

JAN 16 2020

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# 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 the coastal zone  
2 management program was established pursuant to Act 188, Session  
3 Laws of Hawaii 1977. The Act declared that it is state policy  
4 to:
- 5           (1) Protect, preserve, and where desirable, restore or  
6           improve the quality of coastal scenic and open space  
7           resources;
- 8           (2) Protect valuable coastal ecosystems from disruption  
9           and minimize adverse impacts on all coastal  
10          ecosystems;
- 11          (3) Reduce hazards to life and property from tsunami,  
12          storm waves, stream flooding, erosion, and subsidence;  
13          and
- 14          (4) Improve the development review process, communication,  
15          and public participation in the management of coastal  
16          resources and hazards.



1           The legislature also finds that a 2012 collaborative study  
2 by the United States Geological Survey and the university of  
3 Hawaii indicates that seventy per cent of beaches in Hawaii are  
4 undergoing a trend of chronic sand loss and shoreline retreat.  
5 Further, more than thirteen miles of beach in the State have  
6 been completely lost to erosion fronting seawalls and  
7 revetments. The Hawaii sea level rise vulnerability and  
8 adaptation report, accepted in 2017 by the Hawaii climate change  
9 mitigation and adaptation commission, finds that with just 1.1  
10 feet of sea level rise, many more miles of beach could be lost  
11 to erosion if widespread shoreline armoring is allowed. This  
12 could mean a loss of five miles of beach on Kauai, seven miles  
13 of beach on Oahu, and eight miles of beach on Maui. Based on  
14 its findings, the report recommends enabling beaches to persist  
15 with sea level rise and suggests integrating sea level rise  
16 considerations into Hawaii's laws regarding coastal zone  
17 management.

18           The legislature further finds that the convergence of dense  
19 development along shorelines, increasing landward migration of  
20 shoreline due to sea level rise and other human and natural  
21 impacts, and extensive beach loss fronting shoreline armoring



1 necessitates revision of existing policies and regulations.  
2 Revision of these existing policies and regulations would both  
3 protect beaches and other coastal environments from further  
4 degradation and reduce the exposure of shorefront communities to  
5 increasing erosion and flooding hazards caused by sea level  
6 rise.

7 The legislature also finds that a recent study by the  
8 university of Hawaii coastal geology group identified several  
9 primary causes for the State's failure to meet coastal zone  
10 management policy objectives. Specifically, the study found  
11 that current policies, ordinances, and practices allow for:

12 (1) The hardening of shorelines through a hardship  
13 variance that is granted based upon demonstrated  
14 hardship brought on by coastal erosion. When granted,  
15 these hardship variances set into motion a cycle of  
16 shoreline armoring that causes "flanking", or  
17 amplified erosion, on properties adjacent to armored  
18 shorelines. This continuous cycle of hardening and  
19 flanking can extend along an entire beach and, in a  
20 section of northeast Oahu, approximately forty-five  
21 per cent of observed shoreline hardening was



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1 implemented in response to adjacent hardening. This  
2 cycle, caused by a combination of beach erosion and  
3 coastal policy, has resulted in the narrowing and even  
4 elimination of beaches to the extent that they can no  
5 longer be used for public recreation or cultural  
6 practice; and

7 (2) Renovation and expansion of single-family homes in  
8 erosion and flood-prone coastal areas, thereby  
9 extending building lifetimes indefinitely and allowing  
10 for virtually complete coverage of coastal parcels by  
11 these structures. The average building surface area  
12 increased by twenty per cent following the  
13 establishment of the State's coastal zone management  
14 program and, combined with sea level rise, this  
15 development increases the likelihood of mass  
16 structural failure and deposit of debris on public  
17 beaches.

18 The purpose of this Act is to strengthen coastal zone  
19 management policy by amending chapter 205A, Hawaii Revised  
20 Statutes, to protect state beaches and to reduce residential  
21 exposure to coastal hazards.



