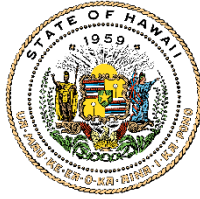


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. Box 621
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committee on
WATER AND LAND
Wednesday, February 07, 2024
1:00PM

State Capitol Room 229 & Via Videoconference

In consideration of
SENATE BILL 2129
RELATING TO HISTORIC PRESERVATION

Senate Bill 2129 would exempt State projects on State-owned buildings from section 6E-8, Hawaii Revised Statutes (HRS), unless the building is more than one hundred years old; listed on the Hawai'i register of historic places or the national register of historic places; or pending application to be added to the Hawai'i register of historic places or the national register of historic places. **The Department of Land and Natural Resources (Department) offers the following concerns and comments.**

Chapter 6E, HRS, sets forth the framework for a comprehensive statewide historic preservation program in Hawai'i. A key part of that program is the review of State projects, as required by section 6E-8, HRS. The Department believes that section 6E-8, HRS, reflects the Legislature's intent that the State lead the way in historic preservation by setting an example in how it manages its own historic properties. Exempting State projects on State-owned buildings is contrary to that.

Requiring a review only apply when a building is at least 100-years old, listed in or nominated for listing in a historic register, decreases the State's leadership in the field of historic preservation. Moreover, no state agency has ever been required or funded to carry out a comprehensive inventory of, or to evaluate and nominate potentially eligible buildings for historic register listing. Consequently, only the most obviously significant buildings are listed. Many other potentially significant State-owned buildings are neither listed nor nominated for listing. Under the provisions of this bill, projects affecting those significant State-owned buildings would be carried out with no review by the Department's State

Historic Preservation Division (SHPD). The Department believes that State agencies managing State-owned buildings should be required to inventory, evaluate, and, as appropriate, nominate potentially eligible State-owned buildings for listing in Hawai'i and National Register of Historic Places. As a preliminary estimate, the Department believes that this process will require appropriations of \$500,000 over a period of at least five years. The Department reminds the Committee our understand of the past changes with increasing knowledge potentially altering our understanding of about what buildings should be considered historic and what is architecturally significant. Even a completed the inventory, assessment, nomination of State-owned buildings, the process cannot be considered final. The Department believes waiving section 6E-8, HRS, undermines the State's ability to lead by example.

Historic property should not be defined by age alone. Setting an exemption cutoff at 100 years or older excludes State-owned buildings associated with all of World War II, Statehood (including the Capitol building itself), as well as all or virtually all of the products of Hawai'i's master architects.

Although the measure does not explain the need to exempt State projects in many State buildings from SHPD review, the Department infers that this arises from the common belief that SHPD review takes too long. The average SHPD review time, however, does not reflect the actual review times for most reviews, which are completed within time limits set by administrative rule. In any case, the longest review times are for projects involving major excavation requiring archaeological investigations, which can result in time consuming reviews. Architectural reviews of projects affecting buildings alone occur in much shorter times. The last time SHPD's Architecture Branch was fully staffed, the average review time was 17 days. During the pandemic lockdown, SHPD's Architecture Branch was down to 1 person. It has now 3 of its 5 positions filled. Soon, the Department hopes the branch will be fully staffed, dramatically reducing the review time for projects that affect only the building.

Last year, House Bill 201 House Draft 2 Senate Draft 1 made it all the way to conference. The conferees never met. The Department strongly supported that measure throughout the process. The Department continues to strongly support House Bill 201 House Draft 2 Senate Draft 1 and urges the Legislature to enact that bill.

Mahalo for the opportunity to provide testimony on this measure.



Ko`olau Foundation

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malamapono744@aol.com

February 6, 2024

To: Sen. Lorraine R. Inouye, Chair
Sen. Brandon J.C. Elefante, Vice Chair
& Members, Committee on Water & Land

From: Mahealani Cypher
Ko`olau Foundation

Re: S.B. 2129, Relating to Historic Preservation – Concerns

Aloha Chair Inouye, Vice Chair Elefante, and Committee Members:

The Ko`olau Foundation is in support of Senate Bill 2129, but we wish to express our concern regarding the proposed amendment regarding “state projects”.

