
A BILL FOR AN ACT

RELATING TO WILDLIFE PRESERVATION.

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

1 SECTION 1. The legislature finds that ninety per cent of
2 the natural dry land habitat, sixty-one per cent of the natural
3 mesic habitat, and forty-two per cent of the natural wetland
4 habitat of Hawaii have been lost to development and other forms
5 of encroachment. Additionally, fifty-eight per cent of Hawaii's
6 perennial streams have been altered. The loss of habitat has
7 been a contributing factor in making Hawaii known as the
8 endangered species capital of the world. More than twenty-five
9 per cent of the species on the nation's endangered species list
10 are endemic to Hawaii despite Hawaii having only two tenths of a
11 per cent of the nation's land.

12 The legislature further finds that wind and solar farms
13 consume thousands of acres of land and destroy the natural
14 habitats of gulches, prairies, and hillsides, effectively
15 exterminating many species of plants and animals that live there
16 or rely upon those areas for nutrients or protection.



1 The purpose of this Act is to designate all currently
2 undeveloped watercourses, gulches, ravines, and streams and
3 areas that are unsuitable for development as sanctuaries in
4 which development is prohibited so that those lands may serve as
5 a permanent refuge for wildlife.

6 SECTION 2. Chapter 195D, Hawaii Revised Statutes, is
7 amended by adding a new part to be appropriately designated and
8 to read as follows:

9 **"PART . WILDLIFE RESERVE SANCTUARIES**

10 **§195D-A Definitions.** As used in this part:

11 "Board approval" means approval by the board of land and
12 natural resources pursuant to chapter 183C.

13 "Structure" includes any portion of any building, pavement,
14 road, pipe, flume, utility line, fence, groin, wall, revetment,
15 or solar panel stand.

16 **§195D-B Wildlife reserve sanctuaries; established;**
17 **structures; wind turbines; prohibitions.** (a) All lands:

- 18 (1) Within three hundred feet of the center of a
19 aboveground natural river, stream, creek, slough,
20 gulch, gully, valley floor, or any other naturally
21 formed channel having a bed and sides or banks in



1 which water flows either perennially or
2 intermittently, regardless of whether the parts of the
3 bed or channel have been dredged or improved, that:

- 4 (A) Are undeveloped on July 1, 2020;
- 5 (B) Have not been used for agricultural purposes at
6 any time after June 30, 2010; and
- 7 (C) Are not subject to a pending or approved building
8 permit; and

9 (2) Not suitable for development,
10 are hereby designated as wildlife reserve sanctuaries.

11 (b) No structure shall be constructed or agricultural use
12 shall be permitted within a wildlife reserve sanctuary without
13 board approval.

14 (c) No wind turbine shall be constructed on a mountain
15 slope or hillside if the location of the wind turbine is within
16 one thousand feet of the center of a wildlife reserve sanctuary.

17 **§195D-C Powers and duties of the department; determination**
18 **of a wildlife reserve sanctuary boundary.** (a) The powers and
19 duties of the department shall include:

- 20 (1) Prescribing procedures for determining a wildlife
21 reserve sanctuary boundary line and appeals of



1 wildlife reserve sanctuary boundary line

2 determinations; and

3 (2) Reviewing the plans of all applicants that propose any
4 structure, activity, or facility that would be
5 prohibited without a variance pursuant to this part.

6 The department may require that the plans be
7 supplemented by accurately mapped data and photographs
8 showing natural conditions and topography relating to
9 all existing and proposed structures and activities.

10 (b) The department shall adopt rules pursuant to chapter
11 91 for purpose of this part.

12 **§195D-D Enforcement of wildlife reserve sanctuary.** (a)

13 The department or an agency designated by department rules shall
14 enforce this part and rules adopted pursuant to this part. Any
15 structure or activity prohibited by section 195D-B that has not
16 received a variance pursuant to this part or complied with
17 conditions on a variance shall be removed or corrected. No
18 other state or county permit or approval shall be construed as a
19 variance pursuant to this part.

20 (b) Where a wildlife reserve sanctuary is affected by an
21 artificial structure that has not been authorized, if any part



1 of the structure is on private property, then for purposes of
2 enforcement of this part, the structure shall be construed to be
3 entirely within the wildlife reserve sanctuary.

4 (c) The authority of the board to determine the wildlife
5 reserve sanctuary and enforce rules established under chapter
6 183C shall not be diminished by an artificial structure in
7 violation of this part.

8 **§195D-E Variances.** (a) A variance may be granted by
9 board approval for a structure or activity otherwise prohibited
10 in this part if the board finds in writing, based on the record
11 presented, that the proposed structure or activity is necessary
12 for or ancillary to:

- 13 (1) Drainage;
- 14 (2) Facilities or improvements by public agencies or
15 public utilities regulated under chapter 269;
- 16 (3) A public facility or improvement that is for a public
17 purpose or in the public interest;
- 18 (4) A private facility or improvement that is clearly in
19 the public interest; or
- 20 (5) Private facilities or improvements that will not
21 adversely affect wildlife in a wildlife reserve



1 sanctuary; provided that the authority also finds that
2 hardship will result to the applicant if the
3 facilities or improvements are not allowed within the
4 wildlife reserve sanctuary.

5 (b) Hardship shall be defined in rules adopted by the
6 authority under chapter 91. Hardship shall not be determined as
7 a result of county zoning changes, planned development permits,
8 cluster permits, or subdivision approvals after June 30, 2020,
9 or as a result of any other permit or approval listed in rules
10 adopted by the authority.

11 (c) No variance shall be granted unless appropriate
12 conditions are imposed to minimize the risk of adverse impacts
13 on wildlife within the wildlife reserve sanctuary.

14 **§195D-F Wildlife reserve sanctuaries established by**
15 **county.** Through rules adopted pursuant to chapter 91 or
16 ordinance, the several counties may require that a larger
17 wildlife reserve sanctuary be established at distances greater
18 than as established in this part.

19 **§195D-G Conflict with other laws.** In case of a conflict
20 between this part and the requirements of any other state law or
21 county ordinance regarding a wildlife reserve sanctuary boundary



1 line, the more restrictive requirements shall apply in
 2 furthering the purposes of this part. Nothing contained in this
 3 part shall be construed to diminish the jurisdiction of any
 4 state department; provided that applicable plans are submitted
 5 for the review and information of the officer of the respective
 6 agency charged with the administration of the county zoning
 7 laws, and are found to not conflict with any county ordinances,
 8 zoning laws, or building codes."

9 SECTION 3. In codifying the new sections added by section
 10 2 of this Act, the revisor of statutes shall substitute
 11 appropriate section numbers for the letters used in designating
 12 the new sections in this Act.

13 SECTION 4. This Act shall take effect upon its approval.
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H.B. NO. 1952

Report Title:

wildlife Reserve Sanctuary; Conservation; Wildlife; Wind
Turbines

Description:

Designates all currently undeveloped watercourses and lands unsuitable for development as wildlife reserve sanctuaries for which development is prohibited so that those lands may serve as a permanent refuge to wildlife. Establishes procedures to obtain a variance to construct a structure within a wildlife reserve sanctuary. Prohibits the construction of wind turbines on mountain slopes or hillsides if the location of the wind turbine is within 1,000 feet of the center of a wildlife reserve sanctuary.

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