

JAN 24 2007

A BILL FOR AN ACT

RELATING TO MARITIME INDUSTRY OPPORTUNITY ZONES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that, small boat harbors,
2 as centers of economic and recreational activity, constitute
3 significant assets of the State. Their proper maintenance and
4 operation allow Hawaii residents to benefit from the State's
5 natural resources by engaging in recreational boating,
6 commercial and personal fishing, and small business operations.
7 In addition, visitors and residents alike use small boat
8 harbors and launch ramps to participate in local, regional, and
9 international yacht races, fishing tournaments, canoe regattas,
10 surfing, and other watersports contests.

11 In 1992, the legislature transferred the operation of small
12 boat harbors and boat ramps from the department of
13 transportation to the department of land and natural resources,
14 reasoning that all recreational programs of the State should be
15 administered by one department and that the needs of the boating
16 community would be better served by the department of land and
17 natural resources.



1 In terms of the number of mooring spaces for boats, the
2 department of land and natural resources in Hawaii has among the
3 fewest of any state in the country to manage. According to the
4 Audit of the Management of Small Boat Harbors and Boat Ramps,
5 conducted by the auditor in 1998, the department's division of
6 boating and ocean recreation administers only twenty-one small
7 boat harbors. According to a fact sheet prepared by the
8 division of boating and ocean recreation using 2005 data, the
9 division administers twenty-one harbors, fifty ramps, 2,122
10 moorings/berths, and nineteen piers. The division also
11 administers fifty-four launching ramps, thirteen offshore
12 mooring areas, ten designated ocean water areas, one hundred and
13 eight designated ocean recreation management areas, and
14 associated aids to navigation throughout the State.

15 Among the neighbor islands, the division administers the
16 following small boat facilities:

17 (1) Big Island: Honokohau boat harbor, Kailua-Kona wharf,
18 Kaulana ramp, Kauhako (Hookena ramp), Kawaihae harbor,
19 Keauhou boat harbor, Milolii landing, Pohoiki ramp,
20 Puako ramp, Reed's bay/Radio bay, and Wailoa sampan
21 basin and boat harbor;



1 (2) Maui: Hana wharf and ramp, Kaanapali, Kahului ramp,
2 Keanae ramp, Kihei ramp, Lahaina roadstead, Lahaina
3 harbor, Maalaea harbor, Mala wharf and ramp, and
4 Maliko ramp;

5 (3) Kauai: Anini ramp, Hanalei bay and pier, Kaumualii
6 ramp, Kikiaola harbor, Kukuiula harbor, Nawiliwili
7 harbor, Port Allen harbor, Waikaea canal, and Wailua
8 ramp;

9 (4) Lanai: Kaumalapau harbor and Manele harbor; and

10 (5) Molokai: Hale O Lono harbor and Kaunakakai harbor.

11 Even back in 1987, there has been a documented unfilled
12 demand for mooring facilities on all major islands of the State.
13 Responding to Senate Resolution No. 175 (1987), the department
14 of transportation reported that there was "a long waiting list
15 for boat slips at all of the small boat harbors owned by the
16 State on all islands." There is ample space to expand mooring
17 areas in existing small boat harbors on each of the islands.
18 However, under the current structure and scheme of
19 administration and operation of small boat harbors, there is no
20 incentive or support for this expansion and no realistic way to
21 accomplish the task.



1 On Oahu, the division administers the Ala Wai harbor,
2 Haleiwa harbor, Heeia Kea harbor, Kahana bay launch ramp
3 facility, Kaneohe bay harbor and anchorage, Keehi harbor/lagoon,
4 Maunalua bay launch ramp facility, Pokai bay, Sand Island launch
5 ramp facility, Waianae harbor, and Waikiki beach waters on Oahu.

6 Of particular interest and importance on Oahu is Keehi
7 lagoon and harbor. Keehi lagoon and harbor holds the promise of
8 becoming the preeminent marina of the Pacific. Its potential
9 has already been studied and well documented, mainly by a study
10 commissioned by the department of transportation and carried out
11 by Edward K. Noda and Associates and Eugene P. Dashiell, AICP in
12 1987. That study recommended a plan for Keehi lagoon that
13 benefits both ocean recreation and commercial development and
14 that provides extensive opportunities for:

- 15 (1) The greatest variety of ocean recreation facilities in
16 any single location in the State;
- 17 (2) Over one hundred acres of land suitable for light
18 industrial and commercial activities;
- 19 (3) Large sail craft;
- 20 (4) Commercial craft including dinner cruise boats;
- 21 (5) Recreational craft;
- 22 (6) Commercial fishermen;



- 1 (7) Fish transshipping;
- 2 (8) Airport and maritime light industry;
- 3 (9) Ocean recreation facilities for residents and
- 4 visitors;
- 5 (10) The possibility of a nine-hole golf course integral
- 6 with a light industrial park.

