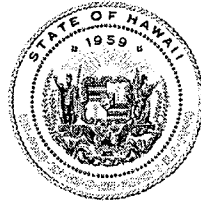
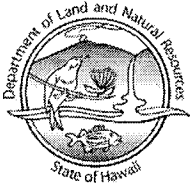


HB2434, HD2

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony Of
LAURA H. THIELEN
Chairperson**

**Before the Senate Committees on
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS
and
TRANSPORTATION, INTERNATIONAL, AND INTERGOVERNMENTAL AFFAIRS**

**Friday, March 12, 2010
1:15 PM
State Capitol, Conference Room 224**

**In Consideration Of
HOUSE BILL 2434, HOUSE DRAFT 2
RELATING TO PERMIT, LICENSE, AND APPROVAL APPLICATION PROCESSING**

House Bill 2434, House Draft 2 proposes to establishes maximum time periods for designated agencies to process permit and other applications before it is deemed granted if not acted upon; authorizes each county to contract with a third-party reviewer to streamline the processing of applications; clarifies that previously approved projects that do not impact historic properties are not subject to subsequent reviews by the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (Department). The Department does not take a position on this measure. However, the Department would like to clarify that projects previously reviewed by SHPD and having no effect on historic properties would not need to be reviewed again, if the project has not changed. If the same project has changes in footprint, plans or renovations of historic properties, then they should be re-reviewed to ensure that the changes do not affect historic properties.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

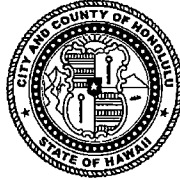
RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
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

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
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MUFU HANNEMANN
MAYOR

DAVID K. TANOUE
DIRECTOR
ROBERT M. SUMITOMO
DEPUTY DIRECTOR

March 12, 2010

The Honorable J. Kalani English, Chair
and Members of the Committee on Transportation,
International and Intergovernmental Affairs
The Honorable Clayton Hee, Chair
and Members of the Committee on Water,
Land, Agriculture, and Hawaiian Affairs
State Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chairs English, Hee and Members:

**Subject: House Bill No. 2434, HD2
Relating to Permit, License, and
Approval Application Processing**

The Department of Planning and Permitting has **comments** on House Bill No. 2434, HD2 which addresses Third Party Review, automatic approvals, and permit review for historic site impacts.

Our primary concern is that this bill represents unnecessary intrusion into county responsibilities. While we may not disagree with the purposes, specific bill provisions are problematic. Specifically,

- Authorization to use Third Party Reviews. We support the use of Third Party Reviews. In fact, we have been using it for over five years. We do not believe state authorization is required. However, we have concerns over provisions proposed under Section 2 of the bill:
 1. We question why qualified companies and individuals must have a contract with the county. Under our program, they are only certified to conduct reviews on behalf of the city;
 2. We question why Third Party Reviewing entities must be architects or engineers. This is overly restrictive, as members of our own reviewing staff are not all architects or engineers.

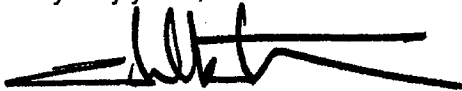
The Honorable J Kalani English, Chair
and Members of the Committee on Transportation,
International and Intergovernmental Affairs
The Honorable Clayton Hee, Chair
and Members of the Committee on Water,
Land, Agriculture, and Hawaiian Affairs
State Senate
House Bill No. 2434, HD2
March 12, 2010
Page 2

- Review for Impact on Historic and Archeological Resources. We have no objections to setting a deadline for review by the State Department of Land and Natural Resources (DLNR). However, the proposed 60-day deadline is not consistent with deadlines already imposed on various types of permits under our jurisdiction, which have deadlines as short as two days. Perhaps DLNR should be directed to develop a schedule of deadlines, depending on the relative degree of impacts to resources and type of permit review affected.
- Automatic Approval. We have no objections to automatic approvals, and already have processing deadlines on most of our ministerial permitting actions. However, the imposition of an across-the-board deadline of 30 days (if no deadline has been established) appears arbitrary, without consideration for the complexity of the project and review criteria involved, whether a public hearing is required, etc. Moreover, Section 4 of the proposed bill defines the 30-day deadline from the submittal day of a "completed application". We would prefer rewording which makes it clear that the clock does not begin until the agency deems the application complete.

In short, we question the need for this bill and in making provisions for these initiatives, House Bill No. 2434, HD2 creates difficulties for county programs that already achieve the bill's purposes. Accordingly, we respectfully request that House Bill No. 2434 HD2 **be filed**.

Thank you for the opportunity to testify.

