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# 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 additionally finds that the State's  
20 historical parcel-by-parcel coastal management approach has  
21 prevented comprehensive regional solutions and resulted in



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

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

17 Accordingly, the purpose of this Act is to establish a  
18 five-year pilot program to implement comprehensive coastal  
19 resilience measures for Mantokuji bay that use streamlined  
20 regulatory processes while maintaining environmental and  
21 cultural protections, including protections related to Native



1 Hawaiian skeletal remains, which may later be used to inform  
2 future statewide policy for protecting threatened coastal areas.

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

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

15 (c) The state historic preservation division shall conduct  
16 a streamlined historic preservation review to evaluate measures  
17 approved under the pilot program. The state historic  
18 preservation division shall require an archaeological literature  
19 review of archaeological and historical documentation for the  
20 area of potential effect and the project environment.



1 (d) The department shall coordinate with federal agencies  
2 to seek expedited review and approval of coastal management  
3 measures approved under the pilot program through consolidated  
4 applications and coordinated processes where feasible.

5 (e) Notwithstanding any provision of chapter 6E, Hawaii  
6 Revised Statutes, or chapter 13-300, Hawaii Administrative  
7 Rules, to the contrary, any Native Hawaiian skeletal remains  
8 discovered during activities conducted under the pilot program  
9 established pursuant to this Act shall be subject to the  
10 following procedures:

11 (1) Upon discovery of Native Hawaiian skeletal remains,  
12 all ground-disturbing activity within a reasonable  
13 buffer area surrounding the discovery site shall  
14 immediately cease, and the state historic preservation  
15 division and island burial council shall be notified  
16 within twenty-four hours;

17 (2) The applicant shall conduct a good-faith effort to  
18 identify lineal and cultural descendants, in  
19 consultation with the state historic preservation  
20 division, the office of Hawaiian affairs, and relevant  
21 Native Hawaiian organizations with knowledge of



1 traditional practices and genealogical connections to  
2 the area;

3 (3) The island burial council shall determine whether the  
4 remains shall be preserved in place or relocated,  
5 following meaningful consultation with any identified  
6 lineal and cultural descendants; provided that the  
7 island burial council's determination shall give due  
8 consideration to the preferences expressed by the  
9 lineal descendants;

10 (4) The island burial council shall render its  
11 determination within forty-five days of notification,  
12 or at the next regularly scheduled meeting of the  
13 council at which a quorum is present, whichever is  
14 later; provided that the applicant and department of  
15 land and natural resources may mutually agree to a  
16 further extension of time if additional consultation  
17 with descendants or further archaeological assessment  
18 is warranted;

19 (5) All costs associated with required archaeological  
20 documentation, descendant consultation, burial



1 treatment plans, and any mitigation measures shall be  
2 borne by the applicant; and

3 (6) No ground-disturbing activity shall resume within the  
4 buffer area established under paragraph (1) until the  
5 island burial council has rendered its determination  
6 and any required burial treatment plan has been  
7 approved by the state historic preservation division.

8 (f) Documented burials and any burials believed to be non-  
9 Native Hawaiian within the Mantokuji Soto Zen Mission cemetery  
10 shall not be subject to the requirements under subsection (e)  
11 and shall be managed in accordance with applicable department of  
12 health requirements and any other relevant state law governing  
13 established cemeteries.

14 (g) The applicant shall coordinate with the department of  
15 health regarding the identification, documentation, and  
16 treatment of any human remains from the Mantokuji Soto Zen  
17 Mission cemetery that may be encountered during pilot program  
18 activities.

19 (h) Notwithstanding any law or ordinance to the contrary,  
20 the pilot program may be exempt from:



- 1           (1) Chapter 183C, Hawaii Revised Statutes, relating to  
2           conservation districts;
- 3           (2) Chapter 205A, Hawaii Revised Statutes, relating to  
4           coastal zone management;
- 5           (3) Chapter 343, Hawaii Revised Statutes, relating to  
6           environmental impact statements;
- 7           (4) County ordinances regulating shoreline setback and  
8           variance requirements; and
- 9           (5) County building permit requirements specifically  
10          related to coastal resilience structures; provided  
11          that public safety standards shall be maintained.
- 12          (i) Nothing in this section shall be construed to exempt  
13 the pilot program from:
- 14          (1) Any federal laws and regulations, including but not  
15          limited to:
  - 16               (A) United States Army Corps of Engineers permit  
17               requirements;
  - 18               (B) Applicable requirements pursuant to section 106  
19               of the National Historic Preservation Act of  
20               1966, as amended;



- 1 (C) Consultation requirements pursuant to the
- 2 Endangered Species Act of 1973, as amended;
- 3 (D) Water quality certification requirements pursuant
- 4 to the Clean Water Act of 1972, as amended; and
- 5 (E) Federal consistency review requirements pursuant
- 6 to the Coastal Zone Management Act of 1992, as
- 7 amended;
- 8 (2) Article XII, section 7, of the Hawaii State
- 9 Constitution, protecting traditional and customary
- 10 rights of Native Hawaiians;
- 11 (3) Chapter 6E, Hawaii Revised Statutes, relating to
- 12 historic preservation; provided that only the
- 13 streamlined historic preservation review required
- 14 pursuant to subsection (c) shall apply; and
- 15 (4) Marine life protection laws and water quality
- 16 standards.
- 17 (j) The department shall submit an annual report on the
- 18 pilot program to the legislature no later than twenty days prior
- 19 to the convening of each regular session. Each report shall
- 20 include:
- 21 (1) A status report for the pilot program;



- 1 (2) An evaluation of the efficacy of the pilot program;  
2 (3) Budget expenditures; and  
3 (4) Any other findings and recommendations, including any  
4 proposed legislation.

5 (k) As used in this section:

6 "Applicant" means the entity authorized to conduct coastal  
7 restoration activities under the pilot program.

8 "Department" means the department of business, economic  
9 development, and tourism.

10 "Island burial council" means the Maui/Lana'i island burial  
11 council established under section 6E-43.5, Hawaii Revised  
12 Statutes, or any successor council with jurisdiction over the  
13 project area.

14 "Native Hawaiian skeletal remains" means human skeletal  
15 remains or burial goods of Native Hawaiian origin, as determined  
16 by the state historic preservation division

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

19 SECTION 3. This Act shall take effect on July 1, 3000, and  
20 shall be repealed on June 30, 2031.



**Report Title:**

Maui County; DBEDT; SHPD; 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. Allows the pilot program to be exempt from certain regulatory requirements. Requires the State Historic Preservation Division to conduct a streamlined historic preservation review. Establishes certain procedures for the discovery of Native Hawaiian skeletal remains. Requires annual reports to the Legislature. Sunsets 6/30/2031. Effective 7/1/3000. (HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

