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# A BILL FOR AN ACT

RELATING TO SHORELINE SETBACKS AND HISTORIC AND CULTURAL SITES  
IN THE DISTRICT OF KOOLAULOA.

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

1       SECTION 1. The legislature finds that the protection and  
2 preservation of Hawaii's historic and cultural heritage is of  
3 paramount importance. The legislature established the historic  
4 preservation program for the purpose of conserving Hawaii's  
5 unique heritage. Several cultural sites have been destroyed or  
6 threatened by recent developments, including the Wal-Mart in  
7 downtown Honolulu and the current proposed expansion of a hotel  
8 and resort area located in the ahupua'a of Hana Kae, in the  
9 Ko'olauloa district.

10       There are several sites listed on the Hawaii register of  
11 historic places and the national register of historic places  
12 located in this proposed resort hotel expansion area, including  
13 the Kahuku habitation area, the Kawela bay archaeological area,  
14 the Kahuku point archaeological area, and Punahoolapa marsh. In  
15 the same area, several burials sites have already been found and  
16 the contents relocated, since the development of the existing  
17 hotel began prior to the enactment of new standards for



1 inadvertent discoveries and the establishment of the burial  
2 councils in 1990. Given the location, which includes Jaucus  
3 sand deposits, more cultural sites are expected to be found.  
4 Recent advances in technology have made it much easier to detect  
5 hidden cultural sites, including burial sites.

6       The current owner of resort hotel in the Ko'olauloa area and  
7 developer of the planned expansion was recently urged by the  
8 state historic preservation division of the department of land  
9 and natural resources to revise the layout of its plan,  
10 including a shoreline setback of an additional five hundred to  
11 six hundred fifty feet from the currently required one hundred  
12 foot setback, so as not to disturb burial sites. This  
13 recommendation was based on a revised mitigation plan submitted  
14 by the developer, which led the division to conclude that there  
15 is a high probability that numerous as yet undiscovered  
16 subsurface burials, in addition to the twenty-four known  
17 individuals in nine burial features, are located in the areas to  
18 be developed. According to the letter sent to the developer  
19 from the state historic preservation division, "[a]lmost all of  
20 these burials (twenty-one of twenty-four individuals, and  
21 seventeen of nineteen burial features) are located in Jaucas



1 sand deposits, within approximately 100-150 meters of the  
2 shoreline."

3       Given this new information, the legislature further finds  
4 that a new cultural and historical assessment of the proposed  
5 development site must be conducted before any more development  
6 can go forward. Such a review would ensure the preservation of  
7 the cultural sites known and believed to be in the area, relieve  
8 community concerns over the possible desecration of cultural and  
9 burial sites, and would prevent the developer from being  
10 inconvenienced by frequent and expensive halts in construction  
11 or being subject to penalties under sections 6E-11.5 and  
12 6E-11.6, Hawaii Revised Statutes.

13       The purpose of this Act is to ensure that any further  
14 development in the Ko'olaupia district fully respects and  
15 preserves any possible cultural and historic sites.

16       SECTION 2. Any development in the Ko'olaupia district, in  
17 the ahupua'a of Opana, Hana Kae, and Kahuku on the island of  
18 Oahu shall:

- 19       (1) Be strongly encouraged to maintain a minimum shoreline  
20           setback of seven hundred fifty feet;
- 21       (2) Be required to conduct a new comprehensive historic  
22           and cultural preservation assessment, under the



1 supervision of the department of land and natural  
2 resources pursuant to section 6E-10, Hawaii Revised  
3 Statutes, including:

4 (A) The identification of burial sites pursuant to  
5 section 6E-43, Hawaii Revised Statutes, using the  
6 most up-to-date technology available, and

7 (B) The evaluation of whether additional sites should  
8 be added to the Hawaii register of historic  
9 places, pursuant to section 6E-5.5, Hawaii  
10 Revised Statutes; and

11 (3) Comply with all other recommendations of the Oahu  
12 burial council, the historic preservation division,  
13 and any other interested agency of the department of  
14 land and natural resources.

15 SECTION 3. This Act shall take effect on July 1, 2050.



**Report Title:**

Ko'olauloa; Shoreline Setbacks; Historic and Cultural Assessments

**Description:**

Requires a new historic and cultural assessment and a minimum shoreline setback of seven hundred fifty feet for any development in the Ko'olauloa district on Oahu. (SD1)

