
A BILL FOR AN ACT

RELATING TO COASTAL RESILIENCE.

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

1 SECTION 1. The legislature finds that coastal erosion
2 threatens the State's economic, natural, cultural, and spiritual
3 assets. Mantokuji bay, Paia, in the county of Maui, exemplifies
4 the threat and urgency of developing effective coastal
5 management strategies. Mantokuji bay is a natural coastal cell
6 spanning approximately one mile of shoreline, bounded by
7 headlands and historically featuring a wide sand beach that
8 buffered the land from ocean forces. The bay once sustained a
9 balanced coastal ecosystem including sand dunes, rocky
10 shoreline, coral reef structure, and habitat for endangered
11 Hawaiian green sea turtles.

12 The legislature further finds that county sand mining
13 operations in the 1930s removed significant quantities of beach
14 sand for public works projects, triggering decades of
15 accelerated erosion that has degraded water quality, damaged
16 coral reef ecosystems, undercut natural headland rock features,
17 and caused the bay to widen. According to the university of



1 Hawaii Coastal Geology Group, the Mantokuji bay coastline is
2 retreating inland at an average rate of approximately 1.6 feet
3 per year, threatening residences, infrastructure, and
4 irreplaceable cultural sites along its shores.

5 The legislature notes that the most significant of the
6 threatened cultural resources along the bay is the Paia
7 Mantokuji, a Soto Zen Buddhist temple. Established in 1906, the
8 temple is listed on the Hawaii register of historic places and
9 is the oldest Soto Zen Buddhist temple in the State. The temple
10 hosts one of the State's most popular annual Obon festivals,
11 drawing thousands of visitors. The temple grounds contain
12 sacred burial sites including a former crematorium and numerous
13 ancestral remains. Coastal erosion has caused ancestral burials
14 to fall into the ocean, creating an urgent cultural and
15 spiritual crisis while threatening the temple's structural
16 integrity. The bay also buffers the Hana highway, the major
17 transportation corridor for northeast Maui communities, from
18 coastal hazards.

19 The legislature finds that the State's historical
20 parcel-by-parcel coastal management approach has prevented
21 comprehensive regional solutions and resulted in piecemeal



1 hardening that has exacerbated regional erosion. Past county
2 sand mining in Mantokuji bay further contributed to current
3 conditions. Effective protection requires addressing the entire
4 bay as a natural coastal cell for specific regional coastal
5 remediation. Coastal resilience approaches include nature-based
6 solutions, enhancement of naturally occurring features such as
7 headlands and reefs, hybrid natural-engineered systems, adaptive
8 protection structures, and other innovative coastal adaptation
9 strategies that offer opportunities to protect Mantokuji bay
10 while maintaining environmental protection and shoreline access.

11 The legislature further finds, however, that traditional
12 regulatory processes effectively make approval of regional
13 bay-wide resilience solutions extremely difficult due to
14 overlapping jurisdictions and rigid criteria not designed for
15 comprehensive coastal management.

16 Accordingly, the purpose of this Act is to establish a
17 five-year pilot program to implement comprehensive coastal
18 resilience measures for Mantokuji bay that utilize streamlined
19 regulatory processes while maintaining environmental and
20 cultural protections, which may later be used to inform future
21 statewide policy for protecting threatened coastal areas.



1 SECTION 2. (a) There is established within the department
2 of business, economic development, and tourism a five-year
3 coastal resilience pilot program to implement comprehensive,
4 streamlined coastal management measures for the restoration and
5 preservation of Mantokuji bay, Paia, in the county of Maui.
6 Under the pilot program, the department shall approve and
7 implement coastal management measures that support regional
8 coastal remediation by addressing the entirety of Mantokuji bay
9 as a natural coastal cell, rather than individual land parcels.

10 (b) The pilot program shall establish a monitoring program
11 in a manner specified by the department to evaluate its efficacy
12 and environmental impacts.

13 (c) The state historic preservation division shall conduct
14 a streamlined historic preservation review to evaluate measures
15 approved under the pilot program. The division shall require:

16 (1) An archaeological literature review of archaeological
17 and historical documentation for the area of potential
18 effect and the project environment;

19 (2) An archaeological monitoring plan providing for a
20 qualified archaeologist to be present during
21 ground-disturbing activities with the authority to



1 halt work if significant historic properties or human
2 remains are encountered; and

3 (3) An inadvertent discovery protocol establishing
4 procedures for the treatment of any skeletal remains,
5 burial goods, or cultural artifacts discovered during
6 project implementation; provided that the inadvertent
7 discovery of any Native Hawaiian skeletal remains
8 shall be subject to the procedures set forth in
9 subsection (d).

10 The division shall issue a determination within forty-five
11 calendar days of receiving the documentation required pursuant
12 to this subsection; provided that if no determination is issued
13 within forty-five days, the pilot program may proceed in
14 accordance with the monitoring plan and inadvertent discovery
15 protocol submitted pursuant to paragraphs (2) and (3); provided
16 further that any applicable requirements pursuant to section 106
17 of the National Historic Preservation Act of 1966, as amended,
18 shall be satisfied before the pilot program proceeds.