Is it possible for the Legislature to definite, more explicitly, what a “state-owned building” would be? Can this change be used to include large-scale state-sponsored construction projects like, for example, another interstate highway? If so, the Ko`olau Foundation has strong reservations about this language and would oppose the bill’s passage.

Our organization advocates for the preservation and protection of historic sites and cultural properties.

Mahalo for this opportunity to share our mana`o.



Celebrating 50 Years of Preserving Hawai'i's Places

680 Iwilei Road Suite 690, Honolulu HI 96817 • (808) 523-2900 • preservation@historichawaii.org • www.historichawaii.org

TO: Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair
Committee on Water and Land (WTL)

FROM: Kiersten Faulkner, Executive Director
Historic Hawai'i Foundation

Committee: Wednesday, February 7, 2024
1:00 p.m.
Via Video Conference and Conference Room 229

RE: SB 2129, Relating to Historic Preservation

On behalf of Historic Hawai'i Foundation (HHF), I am writing in **opposition to SB 2129 as written, with recommendations for amendment.**

The bill would amend Hawai'i Revised Statutes §6E Historic Preservation Statute in two ways:

- SB 2129 Section 1 would Amend §6E-8 to exempt state projects on state-owned buildings from state historic preservation division review unless the affected property is more than one hundred years old, or listed in or nominated to be listed in the Hawai'i register of historic places or the national register of historic places.
- SB 2129 Section 2 would amend §6E-2 to change the definition of historic property to add that properties 50 years or older shall meet the criteria to be placed onto the Hawai'i register of historic places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still being carried out, at the property or due to associations with traditional beliefs, events, or oral accounts that are important to the group's history, traditional practices, and cultural identity; or properties that are 100 years old.

Legislative Intent and Public Policy Context

The Constitution of the State of Hawai'i recognizes the value of conserving and developing the historic and cultural property within the State for the public good, and the Legislature has declared that it is in the public interest to engage in a comprehensive program of historic preservation at all levels of government to promote the use and conservation of such property for the education, inspiration, pleasure and enrichment of its citizens.

Historic Hawai'i Foundation is a statewide nonprofit organization established in 1974 to encourage the preservation of historic buildings, sites, structures, objects and districts on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.

In order to meet this mandate and to ensure that the historic and cultural resources of Hawai'i are treated appropriately, it is necessary to have a framework based on criteria and standards to define and differentiate which properties are subject to the state's historic preservation program.

Any changes to this policy and public benefit need to demonstrate both how the substantive outcomes will be met—that is, to conserve and protect historic resources—and that the administration of the program is fair, clear, unbiased and consistent for all concerned.

Historic Hawai'i Foundation Comments on Section 1

HRS §6E-8 applies to the State agencies and its political subdivisions (including the County governments) and requires that projects which have the potential to affect historic properties shall be referred to the department of land and natural resources through the state historic preservation division (SHPD) for review and concurrence.

Under the proposed revision, Section 1 would change the process for state projects on state-owned buildings by creating a separate threshold for SHPD review. That is, SHPD would still review and provide concurrence for identifying significant historic properties and resolving effects from them on some State projects but not others. The bill carves out a second-class status for some types of historic and cultural resources—buildings that are between 50 and 99 years old—while retaining protections for other types of historic properties.

The declaration of intent (HRS §6E-1) states that “The legislature further declares that it shall be the public policy of this State to provide leadership in preserving, restoring, and maintaining historic and cultural property, to ensure the administration of such historic and cultural property in a spirit of stewardship and trusteeship for future generations, and to conduct activities, plans, and programs in a manner consistent with the preservation and enhancement of historic and cultural property.”

By applying a different standard to itself than to every other participant in the historic preservation program, the State is negating its leadership role. Rather than be an exemplar of stewardship and caretaking, the State would be declaring its hostility to preserving places important to the historic and cultural heritage of the State.