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1 SECTION 2. Section 205A-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 ""Coastal hazards" means any tsunami, hurricane, wind,  
5 wave, storm surges, high tide, flooding, erosion, sea level  
6 rise, subsidence, and point and nonpoint source pollution."

7 SECTION 3. Section 205A-2, Hawaii Revised Statutes, is  
8 amended by amending subsections (b) and (c) to read as follows:

9 "(b) Objectives.

10 (1) Recreational resources;

11 (A) Provide coastal recreational opportunities  
12 accessible to the public.

13 (2) Historic resources;

14 (A) Protect, preserve, and, where desirable, restore  
15 those natural and manmade historic and  
16 prehistoric resources in the coastal zone  
17 management area that are significant in Hawaiian  
18 and American history and culture.

19 (3) Scenic and open space resources;



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1 (A) Protect, preserve, and, where desirable, restore  
2 or improve the quality of coastal scenic and open  
3 space resources.

4 (4) Coastal ecosystems;

5 (A) Protect valuable coastal ecosystems, including  
6 reefs, beaches, and coastal dunes, from  
7 disruption and minimize adverse impacts on all  
8 coastal ecosystems.

9 (5) Economic uses;

10 (A) Provide public or private facilities and  
11 improvements important to the State's economy in  
12 suitable locations.

13 (6) Coastal hazards;

14 (A) Reduce hazard to life and property from [~~tsunami,~~  
15 ~~storm waves, stream flooding, erosion,~~  
16 ~~subsidence, and pollution.~~] coastal hazards.

17 (7) Managing development;

18 (A) Improve the development review process,  
19 communication, and public participation in the  
20 management of coastal resources and hazards.

21 (8) Public participation;



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- 1 (A) Stimulate public awareness, education, and  
2 participation in coastal management.
- 3 (9) Beach protection;
- 4 (A) Protect beaches and coastal dunes for [~~public~~]:
- 5 (i) Public use and recreation[-];
- 6 (ii) The benefit of coastal ecosystems; and
- 7 (iii) Natural barrier protection against coastal  
8 hazards; and
- 9 (B) Coordinate and fund beach management and  
10 protection.
- 11 (10) Marine resources;
- 12 (A) Promote the protection, use, and development of  
13 marine and coastal resources to assure their  
14 sustainability.
- 15 (c) Policies.
- 16 (1) Recreational resources;
- 17 (A) Improve coordination and funding of coastal  
18 recreational planning and management; and
- 19 (B) Provide adequate, accessible, and diverse  
20 recreational opportunities in the coastal zone  
21 management area by:



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





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



1 resources, and county authorities; and  
2 crediting such dedication against the  
3 requirements of section 46-6;

4 (2) Historic resources;

5 (A) Identify and analyze significant archaeological  
6 resources;

7 (B) Maximize information retention through  
8 preservation of remains and artifacts or salvage  
9 operations; and

10 (C) Support state goals for protection, restoration,  
11 interpretation, and display of historic  
12 resources;

13 (3) Scenic and open space resources;

14 (A) Identify valued scenic resources in the coastal  
15 zone management area;

16 (B) Ensure that new developments are compatible with  
17 their visual environment by designing and  
18 locating [~~such~~] those developments to minimize  
19 the alteration of natural landforms and existing  
20 public views to and along the shoreline;



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



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- 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~~  
11 ~~as harbors and ports,~~] residential and commercial  
12 development, transportation infrastructure, and  
13 coastal related development [~~such as~~] including  
14 but not limited to visitor industry facilities  
15 and energy generating facilities, are located,  
16 designed, and constructed to minimize exposure to  
17 coastal hazards and adverse social, visual, and  
18 environmental impacts in the coastal zone  
19 management area; and
- 20 (C) Direct the location and expansion of coastal  
21 [~~dependent developments~~] development to areas



