

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Testimony of  
SUZANNE D. CASE  
Chairperson

Before the Senate Committees on  
AGRICULTURE AND ENVIRONMENT  
and  
WATER AND LAND

Friday, February 7, 2020  
1:30pm  
State Capitol, Conference Room 224

In consideration of  
SENATE BILL 2060  
RELATING TO COASTAL ZONE MANAGEMENT

Senate Bill 2060 proposes to amend coastal zone management laws to further protect against impacts of sea level rise and coastal erosion. requires new development to plan for the impacts of projected seal level rise and restricts development in areas significantly affected by coastal hazards and projected sea level rise. It amends policies and objectives related to coastal zone management to reduce residential exposure to coastal hazards and protects state and public shoreline access. Defines “coastal hazards.” Increases the minimum shoreline setback. **The Department of Land and Natural Resources (Department) supports this measure and offers the following comments.**

In 2017, the Legislature passed legislation which Governor Ige signed into law as Act 32, establishing the Hawaii Climate Change Mitigation and Adaptation Commission (Climate Commission). Act 32 also established a Climate Change Mitigation and Adaptation Coordinator (Climate Coordinator) position. The Climate Commission and Climate Coordinator are housed within the Department’s Office of Conservation and Coastal Lands.

In their September 2018 meeting, the Hawaii Climate Change Mitigation and Adaptation Commission (Climate Commission), on which the Chair of the Board of Land and Natural Resources is a co-chair, agreed to five priority recommendations for countering impacts of sea level rise, including requesting that all new development, redevelopment, and modifications be directed away from beach areas; urging counties to incorporate the 3.2 foot sea level rise exposure area (SLR-XA) as detailed in the Hawaii Sea Level Rise Vulnerability and Adaptation Report (Hawaii Sea Level Rise Report) into their general and community plans; and bring resources to assist in planning and implementing for sea level rise and other coastal hazards.

Further, the Hawaii Sea Level Rise Report, accepted by the Climate Commission in December 2017, recommendations include that the State support sustainable and resilient land use and community development; seek opportunities to development outside the SLR-XA; develop shoreline (i.e., beach and dune) protection, conservation, and restoration priorities and guidelines; integrate sea level rise vulnerability considerations into the Hawaii Coastal Zone Management Act (Chapter 205A, Hawaii Revised Statutes)); and enable “legacy” beaches to persist with sea level rise.

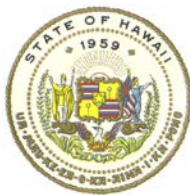
It is the mission of the Department to manage public lands and ocean resources, including beaches throughout the State. The Department is very much at the forefront of addressing impacts related to coastal erosion and beach loss in Hawaii. Beaches are central to our culture and economy. As described in Section 1 of the bill, our beaches are being lost at alarming rates due to natural processes and human impacts including sea level rise and concentrated shoreline development, threatening alongshore public access and upland development.

When shore-front property and homes are threatened by coastal erosion and flooding, the Department often faces intense pressure from landowners to permit erosion-protection structures such as seawalls and rock revetments. The science is clear that installing coastal armoring on a chronically eroding beach leads to beach narrowing and loss and increased erosion to unprotected neighboring properties. Increasing protection for beaches and other coastal resources, as well as strengthening prohibitions against seawalls and revetments, and strengthening zoning controls and shoreline building setbacks through the proposed updates to Chapter 205A HRS are critical if we want to allow our beaches to persist with sea level rise while improving resilience of our beachfront communities.

The Department brings attention to the issue of “hardship.” Section 205A-46(a)(8)(9) allows for the application of variances for uses otherwise prohibited in Chapter 205A, HRS. SB 2060 allows for the application of a variance except for areas with “sand beaches,” but then goes on to state that the authority may consider hardship if the improvements are not allowed in the shoreline area. If the intent of the bill is that someone who is experiencing hardship may not apply for a variance for a shoreline structure on a sand beach, the Department feels that the language could be modified to ensure that this intent is unambiguously expressed. Possible language is as follows:

(9) Private facilities or improvements that may artificially fix the shoreline[;], provided that the ~~[authority also finds that shoreline erosion is likely to cause hardship to the applicant if the facilities or improvements are not allowed within the shoreline area and the authority imposes conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interest]~~ authority may consider hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area, and provided further that a variance to artificially fix the shoreline may not be granted in areas with sand beaches and in areas where artificially fixing the shoreline may interfere with existing recreational and waterline activities; or

Thank you for the opportunity to comment on this measure.