The selection of 100 years old as the benchmark for considering impacts to historic properties is arbitrary. It ignores the potential for association with historic events, persons important to the history of Hawai'i, design and construction achievements of the 20th century and the potential for learning important information from these places.

The change would immediately apply to buildings constructed between 1924 and 1974, with sliding beginning and end dates with the passage of time. This era of history is generally referred to as Mid-Century Modern. Hawai'i experienced profound changes between roughly 1939 and 1979, primarily from America's entry into World War II and resulting effects from that historic event. The territory emerged as the 50th state, and saw dramatic shifts in political, economic and cultural norms. Concurrently, Hawai'i's main industry transitioned from large-scale agriculture to tourism. The population boom spurred related

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development so extensive that the only period in Hawaii's history which may have experienced more dramatic change was the half century or so after the initial introduction of western culture.

The dramatic social and cultural history of the mid-twentieth century also catalyzed major changes in the built environment. As the homes, offices, resorts, public facilities, sacred sites, engineering works, landscapes and other properties from this dynamic period attain greater significance and age, we are fortunate to have the perspective of time to start to understand the vast achievements in design, construction and planning from this rich age. These places are as much a part of the Hawai'i experience and fabric as contributions of previous generations of designers and builders.

Historic Hawai'i Foundation commissioned the *Hawai'i Modernism Context Study*¹ (Fung Associates, Inc., 2011) to provide historic context and background and to begin evaluation of significant properties from this period. This study identified numerous government buildings that should be considered to have high preservation value, finding:

By far the most impressive government building erected during the period was the **Hawaii State Capitol** (1969) designed by John Carl Warnecke and Belt, Lemmon & Lo. It is already listed in the National Register of Historic Places as part of the Capital Historic District....

Several other government buildings should be considered to have exceptionally high preservation value: Hart Wood's impeccably designed **Board of Water Supply Administration Building** (1958) with its Asian accents seamlessly blending with a modern sensibility,

Shizuo Oka's **Hawaii County Building** (1966) with its courtyard and use of lava rock expressing a strong regionalist tenor, **Island of Hawaii State Building** designed by Takashi Anbe, the **District Office on Kauai** and **State Building on Maui**.

Other government buildings of the period in Honolulu, all rendered in a more straight-forward modern style, are associated with the expansion of the government work force to meet the needs of Hawaii's growing population.

These include Hart Wood's four-story **Liliuokalani Building** (1950) which housed the Territorial Welfare Department; ... Law & Wilson's mid-rise, **AliiAIMoku Hale** (1959) built for the Territorial Department of Highways; and the four story State Department of Health Building, **Hale Kinau** (1961). These new offices were all low rise, with the tallest being the five story AliiAIMoku Hale with its vertically thrusting sun screen fins. ...

State office buildings opened in Hilo, Wailuku and Hilo during that year (1969), all following a fairly austere formalist style, with pronounced concrete piers and flat roofs. Anbe, Aruga & Associates Hilo building won one of seven nationwide awards given by the Office of Civil Defense's "Builders with Fallout Shelter" program, for "demonstrating architectural excellence along with prudent regard for the presence of the nuclear threat in the world."

¹ https://historichawaii.org/wp-content/uploads/HawaiiModernismContextStudy_Nov2011.pdf

Given the extensive analysis and documentation that demonstrates the historic significance of government buildings from this period, as well as the clear mandate to provide leadership in a spirit of stewardship and trusteeship for future generations, it is not justified for the State to exempt itself from its own preservation programs.

HHF recommends that Section 1 be deleted from SB 2129. We also note that the State has other mechanisms available to it to develop a comprehensive agreement to address ongoing maintenance, repair, preservation and rehabilitation projects for its historic properties. We recommend the Legislature provide direction and funding for the Department of Administrative and General Services and SHPD to do so rather than seek exemptions.

Historic Hawai'i Foundation Comments on Section 2

Currently, HRS §6E-2 defines historic properties as any building, structure, object, district, area or site, including heiau and underwater site, which is over 50 years old. This definition has the advantage of being simple to understand and simple to evaluate, as it relies on a single piece of data: age of construction. However, that definition is also unnecessarily broad, and assumes that age is equivalent to historic importance.

