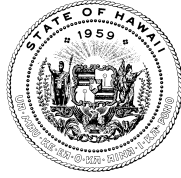


JOSH GREEN, M.D.  
GOVERNOR  
STATE OF HAWAII  
*Ke Kia 'āina o ka Moku 'āina 'o  
Hawai'i*

SYLVIA J. LUKE  
LT. GOVERNOR  
STATE OF HAWAII  
*Ka Hope Kia 'āina o ka Moku 'āina  
'o Hawai'i*



KALI WATSON  
CHAIRPERSON, HHC  
*Ka Luna Ho'okele*

KATIE L. LAMBERT  
DEPUTY TO THE CHAIR  
*Ka Hope Luna Ho'okele*

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS  
*Ka 'Oihana 'Āina Ho'opulapula Hawai'i*

P. O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF KALI WATSON, CHAIR  
HAWAIIAN HOMES COMMISSION  
BEFORE THE HOUSE COMMITTEE ON WATER & LAND  
HEARING ON FEBRUARY 13, 2025 AT 9:30AM IN CR 411

**HB 1087, RELATING TO HISTORIC PRESERVATION REVIEWS**

February 12, 2025

Aloha Chair Hashem, Vice Chair Lamosao, and Members of the Committee:

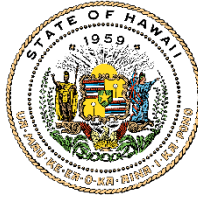
The Department of Hawaiian Home Lands (DHHL) **strongly supports** this bill which allows DHHL to assume historic preservation review of the effect of any proposed project for lands under its jurisdiction except for projects affecting properties listed or nominated for inclusion in the Hawaii register of historic places or the national register of historic places.

The intent of this bill is to streamline the historic preservation review process with timeliness and efficiency by allowing DHHL to assume this review responsibility given certain requirements. HB1087 would relieve the Department of Land and Natural Resources (DLNR) of having the responsibility to assume historic preservation review for DHHL, while ensuring that DLNR shall remain informed and copied by DHHL on all reports, maps, and documents to be incorporated into DLNR's historic preservation digital document management system. This legislative proposal was approved by the Hawaiian Homes Commission and included in the Governor's administrative package by request of DHHL.

Thank you for your consideration of our testimony.

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  
HONOLULU, HAWAII 96809

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

RYAN K.P. KANAKA'OLE  
FIRST DEPUTY

CIARA W.K. KAHAHANE  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Testimony of  
DAWN N. S. CHANG  
Chairperson

Before the House Committee on  
WATER AND LAND  
Thursday, February 13, 2025  
9:30AM

State Capitol Conference Room 411 & Videoconference

In consideration of  
HOUSE BILL 1087  
RELATING TO HISTORIC PRESERVATION REVIEWS

House Bill 1087 proposes to amend Section 6E-8(b), Hawaii Revised Statutes (HRS), to allow the Department of Hawaiian Home Lands (DHHL) to assume historic preservation project review on lands under its jurisdiction. **The Department of Land and Natural Resources (Department) acknowledges the intent of this measure and offers the following comments.**

This bill proposes to amend Section 6E-8(b), HRS, to allow DHHL to assume responsibility to review the effects of projects on historic properties on its lands, provided DHHL appoints a "Hawaiian Home Lands Preservation Officer who has professional competence and experience in the field of historic preservation," and that DHHL ensures "that copies of all reports, maps, and documents, including those reflecting the Hawaiian Home Lands Preservation Official's comments, recommendations, and decisions, are provided to the department to be incorporated into the historic preservation digital document management system and library." The proposed amendment also provides that the Department will retain authority for any projects that affect properties listed in or nominated for inclusion in the Hawai'i or National Registers of Historic Places.

