coastal
- 15 developments early in their life cycle and in
- 16 terms understandable to the public to facilitate
- 17 public participation in the planning and review
- 18 process;
- 19 (8) Public participation;
- 20 (A) Promote public involvement in coastal zone
- 21 management processes;



- 1 (B) Disseminate information on coastal management
2 issues by means of educational materials,
3 published reports, staff contact, and public
4 workshops for persons and organizations concerned
5 with coastal issues, developments, and government
6 activities; and
- 7 (C) Organize workshops, policy dialogues, and site-
8 specific mediations to respond to coastal issues
9 and conflicts;
- 10 (9) Beach protection;
- 11 (A) Locate new structures inland from the shoreline
12 [~~setback~~] area to conserve open space, minimize
13 interference with natural shoreline processes,
14 and minimize loss of improvements due to erosion;
- 15 (B) Prohibit construction of private erosion-
16 protection structures seaward of the shoreline,
17 except when they result in improved aesthetic and
18 engineering solutions to erosion at the sites and
19 do not interfere with existing recreational and
20 waterline activities;



- 1 (C) Minimize the construction of public erosion-
- 2 protection structures seaward of the shoreline;
- 3 (D) Prohibit private property owners from creating a
- 4 public nuisance by inducing or cultivating the
- 5 private property owner's vegetation in a beach
- 6 transit corridor; and
- 7 (E) Prohibit private property owners from creating a
- 8 public nuisance by allowing the private property
- 9 owner's unmaintained vegetation to interfere or
- 10 encroach upon a beach transit corridor;
- 11 (10) Marine resources;
- 12 (A) Ensure that the use and development of marine and
- 13 coastal resources are ecologically and
- 14 environmentally sound and economically
- 15 beneficial;
- 16 (B) Coordinate the management of marine and coastal
- 17 resources and activities to improve effectiveness
- 18 and efficiency;
- 19 (C) Assert and articulate the interests of the State
- 20 as a partner with federal agencies in the sound



1 management of ocean resources within the United
2 States exclusive economic zone;

3 (D) Promote research, study, and understanding of
4 ocean processes, marine life, and other ocean
5 resources to acquire and inventory information
6 necessary to understand how ocean development
7 activities relate to and impact ~~upon~~ ocean and
8 coastal resources; and

9 (E) Encourage research and development of new,
10 innovative technologies for exploring, using, or
11 protecting marine and coastal resources.

12 (d) For the purposes of this section, "coastal hazards"
13 includes tsunami, hurricanes, wind, storm waves, flooding,
14 erosion, sea level rise, subsidence, and point and nonpoint
15 source pollution."

16 SECTION 3. Section 205A-22, Hawaii Revised Statutes, is
17 amended by amending the definitions of "department",
18 "development", "special management area emergency permit", and
19 "structure" to read as follows:

20 ""Department" means the planning department in the counties
21 of Kauai, Maui, and Hawaii, and the department of ~~land~~



1 ~~utilization]~~ planning and permitting in the city and county of
2 Honolulu, or other appropriate agency as designated by the
3 county councils.

4 "Development" means any of the uses, activities, or
5 operations on land or in or under water within a special
6 management area that are included below:

- 7 (1) Placement or erection of any solid material or any
8 gaseous, liquid, solid, or thermal waste;
- 9 (2) Grading, removing, dredging, mining, or extraction of
10 any materials;
- 11 (3) Change in the density or intensity of use of land,
12 including but not limited to the division or
13 subdivision of land;
- 14 (4) Change in the intensity of use of water, ecology
15 related thereto, or of access thereto; and
- 16 (5) Construction, reconstruction, [~~demolition~~] or
17 alteration of the size of any structure.