1                   presently designated and used for [~~such~~  
2                   developments] that development and permit  
3                   reasonable long-term growth at [~~such~~] those  
4                   areas, and permit coastal [~~dependent~~] development  
5                   outside of presently designated areas when:  
6                   (i) Use of presently designated locations is not  
7                   feasible;  
8                   (ii) Adverse environmental effects and risks from  
9                   coastal hazards are minimized; and  
10                  (iii) The development is important to the State's  
11                  economy;  
12                  (6) Coastal hazards;  
13                  (A) Develop and communicate adequate information  
14                  about [~~storm wave, tsunami, flood, erosion,~~  
15                  subsidence, and point and nonpoint source  
16                  pollution] the risks of coastal hazards;  
17                  (B) Control development, including planning and  
18                  zoning control, in areas subject to [~~storm wave,~~  
19                  tsunami, flood, erosion, hurricane, wind,  
20                  subsidence, and point and nonpoint source  
21                  pollution] coastal hazards;



1 (C) Ensure that developments comply with requirements  
2 of the [~~Federal Flood Insurance Program;~~]  
3 national flood insurance 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 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~~] shoreline hardening structures  
17 [~~seaward of the shoreline, except when they~~  
18 ~~result in improved aesthetic and engineering~~  
19 ~~solutions to erosion at the sites and do not~~],  
20 such as seawalls and revetments, at sites with  
21 sand beaches and at sites where shoreline



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- 1           hardening structures interfere with existing  
2           recreational and waterline activities;
- 3           (C) Minimize the construction of public [~~erosion-~~  
4           ~~protection~~] shoreline hardening structures  
5           [~~seaward of the shoreline;~~], such as seawalls and  
6           revetments, at sites with sand beaches and at  
7           sites where shoreline hardening structures  
8           interfere with existing recreational and  
9           waterline activities;
- 10          (D) Avoid grading of and damage to coastal dunes;
- 11          [~~(D)~~] (E) Prohibit private property owners from  
12           creating a public nuisance by inducing or  
13           cultivating the private property owner's  
14           vegetation in a beach transit corridor; and
- 15          [~~(E)~~] (F) Prohibit private property owners from  
16           creating a public nuisance by allowing the  
17           private property owner's unmaintained vegetation  
18           to interfere or encroach upon a beach transit  
19           corridor;
- 20          (10) Marine and coastal resources;





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- 1           (A) Ensure that the use and development of marine and  
2           coastal resources are ecologically and  
3           environmentally sound and economically  
4           beneficial;
- 5           (B) Coordinate the management of marine and coastal  
6           resources and activities to improve effectiveness  
7           and efficiency;
- 8           (C) Assert and articulate the interests of the State  
9           as a partner with federal agencies in the sound  
10          management of ocean resources within the United  
11          States exclusive economic zone;
- 12          (D) Promote research, study, and understanding of  
13          ocean and coastal processes, climate change and  
14          sea level rise, marine life, and other ocean  
15          resources to acquire and inventory information  
16          necessary to understand how [~~ocean~~] coastal  
17          development activities relate to and impact  
18          [~~upon~~] ocean and coastal resources; and
- 19          (E) Encourage research and development of new,  
20          innovative technologies for exploring, using, or  
21          protecting marine and coastal resources."



1 SECTION 4. Section 205A-22, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending the definition of "development" to read:

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

21 hundred square feet of floor area, is not situated on



1           a parcel that is impacted by waves, storm surges, high  
2           tide, or shoreline erosion, and is not part of a  
3           larger development;

4           (2) Repair or maintenance of roads and highways within  
5           existing rights-of-way;

6           (3) Routine maintenance dredging of existing streams,  
7           channels, and drainage ways;

8           (4) Repair and maintenance of underground utility lines,  
9           including but not limited to water, sewer, power, and  
10          telephone and minor appurtenant structures such as pad  
11          mounted transformers and sewer pump stations;

12          (5) Zoning variances, except for height, density, parking,  
13          and shoreline setback;

14          (6) Repair, maintenance, or interior alterations to  
15          existing structures;

16          (7) Demolition or removal of structures, except those  
17          structures located on any historic site as designated  
18          in national or state registers;

19          (8) Use of any land for the purpose of cultivating,  
20          planting, growing, and harvesting plants, crops,  
21          trees, and other agricultural, horticultural, or