The Department believes that it is essential that there be a single set of standards for project reviews carried out under Section 6E-8, HRS, throughout the State of Hawai'i, and that the individuals making findings under it be a fully qualified historic preservation professional. The Department also believes that it is essential that the Department remains the central repository for data relating to the location, significance, integrity, and project review outcomes related to historic properties for the entire state. While the effects of this measure may be limited to DHHL lands, the information derived from DHHL's reviews will be important to understanding historic properties and decision making relating to them on neighboring lands or in the general vicinity. It is, therefore, critically important that this information be

available to Department staff, planning and permitting agencies, external researchers, project planners, and cultural resources consultants who need it.

The Department appreciates that the proposed amendment to Section 6E-8, HRS, requires DHHL to employ a competent and experienced professional as a Hawaiian Home Lands Preservation Officer. However, the proposed amendment lacks minimum qualifications for the DHHL preservation officer position. Section 13-281-3 of the Hawai'i Administrative Rules (HAR) specify the professional qualifications for archaeology, architecture or architectural history, and physical anthropology. To maintain professional standards associated with a successful and competent historic preservation program, the Department recommends amending the bill to require that the Hawaiian Home Lands Preservation Officer meet at least one of these professional qualifications and that they are supported by professional staff that meet the other critical professional areas.

Additionally, the measure does not specify how DHHL will “review the effect of any proposed project relating to lands under its jurisdiction.” It is important to clarify that DHHL will follow the same rules and process established under Chapter 6E, HRS, and Title 13, HAR, or establish a new statute and rules that are complimentary to the existing historic preservation review process and rules.

Lastly, the measure is silent on how DHHL will consider the treatment and affects of projects to iwi kūpuna; and does not specify how DHHL will consult and coordinate with appropriate Island Burial Councils and recognized descendants. The Department recommends that DHHL propose amendments that will take into account how they will consult and coordinate with appropriate Island Burial Councils and recognized descendants, if they will administer responsibilities associated with burial sites in accordance with existing statutes and rules at Chapter 6E, HRS, and Chapter 13-300, HAR, or whether they will establish their own that are complimentary to the existing burial site program processes and rules.

Mahalo for the opportunity to comment on this measure.



**TESTIMONY IN SUPPORT WITH COMMENTS ON HOUSE BILL 1087  
RELATING TO HISTORIC PRESERVATION**

House Committee on Water and Land  
Hawai'i State Capitol

February 13, 2025

9:30 am

Conference Room 411

Dear Chair Hashem, Vice Chair Lamosao, and members of the House Committee on Water and Land:

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH COMMENTS HB1087** which allows the Department of Hawaiian Home Lands (DHHL) to assume historic preservation review of the effect of any proposed project for land under its jurisdiction.

OHA supports HB 1087 because as set forth in the bill this in-house program could help address the increasing housing needs of native Hawaiians while also providing quality historic review necessary for the protection of iwi kūpuna .

The historic review process set out HRS chapter 6E need not delay housing construction when implemented properly. However, many of the initial archaeological assessment and effects determinations are made by agency staff or private consultants that either do not have the training or the mandate to properly identify historic sites, particularly iwi kūpuna. This can lead to project delays as the State Historic Preservation Division (SHPD) is forced to review inadequate submissions. On the other hand, dedicated staff with sufficient training can help ensure that burials and other historic sites are identified in advance, ensuring timely protection of historic sites **and** project approvals.

**Because DHHL commits in HB 1087 to hire a preservation officer OHA supports this proposal.** However, to ensure that the preservation officer meets the existing archaeological qualification under SHPD's rules, HAR 13-281, OHA suggests the following amendments at page 2 lines 4-5:

Designate the review to a Hawaiian home lands preservation officer who has ~~professional competence and experience in the field of historic preservation~~ the professional qualifications for archaeologists, architectural historians, ethnographers, historians, and physical anthropologists and who has received a written delegation of

authority to review the effect of department of Hawaiian home land projects on historic property or a burial site from the state historic preservation officer;

Mahalo nui for the opportunity to submit this testimony. OHA urges that the Committee pass this bill with the proposed amendment.



