

ACT 249

H.B. NO. 2065-74

A Bill for an Act Relating to Soil Erosion and Sediment Control.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose and findings. (a) The purpose of this Act is to establish a means whereby soil erosion and sediment control measures can be enacted by the Department of Health and the various counties.

(b) The Legislature finds that erosion continues to be a serious problem throughout the State of Hawaii; urban and highway construction and unprotected agricultural lands have all contributed to increased erosion and sediment problems; the deposition of sediment in coastal waters is detrimental to navigation, recreation, and aquatic resources; the State Department of Health enforces the water quality standards of the State; soil and water conservation districts, established under Chapter 180, HRS, provide voluntary conservation and protection of land and water resources; all counties have adopted or are preparing ordinances for soil erosion and sediment control; the City and County of Honolulu requires the Department of Health to approve all grading work; and there is a need for a state-wide comprehensive and coordinated soil erosion and sediment control law for the protection of the land, water, and other resources of the State of Hawaii.

It is therefore declared that the policy of this Act is to strengthen and extend the present erosion and sediment control activities and programs of the State of Hawaii; to conserve and protect the land, water, and other resources of the State; to encourage all counties to enact ordinances for soil erosion and sediment control; and to require all State agencies to conform to the soil erosion and sediment control ordinances adopted by the various counties.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER SOIL EROSION AND SEDIMENT CONTROL

Sec. -1. Definitions.

- (1) ‘Land Disturbing Activity’ means any land change which may result in soil erosion from water or wind and the movement of sediment into state waters or onto lands in the State including, but not limited to, tilling, clearing, grading, excavating, transporting, and filling of land other than federal lands, except that the term shall not include such minor land disturbing activities as home gardens and individual home landscaping, repairs, and maintenance work.
- (2) ‘Persons’ means any individual, partnership, firm, association, joint-venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality, and other political subdivisions of the State, any interstate body or any other legal entity.
- (3) ‘State Waters’ means all waters, fresh, brackish or salt, around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, ground waters, and lakes; provided that drainage ditches, ponds, and reservoirs required as a part of a pollution control system are excluded.
- (4) ‘Conservation Plan’ or ‘Plan’ means a plan for the control of soil erosion and sediment resulting from a land-disturbing activity.
- (5) ‘Conservation Standards’ or ‘Standards’ means standards adopted within 90 days of the passage of this Act by the Department of Health.
- (6) ‘Department of Health’ or ‘Department’ shall mean the Department of Health of the State of Hawaii.
- (7) ‘Soil and Water Conservation Districts’ or ‘District’ means a governmental subdivision of this State, and a public body corporate and politic, organized under Chapter 180, HRS.
- (8) ‘County’ means all the County Governments of Honolulu, Maui, Kauai, or Hawaii.

Sec. -2. Erosion and sediment control. (a) The County Governments, in cooperation with the Soil and Water Conservation Districts and other

appropriate State and Federal agencies, shall enact ordinances for the purpose of controlling soil erosion and sediment.

(b) The ordinance for erosion and sediment control shall include but not be limited to the following:

- (1) Be based on relevant physical and developmental information concerning the watersheds and drainage basins of the county and/or State including but not limited to data relating to land use, soil, hydrology and geology, size of land area being disturbed, approximate water bodies and their characteristics, transportation, and public facilities and services.
- (2) Include such survey of land and waters as may be deemed appropriate by the County or required by any applicable law to identify areas including multi-jurisdictional and watershed areas with critical erosion and sediment problems; and
- (3) Contain standards for various types of soil and land uses, which standards shall include criteria, techniques, and methods for the control of erosion and sediment resulting from land-disturbing activities.
- (4) Include a provision whereby standards shall be deemed met if it can be shown that the land is being managed in accordance with soil conservation practices acceptable to the applicable soil and water conservation district directors, and that a comprehensive conservation program is being actively pursued.

Sec. -3. Limitation of enactment of ordinances. The counties shall enact ordinances within one year from the date of this law.

Sec. -4. Department of Health. The department of health shall adopt conservation standards within 90 days after passage of this Act. Upon the failure of any county or counties to enact soil erosion and sediment control ordinances within one year from the date of this bill, the department of health shall then, promulgate rules and regulations within 180 days, to be effective within those counties failing to enact such ordinances.

Sec. -5. Separability. If any provision of this Act is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining provisions of this Act.”

SECTION 3. This Act shall take effect upon its approval.

(Approved June 15, 1974.)