Within the discipline and practice of historic preservation, there are two additional criteria used to screen properties: *historic significance* and *integrity*. The criteria for being entered into the State of Hawai'i Register of Historic Places address these additional aspects and are appropriate to add to the State's definition of "historic property."

Historic Hawai'i Foundation supports amending HRS §6E-2 to include the requirement that properties meet the criteria for being entered into the state register of historic places, but is also concerned that some cultural sites or features may have been significantly altered over time, thus affecting their historic integrity. HHF agrees that the definition needs to include these sites and appreciates the explicit inclusion in the proposed definition.

Although HHF supports the clarification in the definition of "historic property," we also note that this amendment introduces a new requirement for the statewide preservation program: the task of determining whether or not a specific property meets the criteria based on more information than age of construction.

When making determinations regarding specific properties, preservation professionals with appropriate education and experience will need to apply the criteria for evaluating historic significance and integrity. Professional judgment is needed to understand and apply the criteria to different property types, including buildings, structures, objects, sites and districts, including those properties to which Native Hawaiians and other ethnic and cultural groups of the State attach religious and cultural significance.

By adding this additional layer of knowledge, skill and experience to the determining whether or not a property is "historic," and not merely relying on age of construction, it will be more difficult for property owners, developers, permitting and planning agencies and the general public to know if a property will be

subject to the State Historic Preservation Division's requirement to identify, evaluate and resolve potential effects that may be caused by a proposed project.

HHF believes that the revised definition would make the assessment and resolution of effects more efficient and effective, but will complicate the initial step of knowing whether the statute applies at all. We caution about unintended consequences that could be caused by a seemingly straightforward change.

HHF recommends that the department promulgate administrative rules to address the issue of who will make the determinations, based on established criteria and standards, subject to qualified personnel concurrence and at what stage of the process.

Based on the analysis and comments above, **HHF recommends that Section 1 be deleted from SB 2129 and Section 2 be amended to address the issues outlined.**

Thank you for the opportunity to comment.



LATE

**HAWAII STATE SENATE
COMMITTEE ON WATER AND LAND
Conference Room 229 & Videoconference
1:00 PM**

February 7, 2024

Re: SB 2129 - RELATING TO HISTORIC PRESERVATION

Chair Inouye, Vice-Chair Elefante, and members of the Committee:

My name is Max Lindsey, Government Relations Committee Chair of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

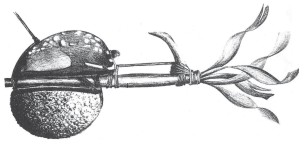
SB 2129 is the companion to HB 1901, which proposes to exempt state projects on state-owned buildings from state historic preservation division review unless the affected property is more than one hundred years old or on or being added to the Hawaii register of historic places or the national register of historic places. It also proposes to expand the definition of "historic property" to mean any building, structure, object, district, area, or site, including a heiau and an underwater site, that is over:

- (1) Fifty years old and meets the criteria to be placed onto the Hawaii register of historic places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still being carried out, at the property or due to associations with traditional beliefs, events, or oral accounts that are important to the group's history, traditional practices, and cultural identity; or
- (2) One hundred years old.

Section 6E-42 HRS requires review by the State Historic Preservation Division (SHPD) prior to any agency or officer of the State or its political subdivisions approves any project involving a permit (i.e. building permit), license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office shall advise the SHPD and prior to any approval allow the SHPD an opportunity for review and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites.

We **strongly support** the proposed revised definition of "Historic Property" as it will remove a time-consuming and costly Section 6E HRS SHPD review process on projects simply because the building or structure is fifty (50) years old. Without a time limit on the amount of time SHPD has to comment on a project, time delays waiting for SHPD's comments cause significant delays in construction, and also has resulted in projects losing financing or incurring higher interest rates.

We **strongly support** SB 2129 and appreciate the opportunity to provide our comments on this matter.