# HISTORIC HAWAI'I FOUNDATION

680 Iwilei Road Suite 690, Honolulu HI 96817 • (808) 523-2900 • [preservation@historichawaii.org](mailto:preservation@historichawaii.org) • [www.historichawaii.org](http://www.historichawaii.org)

**TO:** Representative Mark J. Hashem, Chair  
Representative Rachele F. Lamosao, Vice Chair  
Committee on Water and Land (WAL)

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

**Committee:** Thursday, February 13, 2025  
9:30 a.m.  
Via Video Conference and Conference Room 411

**RE:** **HB 1087, Relating to Historic Preservation Reviews**

On behalf of Historic Hawai'i Foundation (HHF), I am writing in **opposition for HB 1087**. The bill would amend Hawai'i Revised Statutes §6E to allow the Department of Hawaiian Homelands (DHHL) to assume authority for conducting its own historic preservation reviews for its developments under HRS §6E-8, eliminating the role of the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (DLNR) in determining and resolving potential effects of the projects upon historic properties, cultural resources and iwi kūpuna, except for properties that are nominated for or designated in the Hawai'i or National Registers of Historic Places.

State law (HRS §6E-8), currently requires that prior to any state, county or public project commencing, that the proposed project shall be referred to SHPD for its review of the proposed project's potential effect on historic properties, aviation artifacts, or burial sites, especially those listed on the state register of historic places. The proposed project shall not commence until the department gives its written concurrence.

SHPD's review of proposed projects is an important safeguard to ensure that historic properties and cultural resources are identified and appropriate treatment measures are in place during planning and design work, which also then limits surprises or delays during construction.

Historic Hawai'i Foundation has three major concerns with the bill:

1. **Conflicts of Interest and Potential for Ethical Violations:** DHHL is a developer; no developer should be in the role of self-regulation and review of its own projects when the consequences will impact the public trust. Such a review process would essentially be self-dealing and have inescapable conflicts of interest.

HHF is strongly concerned that DHHL would fail to prioritize and take actions to protect and preserve cultural sites, burials and historic properties affected by its actions in circumstances in which cultural resources conflict with its development aims.

The bill does not include any safeguards to ensure professional judgment, eliminate conflicts and ensure ethical decision-making. It is unwise to allow any regulated entity to self-enforce, as the temptation to make pretextual determinations at the expense of historic and cultural preservation outcomes may be too tempting for the self-regulated entity to overcome.

2. **DHHL lacks qualified staff and a preservation review framework.** The Department of Hawaiian Homelands does not have qualified staff, subject matter expertise, an appropriate administrative framework or other capacity to conduct these reviews or to resolve effects that projects may have on historic properties.

HHF recommends that DHHL develop its in-house expertise for developing and managing historic preservation projects first, using the existing review and compliance process mandated by HRS §6E. If DHHL can demonstrate competence and efficiency under the existing system, it would be more credible in its claims to be able to manage more responsibilities.

Historic Hawai'i Foundation recommends that the legislature support DHHL is building its in-house expertise through additional staffing, training, project management support and other means to enhance its ability to comply with regulations to protect historic, cultural and natural resources. This would be a strong and needed phase in which DHHL could establish a track record to show how it will address cultural resource management and compliance actions.

3. **Conflicts Between State and Federal Compliance Systems:** DHHL projects are often subject to Federal historic preservation regulations, especially in cases in which federal funds are used to leverage housing development and/or infrastructure.

In those cases, Section 106 of the National Historic Preservation Act applies. The Code of Federal Regulations (36 CFR Part 800) governs issues related to historic preservation and includes specific roles and responsibilities for the State Historic Preservation Officer (SHPO). While the technical reviews may be delegated to qualified preservation professionals in the fields of architecture, architectural history or archaeology, the SHPO is ultimately responsible for the authorization and approval of the Section 106 process and resolution of potential effects on historic properties.

SHPD professional staff are versed in these and other differences and are able to ensure that review and compliance procedures address them. If a double-review with DHHL's in-house personnel were introduced, the Federal and State review processes would be segregated, adding conflict, confusion and contradiction.

For these reasons, **Historic Hawai'i Foundation respectfully asks the committee to hold the bill and not pass it on further.** Thank you for the opportunity to comment.