19 (d) Notwithstanding any provision of chapter 6E, Hawaii
20 Revised Statutes, or chapter 13-300, Hawaii Administrative
21 Rules, to the contrary, any Native Hawaiian skeletal remains



1 inadvertently discovered during activities conducted under the
2 pilot program shall be subject to the following procedures:

3 (1) Upon discovery of Native Hawaiian skeletal remains:

4 (A) All ground-disturbing activity within a
5 reasonable buffer area surrounding the discovery
6 site shall immediately cease; and

7 (B) The division and island burial council shall be
8 notified within twenty-four hours;

9 (2) The applicant shall make a good-faith effort to
10 identify lineal and cultural descendants, in
11 consultation with the division, office of Hawaiian
12 affairs, and relevant Native Hawaiian organizations
13 with knowledge of traditional practices and
14 genealogical connections to the area;

15 (3) The island burial council shall determine whether the
16 remains shall be preserved in place or relocated
17 following meaningful consultation with any identified
18 lineal and cultural descendants; provided that the
19 island burial council's determination shall give due
20 consideration to the preferences expressed by the
21 lineal descendants;



- 1 (4) The island burial council shall render its
2 determination within forty-five days of notification,
3 or at the regularly scheduled meeting of the council
4 immediately following the notification at which quorum
5 is present, whichever is later; provided that the
6 applicant and the department of land and natural
7 resources may mutually agree to a further extension of
8 time if additional consultation with descendants or
9 further archaeological assessment is warranted;
- 10 (5) All costs associated with required archaeological
11 documentation, descendant consultation, burial
12 treatment plans, and any mitigation measures shall be
13 borne by the applicant; and
- 14 (6) No ground-disturbing activity shall resume within the
15 buffer area established pursuant to paragraph (1)
16 until the island burial council has rendered its
17 determination and any required burial treatment plan
18 has been approved by the division;
19 provided that documented burials and any burials believed to be
20 non-Native Hawaiian within the Matokuji Soto Zen Mission
21 cemetery shall not be subject to the procedures set forth in



1 this subsection and shall instead be managed in accordance with
2 applicable department of health requirements and any other
3 relevant state law governing established cemeteries; provided
4 further that the applicant shall coordinate with the department
5 of health regarding the identification, documentation, and
6 treatment of any human remains from the established Mantokuji
7 Soto Zen Mission cemetery that may be encountered during pilot
8 program activities.

9 (e) The department shall coordinate with federal agencies
10 to seek expedited review and approval of coastal management
11 measures approved under the pilot program through consolidated
12 applications and coordinated processes where feasible.

13 (f) Notwithstanding any law or ordinance to the contrary,
14 the pilot program shall be exempt from:

- 15 (1) Chapter 183C, Hawaii Revised Statutes, relating to
16 conservation districts;
- 17 (2) Chapter 205A, Hawaii Revised Statutes, relating to
18 coastal zone management;
- 19 (3) Chapter 343, Hawaii Revised Statutes, relating to
20 environmental impact statements;



1 (4) County ordinances regulating shoreline setback and
2 variance requirements; and

3 (5) County building permit requirements specifically
4 related to coastal resilience structures; provided
5 that public safety standards shall be maintained.

6 (g) Nothing in this section shall be construed to exempt
7 the pilot program from:

8 (1) Any federal laws and regulations, including but not
9 limited to:

10 (A) United States Army Corps of Engineers permit
11 requirements;

12 (B) Applicable requirements pursuant to section 106
13 of the National Historic Preservation Act of
14 1966, as amended;

15 (C) Consultation requirements pursuant to the
16 Endangered Species Act of 1973, as amended;

17 (D) Water quality certification requirements pursuant
18 to the Clean Water Act of 1972, as amended; and

19 (E) Federal consistency review requirements pursuant
20 to the Coastal Zone Management Act of 1972, as
21 amended;



- 1 (2) Article XII, section 7, of the Hawaii State
- 2 Constitution, relating to traditional and customary
- 3 rights of Native Hawaiians;
- 4 (3) Chapter 6E, Hawaii Revised Statutes, relating to
- 5 historic preservation; provided that only the
- 6 streamlined historic preservation review required
- 7 pursuant to subsection (c) shall apply; and
- 8 (4) Marine life protection laws and water quality
- 9 standards.
- 10 (h) The department shall submit an annual report on the
- 11 coastal resilience pilot program to the legislature no later
- 12 than twenty days prior to the convening of each regular session.
- 13 Each report shall include:
- 14 (1) A status report for the pilot program;
- 15 (2) An evaluation of the efficacy of the pilot program;
- 16 (3) Budget expenditures; and
- 17 (4) Any other findings and recommendations, including any
- 18 proposed legislation.
- 19 (i) For the purposes of this section:



1 "Applicant" means an entity authorized to conduct coastal
2 restoration activities under the pilot program established
3 pursuant to subsection (a).

4 "Department" means the department of business, economic
5 development, and tourism.

6 "Island burial council" means the Maui/Lanai island burial
7 council established pursuant to section 6E-43.5, Hawaii Revised
8 Statutes, or any successor council with jurisdiction over the
9 project area.

10 "Native Hawaiian skeletal remains" means human skeletal
11 remains or burial goods of Native Hawaiian origin, as determined
12 by the division.

13 "Pilot program" means the coastal resilience pilot program
14 established pursuant to subsection (a).

15 "State historic preservation division" or "division" means
16 the state historic preservation division of the department of
17 land and natural resources.

18 SECTION 3. This Act shall take effect on July 1, 2050, and
19 shall be repealed on July 1, 2055.



Report Title:

Maui County; DBEDT; DOH; SHPD; Island Burial Councils; Coastal Resilience Pilot Program; Historic Preservation Review; Reports

Description:

Establishes a five-year Coastal Resilience Pilot Program within the Department of Business, Economic Development, and Tourism for the preservation of Mantokuji Bay. Exempts the Pilot Program from certain regulatory requirements. Requires the State Historic Preservation Division to conduct a streamlined historic preservation review. Requires the inadvertent discovery of Native Hawaiian skeletal remains to trigger certain procedures. Requires the Pilot Program to cooperate with the Department of Health to conduct certain activities upon certain discoveries. Requires annual reports to the Legislature. Effective 7/1/2050. Sunsets 7/1/2055. (SD1)

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