18 "Development" does not include the following:

- 19 (1) Construction or reconstruction of a single-family
20 residence that is less than seven thousand five



- 1 hundred square feet of floor area and is not part of a
2 larger development;
- 3 (2) Repair or maintenance of roads and highways within
4 existing rights-of-way;
- 5 (3) Routine maintenance dredging of existing streams,
6 channels, and drainage ways;
- 7 (4) Repair and maintenance of underground utility lines,
8 including but not limited to water, sewer, power, and
9 telephone and minor appurtenant structures such as pad
10 mounted transformers and sewer pump stations;
- 11 (5) Zoning variances, except for height, density, parking,
12 and shoreline setback;
- 13 (6) Repair, maintenance, or interior alterations to
14 existing structures;
- 15 (7) Demolition or removal of structures, except those
16 structures located on any historic site as designated
17 in national or state registers;
- 18 (8) Use of any land for the purpose of cultivating,
19 planting, growing, and harvesting plants, crops,
20 trees, and other agricultural, horticultural, or
21 forestry products or animal husbandry, or aquaculture



- 1 or mariculture of plants or animals, or other
2 agricultural purposes;
- 3 (9) Transfer of title to land;
- 4 (10) Creation or termination of easements, covenants, or
5 other rights in structures or land;
- 6 (11) Final subdivision approval; provided that in counties
7 that may automatically approve tentative subdivision
8 applications as a ministerial act within a fixed time
9 of the submission of a preliminary plat map, unless
10 the director takes specific action, a special
11 management area use permit if required, shall be
12 processed concurrently with an application for
13 tentative subdivision approval or after tentative
14 subdivision approval and before final subdivision
15 approval;
- 16 (12) Subdivision of land into lots greater than twenty
17 acres in size;
- 18 (13) Subdivision of a parcel of land into four or fewer
19 parcels when no associated construction activities are
20 proposed; provided that any land that is so subdivided
21 shall not thereafter qualify for this exception with



1 respect to any subsequent subdivision of any of the
2 resulting parcels; provided further that no
3 developments on the resulting parcels shall be
4 significantly affected by sea level rise over the
5 period of at least fifty years from the date of
6 subdivision;

7 (14) Installation of underground utility lines and
8 appurtenant aboveground fixtures less than four feet
9 in height along existing corridors;

10 (15) Structural and nonstructural improvements to existing
11 single-family residences, where otherwise permissible;

12 (16) Nonstructural improvements to existing commercial
13 structures; and

14 (17) Construction, installation, maintenance, repair, and
15 replacement of emergency management warning or signal
16 devices and sirens;

17 provided that whenever the authority finds that any excluded
18 use, activity, or operation may have a cumulative impact, or a
19 significant environmental or ecological effect on a special
20 management area, that use, activity, or operation shall be
21 defined as "development" for the purpose of this part.



1 "Special management area emergency permit" means an action
2 by the authority authorizing development in cases of emergency
3 requiring immediate action to prevent substantial physical harm
4 to persons or property or to allow the reconstruction of
5 structures damaged by natural hazards to their original form;
6 provided that such structures were previously found to be legal
7 and in compliance with requirements of the [~~Federal~~] National
8 Flood Insurance Program.

9 "Structure" includes but is not limited to any building,
10 road, pipe, flume, conduit, siphon, aqueduct, telephone line,
11 [~~and~~] electrical power transmission and distribution line[-],
12 wall, revetment, and groin."

13 SECTION 4. Section 205A-26, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§205A-26 Special management area guidelines. In
16 implementing this part, the authority shall adopt the following
17 guidelines for the review of developments proposed in the
18 special management area:

19 (1) All development in the special management area shall
20 be subject to reasonable terms and conditions set by
21 the authority in order to ensure:



- 1 (A) Adequate public access, by dedication or other
2 means, to publicly owned or used beaches,
3 recreation areas, and natural reserves is
4 provided to the extent consistent with sound
5 conservation principles;
- 6 (B) Adequate and properly located public recreation
7 areas and wildlife preserves are reserved;
- 8 (C) Provisions are made for solid and liquid waste
9 treatment, disposition, and management which will
10 minimize adverse effects upon special management
11 area resources; and
- 12 (D) Alterations to existing land forms and
13 vegetation, except crops, and construction of
14 structures shall cause minimum adverse effect to
15 water resources and scenic and recreational
16 amenities and minimum danger of floods, wind
17 damage, wave damage, storm surge, landslides,
18 erosion, siltation, or failure in the event of
19 earthquake.
- 20 (2) No development shall be approved unless the authority
21 has first found:



- 1 (A) That the development will not have any
2 substantial adverse environmental or ecological
3 effect, except as such adverse effect is
4 minimized to the extent practicable and clearly
5 outweighed by public health, safety, or
6 compelling public interests. Such adverse
7 effects shall include, but not be limited to, the
8 potential cumulative impact of individual
9 developments, each one of which taken in itself
10 might not have a substantial adverse effect, and
11 the elimination of planning options;
- 12 (B) That the development is consistent with the
13 objectives, policies, and special management area
14 guidelines of this chapter and any guidelines
15 enacted by the legislature; ~~and~~
- 16 (C) That the development is consistent with the
17 county general plan and zoning. Such a finding
18 of consistency does not preclude concurrent
19 processing where a general plan or zoning
20 amendment may also be required~~(-)~~; and



1 (D) That the development has adequate mitigation,
2 including location and adaptive or resilient
3 design, to reduce the risk of coastal hazards.

4 (3) The authority shall seek to minimize, where
5 reasonable:

6 (A) Dredging, filling, or otherwise altering any bay,
7 estuary, salt marsh, river mouth, slough or
8 lagoon;

9 (B) Any development which would reduce the size of
10 any beach or other area usable for public
11 recreation;

12 (C) Any development which would reduce or impose
13 restrictions upon public access to tidal and
14 submerged lands, beaches, portions of rivers and
15 streams within the special management areas and
16 the mean high tide line where there is no beach;

17 (D) Any development which would substantially
18 interfere with or detract from the line of sight
19 toward the sea from the state highway nearest the
20 coast; and



1 (E) Any development which would adversely affect
2 water quality, existing areas of open water free
3 of visible structures, existing and potential
4 fisheries and fishing grounds, wildlife habitats,
5 or potential or existing agricultural uses of
6 land."

7 SECTION 5. Section 205A-41, Hawaii Revised Statutes, is
8 amended by adding a new definition to be appropriately inserted
9 and to read as follows:

10 "Department" means the planning department in the counties
11 of Kauai, Maui, and Hawaii, and the department of planning and
12 permitting in the city and county of Honolulu, or other
13 appropriate agency as designated by the county councils."

14 SECTION 6. Section 205A-43, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "\$205A-43 Establishment of shoreline setbacks and duties
17 and powers of the department. (a) Setbacks along shorelines
18 are established of not less than twenty feet and not more than
19 forty feet inland from the shoreline. No later than January 1,
20 2019, in each county where shoreline erosion rate data is
21 available for use after review by the department, the shoreline



1 setback line shall be established using a not less than fifty
2 years annual shoreline erosion rate or other method and shall be
3 at least sixty feet from the shoreline; provided that the depth
4 of lot is considered. The department shall adopt rules pursuant
5 to chapter 91[7] prescribing procedures for determining the
6 shoreline setback line and shall enforce the shoreline setbacks
7 and rules pertaining thereto.

8 (b) The powers and duties of the department shall
9 include[7] but not be limited to[+]

10 ~~(1) The department shall adopt rules under chapter 91~~
11 ~~prescribing procedures for determining the shoreline~~
12 ~~setback line; and~~

13 ~~(2) The department shall review]~~ reviewing the plans of
14 all applicants who propose any structure, activity, or
15 facility that would be prohibited without a variance
16 pursuant to this part. The department may require
17 that the plans be supplemented by accurately mapped
18 data and photographs showing natural conditions and
19 topography relating to all existing and proposed
20 structures and activities."



1 SECTION 7. Section 205A-46, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) No variance shall be granted unless appropriate
4 conditions are imposed:

- 5 (1) To maintain safe lateral access to and along the
6 shoreline or adequately compensate for its loss;
- 7 (2) To minimize risk of adverse impacts on beach
8 processes;
- 9 (3) To minimize risk of structures failing and becoming
10 loose rocks or rubble on public property; [~~and~~]
- 11 (4) To minimize adverse impacts on public views to, from,
12 and along the shoreline[-]; and
- 13 (5) To minimize adverse environmental or ecological
14 impacts to coastal ecosystems and marine resources."

15 SECTION 8. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act shall take effect on July 1, 2016.

18



Report Title:

Coastal Zone Management; Projected Sea Level Rise Impacts

Description:

Requires new developments to plan for the impacts of projected sea level rise and prohibits development in areas significantly affected by projected sea level rise. Transitions to long-term annual shoreline erosion based setbacks or setbacks using other methods by 1/1/2019 for counties with erosion rate data. (SD1)

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

