
A BILL FOR AN ACT

RELATING TO THE ENVIRONMENT.

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

1 SECTION 1. The legislature finds that due to the effects
2 of climate change, sea levels are rising. According to the
3 website of the school of ocean and earth science and technology,
4 university of Hawaii, the global mean sea level rose
5 approximately two inches from 1993 to 2011. Further, the sea
6 level in Hawaii has risen about 0.6 inches per decade over the
7 past century. Although this figure may appear to be small, the
8 reality is that long-term sea level rise exacerbates hazards
9 such as chronic coastal erosion, impacts from seasonal high
10 waves, coastal inundation due to storm surge and tsunami, and
11 drainage problems due to the convergence of high tide and
12 rainfall run-off. The legislature therefore believes that steps
13 must be taken to move to avoid rising sea levels.

14 The purpose of this Act is to temporarily establish the
15 malama makalae coast council within the office of the lieutenant
16 governor, which shall:



H.B. NO. 19

- 1 (1) Study, provide analysis, and develop malama makalae
2 coast siting criteria and design criteria for certain
3 state-funded construction projects located within any
4 county with a population of five hundred thousand or
5 more;
- 6 (2) Establish a plan for the State and any county with a
7 population of five hundred thousand or more to move to
8 avoid saltwater intrusion; and
- 9 (3) Establish a plan to address nuisance flooding within
10 any county with a population of five hundred thousand
11 or more.

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

14 "Council" means the malama makalae coast council.

15 "Design criteria" means standard specifications related to
16 the shape, size, or form of a construction practice.

17 "Freshwater" means water with a total dissolved-solid
18 concentration of less than 1,000 mg/L.

19 "Highway" shall have the same meaning as in section 286-2,
20 Hawaii Revised Statutes.



H.B. NO. 19

1 "Highway facility" includes any one or more or combination
2 of projects involving the construction of highways within the
3 State, including federally aided highway projects partially
4 funded by the State, and all incidental property rights,
5 materials, facilities, and structures.

6 "Malama makalae coast" means a construction practice in
7 which preliminary planning, siting, design, construction,
8 operation, maintenance, and repair of a structure or highway
9 facility avoids or minimizes future impacts associated with
10 coastal flooding and sea level rise inundation.

11 "Malama makalae coast" includes design criteria and siting
12 criteria that are applicable throughout the entire life cycle of
13 a project.

14 "Mass transit project" means a locally preferred
15 alternative for a mass transit project for which a county uses
16 surcharge revenues of state tax pursuant to section 46-16.8(e),
17 Hawaii Revised Statutes.

18 "Nuisance flooding" means high-tide flooding that causes
19 public inconvenience.

20 "Replacement cost" means, at the time of reconstruction,
21 the cost of reconstructing a structure and its surrounding



1 property to full use with materials of the same kind and quality
2 as the original materials.

3 "Replacement cost" does not include:

4 (1) The value of the land on which a structure is located;

5 or

6 (2) For tax purposes, a deduction for depreciation.

7 "Saltwater intrusion" means the movement of water with a
8 total dissolved-solid concentration greater than or equal to
9 1,000 mg/L to freshwater, and includes saltwater intrusion into
10 surface water, aquifers, and soils.

11 "Sea level rise inundation" means the inundation of land
12 from a sea level rise of two feet, as determined by the council.

13 "Siting criteria" means specifications related to the
14 location or use of a structure or highway facility.

15 "Structure" means:

16 (1) A walled or roofed building;

17 (2) A manufactured home; or

18 (3) A gas or liquid storage tank that is principally above
19 ground.

20 "Substantial damage" means damage caused by any source that
21 is sustained by a structure to the extent that the cost of



H.B. NO. 19

1 reconstruction to its before-damaged condition is at least half
2 of the structure's replacement cost before the damage occurred.

3 SECTION 3. (a) There is established within the office of
4 the lieutenant governor for administrative purposes the malama
5 makalae coast council.

6 (b) The council shall consist of _____ members, which
7 shall include:

8 (1) The lieutenant governor, or the lieutenant governor's
9 designee, who shall serve as the chair of the council;

10 (2) The president of the university of Hawaii; and

11 (3) _____ members jointly designated by the members
12 listed above; provided that the designated members
13 shall have scientific expertise in the matters under
14 the purview of the council.

15 (c) Members of the council who are designated pursuant to
16 subsection (b)(3) shall serve without compensation but shall be
17 reimbursed for expenses, including travel expenses, necessary
18 for the performance of their duties.