7 The report concluded that "if the land is used as projected,
8 economic benefits are conservatively estimated to exceed the
9 costs of development." An impetus behind the selection of Keehi
10 lagoon for development was the possibility of hosting the
11 America's Cup Races in Hawaii in 1991. Although Hawaii was
12 ultimately not chosen as the site, the plan to develop Keehi
13 lagoon into a world-class marina, and the predominant one in the
14 Pacific, remains viable and continues to hold great potential.

15 The purpose of this Act is to realize the full potential
16 for developing Hawaii's ocean, recreational, and commercial
17 activities in the harbor facilities of the State by establishing
18 maritime industry opportunity zones to accommodate the entry
19 into the State of maritime industry qualified businesses with a
20 minimum of red tape.

21 The intent of the legislature is to have the groundwork
22 prepared in anticipation of the entry of qualified businesses



1 that are willing and able to invest in the State to develop
 2 Hawaii's maritime industry by having certain areas in the
 3 respective counties designated as maritime industry opportunity
 4 zones, with all the necessary environment impact statements
 5 performed and in place, and by expediting the issuance of
 6 necessary county permits, in consultation with the respective
 7 counties through their active participation in an advisory
 8 committee.

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

12 "CHAPTER

13 MARITIME INDUSTRY OPPORTUNITY ZONES

14 § -1 Purpose. The purpose of this chapter is to realize
 15 the full potential for developing Hawaii's ocean, recreational,
 16 and commercial activities in the harbor facilities of the State
 17 by accommodating the entry into the State of maritime industry
 18 qualified businesses by providing for the establishment of
 19 maritime industry opportunity zones.

20 § -2 Definitions. As used in this chapter, unless the
 21 context clearly requires otherwise:



1 "Department" means the department of business, economic
2 development, and tourism.

3 "Director" means the director of business, economic
4 development, and tourism.

5 "Establishment" means a single physical location where a
6 maritime industry business conducts operations. A qualified
7 business may include one or more establishments, any number of
8 which may be in a maritime industry opportunity zone.

9 "Full-time employee" means any employee for whom the
10 employer is legally required to provide employee fringe
11 benefits.

12 "Maritime industry business" means any business that
13 conducts operations that are traditionally and customarily
14 conducted in a maritime setting such as in harbors, small boat
15 harbors, ports, lagoons, bays, marinas, piers, anchorages,
16 ramps, roadsteads, and the like, subject to clarifying rules
17 adopted under section -3 by the department of business,
18 economic development, and tourism.

19 "Maritime industry opportunity zone" means an area:

20 (1) Designated by the director of business, economic
21 development, and tourism under this chapter in



1 consultation with the maritime industry opportunity
2 zone advisory committee;

3 (2) That is within the jurisdiction of a county
4 government; and

5 (3) That is eligible for the benefits under this chapter.

6 "Qualified business" means any maritime industry business
7 that is:

8 (1) Authorized to do business in this State;

9 (2) Qualified under section -8; and

10 (3) Engaged in operating a business within the definition
11 of "maritime industry business".

12 "Taxes due the State" means income taxes due under chapter
13 235.

14 § -3 **Maritime industry opportunity zone designation;**

15 **consultation with maritime industry opportunity zone advisory**

16 **committee; rules.** (a) The director, in consultation with the
17 maritime industry opportunity zone advisory committee, shall:

18 (1) Designate areas within the State as maritime industry
19 opportunity zones;

20 (2) Establish criteria for determining which areas qualify
21 as maritime industry opportunity zones;



1 (3) Determine what types of maritime industry businesses
2 shall be approved for each designated maritime
3 industry opportunity zone;

4 (4) Determine the number of areas in each county that may
5 be designated as maritime industry opportunity zones;
6 and

7 (5) Set the period of time an area shall remain a
8 designated maritime industry opportunity zone.

9 A maritime industry opportunity zone shall not be subject to the
10 requirement for prior authorization of the legislature by
11 concurrent resolution under section 171-53.

12 (b) The director shall adopt rules in accordance with
13 chapter 91 to carry out the effect of this chapter, including
14 rules to clarify the definition of "maritime industry business."

15 § -4 **Environmental impact statement; county issuance of**
16 **permits; reports.** (a) The director shall:

17 (1) Perform the necessary environmental impact statement
18 or statements for the maritime industry business
19 approved by the director in a designated maritime
20 industry opportunity zone; and

21 (2) Cooperate with the relevant county in which a
22 designated maritime industry opportunity zone is



1 located to expedite the issuance of all necessary
2 county permits by June 30, 2008.

3 (b) The director shall submit annual reports evaluating
4 the effectiveness of this chapter, including any recommendations
5 for legislation to the legislature and the governor.