**STATE OF HAWAII**  
**HAWAII CLIMATE CHANGE MITIGATION & ADAPTATION**  
**COMMISSION**  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of**  
**Anukriti Hittle**  
**Coordinator, Hawaii Climate Change Mitigation and Adaptation Commission**

**Before the Senate Committees on**  
**AGRICULTURE and ENVIRONMENT**  
**and**  
**WATER and LAND**

**Friday, February 7, 2020**  
**1:30pm**  
**State Capitol, Conference Room 224**

**In support of**  
**SENATE BILL 2060**  
**RELATING TO COASTAL ZONE MANAGEMENT**

Senate Bill 2060 proposes to amend coastal zone management laws to further protect against impacts of sea level rise and coastal erosion. requires new development to plan for the impacts of projected seal level rise and restricts development in areas significantly affected by coastal hazards and projected sea level rise. **On behalf of the Hawaii Climate Change Mitigation and Adaptation Commission (Commission) I offer the following comments in support of this measure.**

The Hawaii Climate Change Mitigation and Adaptation Commission “recognizes the urgency of climate threats and the need to act quickly. It promotes ambitious, climate-neutral, culturally responsible strategies for climate change adaptation and mitigation in a manner that is clean, equitable and resilient.” The Commission, established by Act 32 SLH 2017 to uphold the United States’ pledges under the Paris Agreement, is the coordinating body for policies on climate change mitigation and adaptation for the state. It is a high-level multi-jurisdictional body that guides the priorities of the state’s climate response. Co-chaired by DLNR and Office of Planning, it consists of 20 members—chairs of four legislative committees, and executive department heads at the county and state levels.

At its September 2018 meeting, the Climate Commission agreed to five priority recommendations for countering impacts of sea level rise, including requesting that all new development, redevelopment, and modifications be directed away from beach areas; urging counties to incorporate the 3.2 foot sea level rise exposure area (SLR-XA) as detailed in the Hawaii Sea Level Rise Vulnerability and Adaptation Report (Hawaii Sea Level Rise Report) into their general and

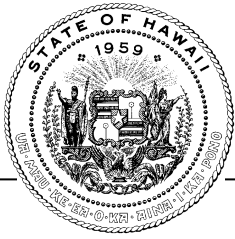
**Co-Chairs:**  
Chair, DLNR  
Director, Office of Planning

**Commissioners:**  
Chair, Senate AEN  
Chair, Senate WTL  
Chair, House EEP  
Chair, House WTH  
Chairperson, HTA  
Chairperson, DOA  
CEO, OHA  
Chairperson, DHHL  
Director, DBEDT  
Director, DOT  
Director, DOH  
Chairperson, DOE  
Director, C+C DPP  
Director, Maui DP  
Director, Hawai'i DP  
Director, Kaua'i DP  
The Adjutant General  
Manager, CZM

community plans; and bring resources to assist in planning and implementing for sea level rise and other climate related impacts.

This measure acts on the Commission's priority recommendations, and is a crucial component of Hawaii's adaptation to the impacts of sea level rise.

Thank you for the opportunity to offer comments in support of this measure.



# OFFICE OF PLANNING STATE OF HAWAII

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DAVID Y. IGE  
GOVERNOR

MARY ALICE EVANS  
DIRECTOR  
OFFICE OF PLANNING

Statement of  
**MARY ALICE EVANS**  
Director, Office of Planning  
before the  
**SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT  
AND  
WATER AND LAND**  
Friday, February 7, 2020  
1:30 PM  
State Capitol, Conference Room 224

in consideration of  
**SB 2060**  
**RELATING TO COASTAL ZONE MANAGEMENT.**

Chairs Gabbard and Kahele, Vice Chairs Ruderman and Keith-Agaran, and Members of the Senate Committee on Agriculture and Environment, and on Water and Land.

