

ACT 31

S.B. NO. 3330

A Bill for an Act Relating to the Pupukea Marine Life Conservation District.

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

SECTION 1. The legislature finds that prior to the coronavirus disease 2019 (COVID-19) pandemic, tourism levels in Hawaii had increased to more than ten million visitors per year, causing an unprecedented number of visitors to the Pupukea marine life conservation district on Oahu's North Shore. Recent projections indicate that post-pandemic visitor levels are likely to return to, or even exceed, these pre-pandemic levels.

The legislature also finds that Hawaii tourism authority surveys indicate that half of all visitors to Oahu visit the North Shore. Further, the protected beaches and bays of the Pupukea marine life conservation district are very popular recreational areas on the North Shore for snorkeling, swimming, and diving. Two of the most visited locations on the North Shore for snorkeling are Shark's Cove and the adjacent Kapoo Tidepools, a rich nursery for over fifty species of marine life that replenish the entire Pupukea marine life conservation district

and adjacent areas. The legislature acknowledges that unabated levels of human use in certain areas of the Pupukea marine life conservation district, including Shark's Cove and the Kapoo Tidepools, are threatening the health and abundance of the marine life in these sensitive areas, as well as limiting the use and enjoyment of the area by residents.

During the winter season, portions of the Pupukea marine life conservation district are protected by dangerous high surf conditions. However, the shallow Kapoo Tidepools are surrounded by a rock wall, are almost always accessible from the shore, and attract numerous recreational users. During closures of other marine areas due to high surf or restrictions on access to these areas, the three-acre Kapoo Tidepools may attract thousands of visitors each day. At any given time throughout the day, regardless of the day of the week, up to one hundred visitors walk, swim, or snorkel in the Kapoo Tidepools without any rest or kapu period. The legislature notes that during the COVID-19 pandemic, high levels of usage of the Kapoo Tidepools and Shark's Cove have continued virtually unabated and these locations continue to be crowded almost every day.

The legislature believes that allowing unlimited human access to sensitive marine areas like the Kapoo Tidepools and Shark's Cove is contrary to Native Hawaiian cultural traditions of adaptive management, including kapu, or closures, to ensure abundance in perpetuity.

Established in 1983 and expanded in 2003, the Pupukea marine life conservation district is one of only three state-designated marine life conservation districts on the island of Oahu; the other two marine life conservation districts are Hanauma Bay and Waikiki. Like Hanauma Bay, Pupukea is a one hundred-acre marine reserve that is supposed to receive the highest level of protection for its marine and recreational resources.

Based on carrying capacity studies conducted by the Hawaii institute of marine biology in 2018-2019 and 2019-2020, a number of measures were adopted to restrict human access to Hanauma Bay to protect marine life. Hanauma Bay is now effectively managed by the city and county of Honolulu using a twice weekly closure requirement, a reservation system, differential parking fees for residents and non-residents, a \$25 entry fee for non-residents more than thirteen years of age, mandatory education for visitors, a ban on commercial operations, and closure of the bay after 4:00 pm.

According to the city and county of Honolulu, Hanauma Bay nature preserve, "one of the most spectacular natural resources in Hawaii, is reaping the benefits of over a decade of moves to re-establish its pristine marine ecosystem. Recognizing the damage done by years of neglect and abuse by allowing some three million visitors annually, the city and county of Honolulu in 1990 laid out a plan to restore Hanauma Bay to a clean, healthy state by reducing the number of visitors, establishing an education program, and instituting supportive restrictions".

Unlike Hanauma Bay, there are no plans to restrict access to the Pupukea marine life conservation district and the associated Waimea and Pupukea beach parks or protect these areas from human access. The sensitive Kapoo Tidepools and Shark's Cove areas of the Pupukea marine life conservation district have unlimited public access from multiple locations along the shoreline and adjacent beach parks, every day of the week, all year long. Although there are rules restricting the taking of marine life from the Pupukea marine life conservation district, there are no rules restricting the number of visitors to the area other than nighttime closures of parking spaces and comfort stations in the adjacent beach parks.

The results of unlimited human access to the sensitive areas of the Pupukea marine life conservation district appear to include the trampling of ma-

rine life, damage to the marine habitat, damage to coral, the spooking of fish, interference with marine life cycles, increased harassment and touching of marine life, increased poaching, turbidity from stirred up sediment, pollution from sunscreen, water degradation from human waste, erosion from foot pathways, disrespect for natural geographic features, and disregard for cultural norms.

The legislature recognizes that various nonprofit organizations, in collaboration with the department of land and natural resources, have spent nearly two decades developing a range of educational, scientific, and cultural programs. The legislature also recognizes that a collaborative management plan process by the department of land and natural resources and the neighboring community is now underway. Nevertheless, the legislature notes that a study of carrying capacity of areas in the Pupukea marine life conservation district has never been conducted.

The legislature further believes that, as tourism has not yet reached pre-pandemic levels, now is the ideal time to proactively study the vulnerability of certain areas of the Pupukea marine life conservation district to high levels of human use and determine appropriate measures to reduce those impacts for the long term.

Accordingly, the purpose of this Act is to establish a three-year pilot program to assess the carrying capacity of certain areas in the Pupukea marine life conservation district in light of threats to marine life from human use; monitor, document, and assess the effectiveness of mandatory and voluntary kapu, or closures, of high-traffic areas in the Pupukea marine life conservation district and other restrictions on access to these areas, including the imposition of fees; and propose long-term management options to reduce the impact of humans on the health and abundance of marine life in the sensitive areas of the Pupukea marine life conservation district.

SECTION 2. (a) The department of land and natural resources shall establish and conduct the Pupukea marine life conservation district carrying capacity pilot program to:

- (1) Assess the carrying capacity of certain areas in the Pupukea marine life conservation district;
- (2) Monitor, document, and assess the effectiveness of:
 - (A) Mandatory kapu, or closures, of high-traffic areas in the Pupukea marine life conservation district;
 - (B) Voluntary kapu, or closures, of high-traffic areas in the Pupukea marine life conservation district; and
 - (C) Other restrictions on access to high-traffic areas in the Pupukea marine life conservation district, including the imposition of fees; and
- (3) Propose long-term management options to reduce the impact of humans on the health and abundance of marine life in the sensitive areas of the Pupukea marine life conservation district.

(b) In establishing and conducting the Pupukea marine life conservation district carrying capacity pilot program, the department of land and natural resources shall consult with the city and county of Honolulu; University of Hawaii, including the Hawaii institute of marine biology; and nonprofit community organizations in the ahupuaa of Pupukea and Waimea.

(c) The Pupukea marine life conservation district carrying capacity pilot program shall cease to exist on July 1, 2025.

(d) The department of land and natural resources shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than January 1, 2026.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2022-2023 for the department of land and natural resources to establish and conduct the Pupukeya marine life conservation district carrying capacity pilot program pursuant to this Act.

The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2022.

(Approved June 8, 2022.)