6 § -5 **Government assistance; prohibition.** There shall be
7 no duplication of existing state tax incentives to qualified
8 businesses that locate in a maritime industry opportunity zone.

9 § -6 **Rules; consultation with county.** The department,
10 in consultation with each relevant county, shall adopt rules in
11 accordance with chapter 91 to implement this chapter, including
12 rules relating to health, safety, building, planning, zoning,
13 and land use, which shall supersede all other inconsistent
14 ordinances and rules relating to the use, zoning, planning, and
15 development of land and construction in a maritime industry
16 opportunity zone. Rules adopted under this section shall follow
17 existing law, rules, and ordinances as closely as is consistent
18 with standards meeting minimum requirements of energy
19 efficiency, health, and safety. The department may provide by
20 rule that lands within a maritime industry opportunity zone
21 shall not be developed beyond existing uses or that improvements



1 thereon shall not be demolished or substantially reconstructed,
2 or provide other restrictions on the use of the zone.

3 § -7 Maritime industry opportunity zone advisory

4 committee. (a) There is established a maritime industry
5 opportunity zone advisory committee, to be placed within the
6 department for administrative purposes. The advisory committee
7 shall consist of six members appointed by the governor pursuant
8 to section 26-34, as follows:

9 (1) One member representing the department of business,
10 economic development, and tourism to act as an ex-
11 officio nonvoting member;

12 (2) One member knowledgeable in the maritime industry, who
13 shall serve as chairperson; and

14 (3) Four members representing each of the mayors of the
15 respective counties.

16 (b) Members shall not be compensated but shall be
17 reimbursed for necessary expenses, including travel expenses,
18 incurred in the course of carrying out their duties.

19 (c) The advisory committee shall provide consultation to
20 the director regarding matters enumerated in section -3.

21 § -8 Eligibility; qualified business; sale of property

22 or services. (a) Any maritime industry business may be



1 eligible to be designated a qualified business for purposes of
2 this chapter if the maritime industry business:

3 (1) Begins the operation of a maritime industry business
4 within a maritime industry opportunity zone;

5 (2) During each taxable year has at least per cent
6 of its maritime industry opportunity zone
7 establishment's gross receipts attributable to the
8 active conduct of a maritime industry business within
9 the maritime industry opportunity zone;

10 (3) Increases its average annual number of full-time
11 employees by at least per cent by the end of its
12 first tax year of participation; and

13 (4) During each subsequent taxable year at least maintains
14 that higher level of employment.

15 (b) A maritime industry business also may be eligible to
16 be designated a qualified business for purposes of this chapter
17 if the maritime industry business:

18 (1) Is actively engaged in conducting a maritime industry
19 business in an area immediately prior to an area being
20 designated a maritime industry opportunity zone;

21 (2) Meets the requirements of subsection (a)(2); and



1 (3) Increases its average annual number of full-time
2 employees employed at the maritime industry business's
3 establishment or establishments located within the
4 maritime industry opportunity zone by at least
5 per cent annually.

6 (c) After designation as a maritime industry opportunity
7 zone, each qualified business in the zone shall submit annually
8 to the department an approved form supplied by the department
9 that provides the information necessary for the department to
10 determine if the maritime industry business qualifies as a
11 qualified business. The approved form shall be submitted by
12 each business to the governing body of the county in which the
13 maritime industry opportunity zone is located, then forwarded to
14 the department by the governing body of the county.

15 (d) The form referred to in subsection (c) shall be prima
16 facie evidence of the eligibility of a maritime industry
17 business for the purposes of this section.

18 (e) Any business conducted by a maritime industry business
19 outside of a maritime industry opportunity zone shall not be
20 included in the determination of gross receipts attributable to
21 the active conduct of a maritime industry business under
22 subsection (a) (2).

1 § -9 State business tax credit. (a) The director shall
2 certify annually to the department of taxation the applicability
3 of the tax credit provided in this chapter for a qualified
4 business against any taxes due the State. Except for the
5 general excise tax, the credit shall be:

- 6 (1) Eighty per cent of the tax due for the first tax year;
- 7 (2) Seventy per cent of the tax due for the second tax
8 year;
- 9 (3) Sixty per cent of the tax due for the third year;
- 10 (4) Fifty per cent of the tax due the fourth year;
- 11 (5) Forty per cent of the tax due the fifth year;
- 12 (6) Thirty per cent of the tax due the sixth year; and
- 13 (7) Twenty per cent of the tax due the seventh year.

