HB 893 HD 2
RELATING TO COASTAL ZONE MANAGEMENT

Statement for
Senate Committee on
Planning, Land and Water Use Management
Public Hearing - April 2, 1991

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HB 893 HD 2 makes several changes to the Coastal Zone Management (CZM) program. Among the more significant amendments and additions it provides for the following:

- Establishes an approval procedure for single family dwellings in the special management area (HRS 205A-22 (B) (i));
- Extends the shoreline setback area to 150 feet in all districts other than urban (HRS 205-43);
- Provides for the development of beach stabilization districts to promote coordination among beach-front property owners in the prevention of coastal erosion;
- Provides that if the shoreline is fixed by a non-permitted structure or lies seaward of the shoreline, then the "shoreline area" will include the entire structure; and,
- Requires the CZM office to monitor the CZM enforcement activities of state and county agencies.

Our statement on this bill does not represent an institutional position of the University of Hawaii.

The proposed changes to HRS 205A reflect some of the changes that were recommended as a consequence of the extensive CZM program analysis begun in August 1990. More than 25 meetings were held all over the state to identify perceived coastal problems, and to evaluate proposed problem mitigation.
strategies. Many of the problems and proposed solutions had to do with coastal erosion. The notion of a beach stabilization plan is to prevent the continued piecemeal "hardening" of the coastlines of the state. The emphasis throughout the program analysis has been on the development of coordinated solutions to coastal problems.

The establishment of shoreline stabilization districts by the counties is a particularly important component of HB 893 HD 2. This will provide the statutory basis for integrated planning of stabilization measures for coastal resources and the mechanism by which funds can be obtained to implement those plans. In this regard we suggest that Section 3 of the bill be amended to include cost sharing provisions, perhaps analogous to City Improvement Districts. While it is likely that the beach front owner may be the primary beneficiary of coastal stabilization, it is also true that public access along the shoreline will be improved. Hence it seems only fair that the general public should share in the cost of coastal stabilization projects.

The amendments relative to establishment of approvals for single family dwellings in the SMA (page 2, lines 1-5) seem somewhat confusing. We suggest that lines 1-5 on page 2 be replaced as follows:

Each department shall provide specific procedures, by rules adopted under chapter 91, for the regulation [granting] of [special management area] single family dwellings in the SMA [approvals for development] not otherwise regulated by special management area use permit procedures, consistent with the objectives, policies and guidelines of this part.

One of the more controversial points addressed by HB 893 HD 2 is the proposed increase in the shoreline setback to 150 feet in non-urban districts. During the program analysis meetings, there was a great deal of discussion of variable setback lines for shoreline setbacks. However, variable setback lines were ultimately rejected on the grounds that the application of technical criteria to establish a line would take so long and result in so many appeals as to defeat the purpose of asserting state policy to increase setbacks in a timely manner for erosion control, protection of scenic vistas, etc. One can argue that 150 feet is arbitrary. However, technical studies related to coastal processes have pointed to the 150 feet figure as being a minimum goal in terms of accommodating cyclic accretion and erosion patterns along unconsolidated shorelines.

The intent of the proposed new definition of "shoreline area" is extremely confusing. For example, the reference to "the highest annual wash of the waves" will be impossible to objectively define and is likely to create sufficient ambiguity as to perimake any provisions that depend on its delineation unenforceable. It would appear that the use of the term "shoreline" as defined in HRS 205A-1 might be a viable alternative, but without knowledge of the general intent of the proposed language, we are hesitant to offer specific recommendations for additional amendment. Furthermore, the inclusion of non-permitted structures in violation of the shoreline area in the definition of "shoreline area" seems to create a circular definition of "shoreline area" and to include terms only peripherally applicable to the definition of "shoreline area". If the intent of the amendment is to assure that county authority lies with the
entire structure even if only a portion of the structure has not been properly permitted or is in violation of the shoreline area, then amendment of the definition of "structure" on page 22 might be a more logical alternative. Again, because the purpose of these amendments to the shoreline area definition is unclear, we can not make specific recommendations except to urge that the purpose and language be clarified.

For the most part, HB 893 HD 2 reflects amendments developed only after extensive review, analysis, consultation and public meetings to identify and resolve very difficult coastal resource problems and we are in general support of the intent of this bill.