1 forestry products or animal husbandry, or aquaculture  
2 or mariculture of plants or animals, or other  
3 agricultural purposes;

4 (9) Transfer of title to land;

5 (10) Creation or termination of easements, covenants, or  
6 other rights in structures or land;

7 [~~(11)~~] ~~Final subdivision approval; provided that in counties~~  
8 ~~that may automatically approve tentative subdivision~~  
9 ~~applications as a ministerial act within a fixed time~~  
10 ~~of the submission of a preliminary plat map, unless~~  
11 ~~the director takes specific action, a special~~  
12 ~~management area use permit if required, shall be~~  
13 ~~processed concurrently with an application for~~  
14 ~~tentative subdivision approval or after tentative~~  
15 ~~subdivision approval and before final subdivision~~  
16 ~~approval;~~

17 ~~(12)~~] (11) Subdivision of land into lots greater than  
18 twenty acres in size;

19 [~~(13)~~] (12) Subdivision of a parcel of land into four or  
20 fewer parcels when no associated construction  
21 activities are proposed; provided that any land that



1 is so subdivided shall not thereafter qualify for this  
2 exception with respect to any subsequent subdivision  
3 of any of the resulting parcels;

4 [~~14~~] (13) Installation of underground utility lines and  
5 appurtenant aboveground fixtures less than four feet  
6 in height along existing corridors;

7 [~~15~~] (14) Structural and nonstructural improvements to  
8 existing single-family residences, where otherwise  
9 permissible;

10 [~~16~~] (15) Nonstructural improvements to existing  
11 commercial structures; and

12 [~~17~~] (16) Construction, installation, maintenance, repair,  
13 and replacement of emergency management warning or  
14 signal devices and sirens;

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

20 2. By amending the definition of "special management area  
21 emergency permit" to read:



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~~] those structures were previously found to  
7 be in compliance with requirements of the [~~Federal Flood~~  
8 ~~Insurance Program.~~] national flood insurance program."

9           SECTION 5. Section 205A-26, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "**§205A-26 Special management area guidelines.** In  
12 implementing this part, the authority shall adopt the following  
13 guidelines for the review of developments proposed in the  
14 special management area:

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

18           (A) Adequate access, by dedication or other means, to  
19 publicly owned or used beaches, recreation areas,  
20 and natural reserves is provided to the extent  
21 consistent with sound conservation principles;



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- 1           (B) Adequate and properly located public recreation
- 2           areas and wildlife preserves are reserved;
- 3           (C) Provisions are made for solid and liquid waste
- 4           treatment, disposition, and management [~~which~~
- 5           that will minimize adverse effects upon special
- 6           management area resources; and
- 7           (D) Alterations to existing land forms and
- 8           vegetation, except crops, and construction of
- 9           structures shall cause minimum adverse effect to
- 10          water resources, beaches, coastal dunes, and
- 11          scenic and recreational amenities and [~~minimum~~
- 12          ~~danger of~~] minimize impacts from floods, wind
- 13          damage, storm surge, landslides, erosion, sea
- 14          level rise, siltation, or failure in the event of
- 15          earthquake.
  
- 16          (2) No development shall be approved unless the authority
- 17          has first found:
- 18               (A) That the development will not have any
- 19               [~~substantial~~] significant adverse environmental
- 20               or ecological effect, except as [~~such~~] any
- 21               adverse effect is minimized to the extent

1                   practicable and clearly outweighed by public  
2                   health, safety, or compelling public interests.  
3                   ~~[Such]~~ Those adverse effects shall include, but  
4                   not be limited to, the potential cumulative  
5                   impact of individual developments, each ~~[one]~~ of  
6                   which taken ~~[in]~~ by itself might not have a  
7                   ~~[substantial]~~ significant adverse effect, and the  
8                   elimination of planning options;

9                   (B) That the development is consistent with the  
10                   objectives, policies, and special management area  
11                   guidelines of this chapter and any guidelines  
12                   enacted by the legislature; and

13                   (C) That the development is consistent with the  
14                   county general plan, community plan, and zoning~~[-~~  
15                   ~~Such]~~; provided that a finding of consistency  
16                   does not preclude concurrent processing where a  
17                   general plan, community plan, or zoning amendment  
18                   may also be required.