14 Any tax credit not usable shall not be applied to future tax
15 years.

16 (b) When a partnership is eligible for a tax credit under
17 this section, each partner shall be eligible for the tax credit
18 provided for in this section on the partner's income tax return
19 in proportion to the amount of income received by the partner
20 from the partnership. Any qualified business having taxable
21 income from the active conduct of a maritime industry business,
22 both within and without the maritime industry opportunity zone,



1 shall allocate and apportion its taxable income attributable to
2 that production. Tax credits provided for in this section shall
3 only apply to taxable income of a qualified business
4 attributable to the active conduct of a maritime industry
5 business within the maritime industry opportunity zone.

6 (c) In addition to any tax credit authorized under this
7 section, any qualified business shall be entitled to a tax
8 credit against any taxes due the State in an amount equal to a
9 percentage of unemployment taxes paid. The amount of the credit
10 shall be equal to:

- 11 (1) Eighty per cent of the unemployment taxes paid during
12 the first year;
- 13 (2) Seventy per cent of the taxes paid during the second
14 year;
- 15 (3) Sixty per cent of the taxes paid during the third
16 year;
- 17 (4) Fifty per cent of the taxes paid during the fourth
18 year;
- 19 (5) Forty per cent of the taxes paid during the fifth
20 year;
- 21 (6) Thirty per cent of the taxes paid during the sixth
22 year; and



1 (7) Twenty per cent of the taxes paid during the seventh
2 year.

3 (d) Tax credits provided for in subsection (c) shall only
4 apply to the unemployment tax paid on employees employed at the
5 qualified business' establishment or establishments located
6 within the maritime industry opportunity zone. Any tax credit
7 not usable shall not be applied to future tax years.

8 § -10 **State general excise and use tax exemptions.** The
9 director shall certify annually to the department of taxation
10 that any qualified business is exempt from the payment of
11 general excise taxes on the gross proceeds from the conduct of a
12 maritime industry business within a maritime industry
13 opportunity zone. The director shall also certify annually to
14 the department of taxation that any qualified business is exempt
15 from the use tax for purchases by the qualified business. The
16 gross proceeds received by a contractor licensed under chapter
17 444 shall be exempt from the general excise tax for construction
18 within a maritime industry opportunity zone performed for a
19 qualified business within a maritime industry opportunity zone.
20 The exemption shall extend for a period not to exceed seven
21 years.



1 § -11 Local incentives. A county may propose local
2 incentives to be made available in a maritime industry
3 opportunity zone, including:

- 4 (1) Reduction of permit fees;
- 5 (2) Reduction of user fees;
- 6 (3) Reduction of real property taxes; and
- 7 (4) Regulatory flexibility, including, but not limited to:
 - 8 (A) Special zoning districts;
 - 9 (B) Permit process reform;
 - 10 (C) Exemptions from local ordinances; and
 - 11 (D) Other public incentives,

12 which shall be binding upon the locality upon
13 designation of the maritime industry opportunity zone.

14 § -12 Termination of maritime industry opportunity zone.

15 Upon designation of an area as a maritime industry opportunity
16 zone, the proposals for regulatory flexibility, tax incentives,
17 and other public incentives specified in this chapter shall be
18 binding upon the county governing body to the extent and for the
19 period of time specified by the director pursuant to section

20 -3. If the county governing body is unable or unwilling to
21 provide any of the incentives set forth in section -11 or
22 other incentives acceptable to the director, and the director



1 has not adopted rules pursuant to section -6 that supersede
 2 inconsistent ordinances and rules relating to the use, zoning,
 3 planning, and development of land and construction in a maritime
 4 industry opportunity zone, then the maritime industry
 5 opportunity zone shall terminate. Qualified businesses located
 6 in the maritime industry opportunity zone shall be eligible to
 7 receive the state tax incentives provided by this chapter even
 8 though the zone designation has terminated. No maritime
 9 industry business may become a qualified business after the date
 10 of zone termination."

11 SECTION 3. There is appropriated out of the general
 12 revenues of the State of Hawaii the sum of \$, or so much
 13 thereof as may be necessary for fiscal year 2007-2008, and the
 14 same sum, or so much thereof as may be necessary for fiscal year
 15 2008-2009, for the department of business, economic development,
 16 and tourism, to implement chapter , including the designation
 17 of maritime industry opportunity zones and performing required
 18 environmental impact statements.

19 The sums appropriated shall be expended by the department
 20 of business, economic development, and tourism for the purposes
 21 of this Act.



S.B. NO. 1910

1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 5. This Act shall take effect upon approval except
5 that section 3 shall take effect on July 1, 2007.

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INTRODUCED BY:

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Report Title:

Maritime Industry Opportunity Zones

Description:

Requires director of department of business, economic development, and tourism, in consultation with advisory committee, to designate maritime industry opportunity zones, number of zones, and period of zones. Requires department of business, economic development, and tourism to perform required environmental impact statements for zones and expedite issuance of necessary county permits.