SOCIETY FOR HAWAIIAN ARCHAEOLOGY

P.O. BOX 22458 HONOLULU, HAWAII 96823

LATE

TO: Senator Lorraine Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair
Committee on Water and Land (WTL)

FROM: Mara Mulrooney, Ph.D.
President, Society for Hawaiian Archaeology
membership@hawaiianarchaeology.org

HEARING: February 7, 2024, 1:00 PM, Conference Room 229 & Videoconference

SUBJECT: Testimony regarding SB 2129, Relating to Historic Preservation

I am Mara Mulrooney, President of the Society for Hawaiian Archaeology (SHA). We have over 150 members including professional archaeologists and advocates of historic preservation. On behalf of SHA, we **oppose** and offer comments on SB 2129.

The intent of SB 2129 is to exempt state projects on state-owned buildings from historic preservation review unless the affected property is more than one hundred years old or being added to the Hawaii Register of Historic Places (HRHP) or the National Register of Historic Places (NRHP). The bill also seeks to redefine a historic property as one which is (1) fifty years old **and** (2) Fifty years and meets the criteria to be placed onto the Hawaii register of historic places or has important value to Native Hawaiians or other ethnic groups of the State due to associations with cultural practices once carried out, or still being carried out, at the property or due to associations with traditional beliefs, events, or oral accounts that are important to the group's history, traditional practices, and cultural identity; **or** (3) One hundred years old."

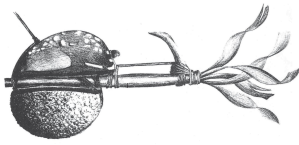
Many state-owned buildings are situated in areas known or likely to contain subsurface archaeological sites and burial sites. Exempting state projects on state-owned buildings from historic preservation review could result in the destruction of these sites, and disturbance to Native Hawaiian burial sites. In addition, state-owned buildings were often constructed prior to the implementation of state historic preservation laws. Without consultation with the State Historic Preservation Division, it would be impossible to assess if a state project may potentially impact these sites.

In addition, using eligibility to the HRHP or NRHP as a determiner of HRS 6E exemption is not feasible unless the building has been previously evaluated. Historic preservation review is often the first time in which historic properties are considered for eligibility for the national or state registers of historic places. This wording presupposes that one knows in advance of 6E historic preservation review about the eligibility of a historic property and its important value to Native Hawaiians. This is unrealistic.

As a consequence of this bill, properties relating to Hawai'i's early to mid-20th century history would not be afforded any protection under Chapter 6E. This includes many of our State-owned historic buildings relating to the Territory of Hawai'i, World War II, as well as following Statehood. Although 50 years does not seem that long ago, we need to remain mindful that in another 50 years or 100 years, we will be longing for the portions of Hawai'i's history that would have been allowed to be lost as a result of this legislation.

<https://hawaiianarchaeology.org/>

The Society for Hawaiian Archaeology is a registered tax-exempt organization established in 1980 to promote and stimulate interest and research in the archaeology of the Hawaiian Islands, encourage a more rational public appreciation of the aims and limitations of archaeological research, serve as a bond among those interested in Hawaiian archaeology, both professionals and non-professionals, and aid in directing their efforts into more scientific channels as well as encourage the publication of their results, advocate and assist in the conservation of archaeological data, discourage unethical commercialism in the archaeological field and work for its elimination.



SOCIETY FOR HAWAIIAN ARCHAEOLOGY

P.O. BOX 22458 HONOLULU, HAWAI'I 96823

Further, there would not be alignment with the definition of a historic property at the federal level. At the federal level, a historic property uses the 50 year old threshold. This legislation may cause confusion where some buildings, structures, objects, districts, or sites are considered historic properties at the federal level and not at the state level. This would create issues especially for the many state projects that use federal funding or require a federal permit or approval. Hawai'i has been a beacon for historic preservation, this bill would be a step back for the preservation of Hawai'i's past.

Should SB 2129 pass out of this committee, we request to be consulted as a stakeholder in future deliberations on an amended bill. Should you have any questions, please feel free to contact me at the above email.

Mahalo for your consideration of our testimony.

<https://hawaiianarchaeology.org/>

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