19                   (3) The authority shall seek to minimize, where  
20                   reasonable:





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- 1           (A) Dredging, filling or otherwise altering any bay,  
2                     estuary, salt marsh, river mouth, slough or  
3                     lagoon;
- 4           (B) Any development [~~which~~] that would reduce the  
5                     size of any beach or other area usable for public  
6                     recreation;
- 7           (C) Any development [~~which~~] that would reduce or  
8                     impose restrictions upon public access to tidal  
9                     and submerged lands, beaches, portions of rivers  
10                    and streams within the special management areas  
11                    and the mean high tide line where there is no  
12                    beach;
- 13          (D) Any development [~~which~~] that would substantially  
14                    interfere with or detract from the line of sight  
15                    toward the sea from the state highway nearest the  
16                    coast; and
- 17          (E) Any development [~~which~~] that would adversely  
18                    affect water quality, existing areas of open  
19                    water free of visible structures, existing and  
20                    potential fisheries and fishing grounds, wildlife



1                   habitats, or potential or existing agricultural  
2                   uses of land."

3           SECTION 6. Section 205A-43, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5           "(a) Setbacks along shorelines are established of not less  
6 than [~~twenty feet and not more than~~] forty feet inland from the  
7 shoreline. The department shall adopt rules pursuant to chapter  
8 91, and shall enforce the shoreline setbacks and rules  
9 pertaining thereto."

10          SECTION 7. Section 205A-43.5, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12          "(a) Prior to action on a variance application, the  
13 authority shall hold a public hearing under chapter 91. By  
14 adoption of rules under chapter 91, the authority may delegate  
15 responsibility to the department. Public and private notice,  
16 including reasonable notice to abutting property owners and  
17 persons who have requested this notice, shall be provided, but a  
18 public hearing may be waived prior to action on a variance  
19 application for:

- 20           (1) Stabilization of shoreline erosion by the moving of  
21           sand entirely on public lands;



- 1           (2) Protection of a legal structure [~~costing more than~~  
2           \$20,000;] or public facility, including any facility  
3           owned by a public utility that is regulated pursuant  
4           to chapter 269, that does not fix the shoreline, under  
5           an emergency authorization issued by the authority;  
6           provided that the structure or public facility is at  
7           risk of immediate damage from shoreline erosion[+] and  
8           the authorization does not exceed three years;
- 9           (3) Other structures or activities; provided that no  
10           person or agency has requested a public hearing within  
11           twenty-five calendar days after public notice of the  
12           application; or
- 13           (4) Maintenance, repair, reconstruction, and minor  
14           additions or alterations of legal boating, maritime,  
15           or watersports recreational facilities, [~~which~~] that  
16           result in little or no interference with natural  
17           shoreline processes."

18           SECTION 8. Section 205A-46, Hawaii Revised Statutes, is  
19           amended as follows:

- 20           1. By amending subsection (a) to read:



1           "(a) A variance may be granted for a structure or activity  
2 otherwise prohibited in this part if the authority finds in  
3 writing, based on the record presented, that the proposed  
4 structure or activity is necessary for or ancillary to:

- 5           (1) Cultivation of crops;
- 6           (2) Aquaculture;
- 7           (3) Landscaping; provided that the authority finds that  
8 the proposed structure or activity will not adversely  
9 affect beach processes and will not artificially fix  
10 the shoreline;
- 11          (4) Drainage;
- 12          (5) Boating, maritime, or watersports recreational  
13 facilities;
- 14          (6) Facilities or improvements by public agencies or  
15 public utilities regulated under chapter 269;
- 16          (7) Private facilities or improvements that are clearly in  
17 the public interest;
- 18          (8) Private facilities or improvements [~~which~~] that will  
19 [~~neither~~] not adversely affect beach processes [~~nor~~],  
20 result in flanking shoreline erosion, or artificially  
21 fix the shoreline; provided that the authority [also