The Office of Planning (OP) supports the intent of SB2060 with amendments, but respectfully seeks to clarify the statement on page 4, lines 11-14. The implementation of the Coastal Zone Management Act, which is a federal law, does not increase building surface area. The Coastal Zone Management (CZM) program was established in Hawaii in 1978, and among many responsibilities administers the Special Management Areas (SMA) permitting and shoreline setback policies which implement *mitigative measures through a discretionary permit to existing land uses* that are allowed by zoning. CZM does not serve as a mechanism to enable development.

OP supports the intent of SB2060 and provides the following proposed amendments:

1. The OP recommends adding the definition of “Beach” to read as follows:

“Beach” means a coastal landform composed predominantly of sand from eroded rock, coral, and/or shell material that is established and shaped by wave action and tidal processes. Such coastal landform encompasses sand deposits in nearshore submerged areas, and sand dunes or upland beach deposits landward of the shoreline, and provides benefits for public use and recreation, for coastal ecosystems, and as a natural buffer against coastal hazards.

2. **Page 7, lines 3-14**, the OP recommends replacing the term “barriers” with “buffers” against coastal hazards, and adding coastal resources to the objectives as follows:

- (9) Beach protection;
  - (A) Protect beaches and coastal dunes for:
    - (i) Public use and recreation;
    - (ii) Benefits of coastal ecosystems; and
    - (iii) Natural [~~barrier protection~~] buffers against coastal hazards; and
  - (B) Coordinate and fund beach management and protection; and
- (10) Marine and coastal resources;
  - (A) Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

3. **Page 12, lines 20-21, and page 13, lines 1-11**, given that presently designated areas for coastal developments may change with best available information on the risks of coastal hazards, including sea level rise, the OP recommends deleting the term “presently” before designated areas as follows:

- (C) Direct the location and expansion of coastal developments to areas [~~presently~~] designated and used for these developments and permit reasonable long-term growth at these areas, and permit coastal development outside of [~~presently~~] designated areas when:
  - (i) Use of [~~presently~~] designated locations is not feasible;
  - (ii) Adverse environmental effects and risks from coastal hazards are minimized; and
  - (iii) The development is important to the State's economy;

4. **Page 16, line 10**, the OP recommends changing the word “avoid” with “minimize” as follows:

- (D) [~~Avoid~~] Minimize grading of and damage to coastal dunes;

5. **Page 17, lines 12-18**, for coastal zone management policies, the OP recommends promoting research, study and understanding on the **impacts of climate change and sea level rise**, instead of “climate change and sea level rise”.

6. **Page 18, lines 19-21, and page 19, lines 1-3**, the OP recommends excluding the construction of a single-family residence situated on a shoreline parcel explicitly from the list of “not development” as follows:

- (1) Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area, is not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion, and is not part of a larger development;

7. **Page 21, lines 12-14**, for language clarification, the OP recommends the end of excluded "Development" end after "...sirens" as follows:

(17) Construction, installation, maintenance, repair, and replacement of civil defense warning or signal devices and sirens[;].

8. **Page 26, lines 5-9**, the OP supports the amendments to §205A-43(a) to require setbacks along shorelines are established of not less than forty feet inland from the shoreline.

The OP further proposes the following technical amendments for the purpose of clarity, consistency, and style.

§205A-22, Hawaii Revised Statutes, is amended by amending the definitions of "Department" and "Development" to read as follows:

"Department" means the planning department [~~in~~ of] of the counties of Kauai, Maui, and Hawaii, and the department of [~~land utilization~~] planning and permitting in the city and county of Honolulu, or other appropriate agency as designated by the county councils.

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

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

§205A-29(a), Hawaii Revised Statutes, is amended to read as follows:

(a) The authority in each county, upon consultation with the central coordinating agency, shall adopt rules under chapter 91 setting the special management area use permit application procedures, conditions under which hearings must be held, and the time periods within which the hearing and action for special management area use permits shall occur. The authority shall provide for adequate notice to individuals whose property rights may be adversely affected and to persons who have requested in writing to be notified of special management area use permit hearings or applications. The authority shall also provide public notice [~~statewide~~] that is at minimum circulated throughout the county and at least twenty days in advance of the hearing. The authority may require a reasonable filing fee which shall be used for the purposes set forth herein.

