



University of Hawaii at Manoa

Environmental Center
Crawford 317 • 2550 Campus Road
Honolulu, Hawaii 96822
Telephone (808) 948-7361

RL:0755

SB 2383 RELATING TO COASTAL ZONE MANAGEMENT

Statement for
Senate Committee on
Planning and Environment
Public Hearing - February 26, 1988

By
Jacquelin Miller, Environmental Center
John Harrison, Environmental Center
Ray Tabata, Sea Grant

SB 2383 would amend HRS 205A-42 by prescribing certain procedures for determining shorelines, for notification of the public of such determinations and for establishing mechanisms for public and agency appeals of shoreline determinations.

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

Our testimony presented at the hearing on two related house bills HB 3139 and HB 2450 focused attention on the need for input of local expertise in the shoreline determination process. The notification procedures provided in SB 2383 would address this concern. We would suggest amendment of paragraph (2) to include posting of a notice, of the intent to determine the shoreline, on the property under review.

Paragraph (3) would require public notice of the shoreline determination through the Bulletin of the Office of Environmental Quality Control. As written, this notification appears to be an after-the-fact notice. To reduce the likelihood of appeals, we suggest that public notice of proposed shoreline determination be given both before and after the determinations.

With regard to the issue of ownership of property "created by erosion," in 1973, the State Supreme court ruled "that title to registered land could be lost by erosion". Therefore, the intent of the provision that shoreline

determinations shall not designate public property created by erosion as private property is consistent with the Supreme Court ruling and will codify the statutes regarding ownership of eroded lands.

As presently drafted the language to carryout this provision (lines 14 and 15) seems awkward and somewhat ambiguous since one customarily does not think in terms of land being "created" by erosion.

We believe the same purpose would be achieved by amendment to:

Shoreline determinations shall not be designated seaward of the statutorily defined shoreline.

The provision that would require removal of non-permitted structures from the shoreline area three weeks prior to the determination of the shoreline seems arbitrary and may be environmentally unwise. In general, non-permitted structures should be reviewed and their environmental effects evaluated to see if they can be removed without significantly impacting the environment in which they are found. If such structures are jeopardizing the beach, beach access, or otherwise encroaching on public lands, they should be removed, whether or not the shoreline determination is proposed. It may be better to establish the existing shoreline as a baseline and with subsequent certification allow the shoreline to be moved inland, but not seaward. This will take into account both the present and future shorelines, and should also meet the public interests.