1 ~~finds that]~~ may consider any hardship that will result  
2 to the applicant if the facilities or improvements are  
3 not allowed within the shoreline area;

4 (9) Private facilities or improvements that may  
5 artificially fix the shoreline except for areas with  
6 sand beaches; provided that the ~~[authority also finds~~  
7 ~~that shoreline erosion is likely to cause]~~ action will  
8 not interfere with existing recreational and water  
9 line activities; provided further that the authority  
10 may consider any hardship that will result to the  
11 applicant if the facilities or improvements are not  
12 allowed within the shoreline area~~[, and the authority~~  
13 ~~imposes conditions to prohibit any structure seaward~~  
14 ~~of the existing shoreline]~~; or

15 (10) Moving of sand from one location seaward of the  
16 shoreline to another location seaward of the  
17 shoreline; provided that the authority also finds that  
18 moving of sand will not adversely affect beach  
19 processes, will not diminish the size of a public  
20 beach, and will be necessary to stabilize an eroding  
21 shoreline."



1           2. By amending subsection (c) to read:

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

4           (1) To maintain safe lateral access to and along the  
5 shoreline or adequately compensate for its loss;

6           (2) To minimize risk of adverse impacts on beach  
7 processes;

8           (3) To minimize risk of structures failing and becoming  
9 loose rocks, sharp or otherwise dangerous debris, or  
10 rubble on public property; and

11           (4) To minimize adverse impacts on public views to, from,  
12 and along the shoreline."

13           SECTION 9. Section 205A-62, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "**§205A-62 Duties and responsibilities of the lead agency.**

16 The lead agency shall have the following duties and  
17 responsibilities:

18           (1) Coordinate overall implementation of the plan, giving  
19 special consideration to the plan's priority

20 recommendations;

21           (2) Review and periodically update the plan;



- 1           (3) Coordinate the development of state agency work plans  
2           to implement the ocean resources management plan. The  
3           work plans shall be revised on a biennial basis and  
4           coordinated with the budget process. State agencies  
5           with responsibilities relating to marine and coastal  
6           zone management include but are not limited to:
- 7           (A) The department of agriculture;
- 8           (B) The department of business, economic development,  
9           and tourism;
- 10          (C) The department of defense;
- 11          (D) The department of education;
- 12          [~~(D)~~] (E) The department of health;
- 13          [~~(E)~~] (F) The department of land and natural  
14          resources;
- 15          [~~(F)~~] (G) The department of public safety;
- 16          [~~(G)~~] (H) The department of transportation; and
- 17          [~~(H)~~] (I) The University of Hawaii;
- 18          (4) Ensure that state agency work plans are closely  
19          coordinated with the work plans of relevant federal  
20          and county agencies;



1 (5) Analyze, resolve conflicts between, and prioritize, in  
2 cooperation with relevant agencies and as part of the  
3 work plan development process, the sector-specific  
4 recommendations included in the plan;

5 (6) Coordinate exclusive economic zone and other marine-  
6 related issues with state and county agencies;

7 (7) Provide technical assistance to the agencies on policy  
8 and issue-related matters regarding marine and coastal  
9 resources management;

10 (8) Coordinate marine and coastal education activities;  
11 and

12 (9) Adopt rules pursuant to chapter 91 to carry out the  
13 purposes of this part."

14 SECTION 10. This Act does not affect rights and duties  
15 that matured, penalties that were incurred, and proceedings that  
16 were begun before its effective date.

17 SECTION 11. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 12. This Act shall take effect upon its approval.

20

INTRODUCED BY: *Dan Claitor*  
*Michelle R. Sadani*





S.B. NO. 2060



Clarence Dickerson



# S.B. NO. 2060

**Report Title:**

Department of Business, Economic Development, and Tourism;  
Coastal Zone Management; Sea Level Rise; Coastal Erosion

**Description:**

Amends coastal zone management laws to further protect against impacts of sea level rise and coastal erosion.

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