Any rule adopted by the authority shall be consistent with the objectives, policies, and special management area guidelines provided in this chapter. Action on the special management permit shall be final unless otherwise mandated by court order.

§205A-44(b), Hawaii Revised Statutes, is amended to read as follows:

(b) Except as provided in this section, structures are prohibited in the shoreline area without a variance pursuant to this part. Structures in the shoreline area shall not need a variance if:

- (1) They were completed prior to June 22, 1970;
- (2) They received either a building permit, board approval, or shoreline setback variance prior to June 16, 1989;
- (3) They are outside the shoreline area when they receive either a building permit or board approval;
- (4) They are necessary for or ancillary to continuation of existing agriculture or aquaculture in the shoreline area on June 16, 1989;
- (5) They are minor structures permitted under rules adopted by the department which do not affect beach processes or artificially fix the shoreline and do not interfere with public access or public views to and along the shoreline; or
- (6) Work being done consists of maintenance, repair, reconstruction, and minor additions or alterations of legal boating, maritime, or watersports recreational facilities, which are publicly owned, and which result in little or no interference with natural shoreline processes;

provided that permitted structures may be repaired, but shall not be enlarged, rebuilt or replaced within the shoreline area without a variance.

Thank you for the opportunity to testify on this measure.





# SIERRA CLUB OF HAWAI'I

SENATE COMMITTEE ON AGRICULTURE AND THE ENVIRONMENT

SENATE COMMITTEE ON WATER AND LAND

February 7, 2020 1:30 PM Room 224

In **SUPPORT** of **SB2060**: Relating to Coastal Zone Management

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Aloha Chair Gabbard and Chair Kahele, and members of the committees,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **strongly supports SB2060** Relating to Coastal Zone Management.

This bill updates Chapter 205A-the Hawaii Coastal Zone Management Act, to incorporate sea level rise within its objectives, policies, and permitting processes related to Special Management Areas and Shoreline Setbacks. This is necessary and timely, as sea level rise is here and will continue, at increasing rates, in future years. Its impacts are already being felt, especially in the form of narrowing or loss of beaches--a public trust resource which should be afforded the highest levels of protection.

As noted in Section 1 of the bill, a study by UH researchers titled "Failure to protect beaches under slowly rising sea levels" documents that over the time period covered by the study (1925-2015) more than thirteen miles of beach statewide have been completely lost to erosion fronting seawalls and revetments, due in part to a history of county agencies ("authorities" under Chapter 205A) frequently granting shoreline setback variances where the authorities have made a finding that denial of such variances would present a hardship to the private property applicants.

We strongly support the intent of this bill to halt, and reverse, the narrowing and loss of beaches and public access caused in large part by granting of shoreline setback variances, especially as we enter a new era of sea level rise. As the sea level rises we can expect a dramatic increase in the number of variances sought to armor coastal properties. It is appropriate to take measures now to guard against further coastal armoring and promote managed retreat alternatives where feasible.

Thank you very much for this opportunity to provide testimony on **SB2060**.

Mahalo,

A handwritten signature in black ink that reads "Dave Raney". The signature is written in a cursive, flowing style.

Dave Raney

Co-Chair

Sierra Club Climate Adaptation and Restoration Team

**SB-2060**

Submitted on: 2/4/2020 10:31:05 PM

Testimony for AEN on 2/7/2020 1:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alexandra Kahn	Testifying for Surfrider Oahu	Support	No

Comments:

**SB-2060**

Submitted on: 2/4/2020 1:46:32 PM

Testimony for AEN on 2/7/2020 1:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dyson Chee	Testifying for Hawaii Youth Climate Coalition	Support	No

Comments:

**SB-2060**

Submitted on: 2/4/2020 6:42:53 PM

Testimony for AEN on 2/7/2020 1:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

**SB-2060**

Submitted on: 2/7/2020 8:07:13 AM

Testimony for AEN on 2/7/2020 1:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Stuart Coleman	Individual	Support	No

Comments:

Dear Chair and Committee Members,

I am in strong support of this bill, which will help preserve our beaches and coastal areas from further erosion. Mahalo for your consideration of this timely & important bill.

Aloha,

Stuart Coleman, Exec. Dir., WAICleanWater.org

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