19 SECTION 4. (a) The council shall:



- 1 (1) Study and provide analysis regarding standards and
2 factors relevant to the establishment of malama
3 makalae coast siting criteria and design criteria;
- 4 (2) Develop siting and design criteria to establish and
5 implement malama makalae coast practices and
6 requirements;
- 7 (3) Develop eligibility criteria, standards, and
8 procedures for applying for and obtaining a waiver
9 from compliance with the malama makalae coast
10 requirements;
- 11 (4) Establish procedures for evaluating malama makalae
12 coast waiver applications that include the
13 consideration of proposed projects with regard to:
- 14 (A) The anticipated need to prepare for, respond to,
15 and recover from extreme weather events, sea
16 level rise inundation, coastal flooding, storm
17 surges, and shoreline erosion; and
- 18 (B) The need to prevent danger to life and property
19 and to avoid environmental, socio-economic, and
20 economic harm; and



H.B. NO. 19

1 (5) Fulfill any other duties established pursuant to this
2 Act.

3 (b) The chair of the council may establish subcommittees
4 consisting of members of the council, experts in fields related
5 to climate change and sea level rise, and interested parties to
6 address or study specific issues.

7 (c) The council shall be dissolved on June 30, 2023.

8 SECTION 5. (a) Notwithstanding any law to the contrary,
9 this section shall apply to each state or county capital
10 improvement project:

11 (1) Located within a county with a population of five
12 hundred thousand or more;

13 (2) For which at least fifty per cent of project costs are
14 funded with state funds; and

15 (3) That has a total project cost of \$500,000 or more.

16 (b) Notwithstanding any law to the contrary, beginning on
17 July 1, 2020, if a state or county capital improvement project
18 covered under this section includes the:

19 (1) Construction of a structure, highway facility, or mass
20 transit project; or



1 (2) Reconstruction of a structure, highway facility, or
2 mass transit project with substantial damage,
3 the relevant structure, highway facility, or mass transit
4 project shall be constructed or reconstructed in compliance with
5 siting and design criteria established pursuant to subsection
6 (c).

7 (c) The council and the office of the lieutenant governor,
8 in consultation with the department of land and natural
9 resources, the department of transportation, or other
10 appropriate state or county governmental agencies, shall
11 establish malama makalae coast siting and design criteria to
12 address sea level rise inundation and coastal flood impacts on
13 state and county projects located in any county with a
14 population of five hundred thousand or more; provided that the
15 criteria established under this subsection shall include:

16 (1) Guidelines and any other directives applicable to the
17 preliminary planning and construction of a proposed
18 project;

19 (2) A requirement that a structure, highway facility, or
20 mass transit project be designed and constructed or
21 reconstructed in a manner to withstand the storm surge



1 from a storm that registers as a category 2 on the
2 Saffir-Simpson hurricane wind scale, including a
3 requirement for structures to be constructed or
4 reconstructed at a minimum elevation above the
5 projected storm surge; and

6 (3) Provisions establishing a process to allow any state
7 or county agency to obtain a waiver from complying
8 with the requirements of this section.

9 SECTION 6. On or before December 15, 2020, the council, in
10 consultation with the office of the lieutenant governor, the
11 department of natural resources, the department of agriculture,
12 and other appropriate state or county agencies, shall establish
13 a plan for the State and any county with a population of five
14 hundred thousand or more to move to avoid saltwater intrusion.

15 SECTION 7. (a) On or before July 1, 2020, the council, in
16 consultation with the office of the lieutenant governor, the
17 department of natural resources, the department of agriculture,
18 and other appropriate state or county agencies, shall establish
19 a plan to address nuisance flooding within any county with a
20 population of five hundred thousand or more.



H.B. NO. 19

1 (b) The office of the lieutenant governor shall publish
2 the plan on its website, and shall submit a copy of the plan to
3 any county with a population of five hundred thousand or more.

4 SECTION 8. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$ or so much
6 thereof as may be necessary for fiscal year 2019-2020 and the
7 same sum or so much thereof as may be necessary for fiscal year
8 2020-2021 for the administrative and operating expenses of the
9 malama makalae coast council.

10 The sums appropriated shall be expended by the office of
11 the lieutenant governor for the purposes of this Act.

12 SECTION 9. This Act shall take effect on July 1, 2019.

13

INTRODUCED BY: *Ginther Hiden*
JAN 16 2019



H.B. NO. 19

Report Title:

Climate Change; Sea Level Rise; Malama Makalae Coast Council;
Lieutenant Governor; Appropriation

Description:

Establishes a Malama Makalae Coast Council, which shall: (1) Study, provide analysis, and develop Malama Makalae coast siting criteria and design criteria for certain state-funded construction projects; (2) Establish a plan regarding saltwater intrusion; and (3) Establish a plan to address nuisance flooding in each county with a population of 500,000 or more. Appropriates funds for administrative and operating expenses. Dissolves the council on 6/30/2023.

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