Very truly yours,



David K. Tanoue, Director
Department of Planning and Permitting

DKT:jmf
hb2434hd2-ks.doc



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Harry A. Saunders
President

Fax Submittal: 586-6659
Email Submittal: TIATestimony@Capitol.hawaii.gov

Testimony by Harry Saunders
President, Castle & Cooke Hawai'i
March 11, 2010

Before the Senate Committees on
Water, Land, Agriculture and Hawaiian Affairs
and
Transportation, International and Intergovernmental

March 12, 2010
1:15 p.m.
Room 224

In Support of HB 2434 HD2
RELATING TO PERMIT, LICENSE AND APPROVAL APPLICATION PROCESSING

Chair Hee, Vice Chair Tokuda; Chair English, Vice Chair Gabbard and Members of the Senate Committees on Water, Land, Agriculture and Hawaiian Affairs and Transportation, International and Intergovernmental.

I am Harry Saunders, President of Castle & Cooke Hawai'i. We support HB 2434 HD2 as it addresses one of the critical areas indentified by the Construction Industry Task Force.

As a member of the Construction Industry Task Force, established by Senate Concurrent Resolution No. 132, S.D. 1 (2009), we were directed to determine the direct contributions of the construction industry to the local economy as well as its impact on related industries, such as tourism and housing. We were also tasked with developing and proposing state actions that would promote overall economic growth, create jobs and accelerate construction and its associated positive impacts on the economy.

Based on its findings, the task force developed recommendations and proposed actions to address a number of issues, which was presented in a report to the 2010 Legislature. HB 2434 addresses the issue identified by the task force as follows:

Workforce Housing: The need for workforce housing in Hawai'i is great, however, the poor economy has dramatically decreased the number of projects being built. In an effort to stimulate construction of more affordable/workforce housing projects, the task force's Workforce Housing committee, presented several recommendations to improve state and county workforce housing requirements and permitting processes such as:

- ✓ Accelerating the review process for both state and county permits and other approvals, to expedite the start of construction for workforce housing projects;
- ✓ Temporarily lowering the county affordable/workforce housing requirements to stimulate immediate housing construction; and
- ✓ Studying the need for a state mortgage guaranty fund, to combat the scarcity of financing loans as a result of the economic downturn.

In response to the current economic climate, we ask for your consideration and support of HB 2434 HD2 as it will help to generate an immediate impact on our state's delicate economy by creating jobs and providing homes for Hawai'i families. HB 2434 HD2 will bring action and positive change to spur our economy.

On behalf of Castle & Cooke, mahalo for your consideration of our testimony. If you have questions, please feel free to contact us:

Harry Saunders, President
Castle & Cooke Hawai'i
aktsukamoto@castlecooke.com
548-4884

Richard Mirikitani, Senior Vice President and Counsel
Castle & Cooke Hawai'i
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548-4890

Carleton Ching, Vice President – Community and Government Relations
Castle & Cooke Hawai'i
cching@castlecooke.com
548-3793

HISTORIC HAWAII FOUNDATION

VIA WEB: www.capitol.hawaii.gov/emailtestimony

TO: Senator Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair
Committee on Water, Land, Agriculture and Hawaiian Affairs

Senator J. Kalani English, Chair
Senator Mike Gabbard, Vice Chair
Committee on Transportation, International and Intergovernmental Affairs

FROM: Kiersten Faulkner, Executive Director
Historic Hawaii Foundation

Committee: Friday, March 12, 2010
1:15 p.m.
Conference Room 224

RE: **HB2434, HD2**
Relating to Permit, License, and Approval Application Processing

On behalf of Historic Hawaii Foundation (HHF), I am writing in opposition to HB2434, HD2, unless amended. HB2434 HD2 authorizes third-party review of applications; establishes maximum time periods for designated agencies to process permits and other applications before they are deemed granted if not acted upon; and eliminates subsequent reviews by the state historic preservation division (SHPD).

HB2434, HD2, Section 3 would amend HRS §6E-42, which relates to the review process and timelines for “projects” that have potential effects on historic properties. “Project” is defined in HRS §6E-2 as “any activity directly undertaken by the State or its political subdivisions or supported in whole or in part through appropriations, contracts, grants, subsidies, loans, or other forms of funding assistance from the State or its political subdivisions or involving any lease, permit, license, certificate, land use change, or other entitlement for use issued by the State or its political subdivisions.”

The bill would mandate that once SHPD has provided one approval of a proposed project—whether by affirming a determination of no effect on historic properties or through inaction—subsequent reviews would not be allowed.

Historic Hawaii Foundation finds this section of the bill most concerning as written, but suggests that an **amendment could resolve the issue by adding language to clarify that “projects” refers to each distinct application for approval, entitlement or funding, and not to a single sweeping approval of any and all development activity that may ever occur on a particular piece of property.** This would close a loophole that could otherwise cause unintended consequences that would be devastating to historic and cultural resources of Hawai‘i.

The professional staff of the historic preservation division has been steadily eroded over the past several years. Currently, there are three archeologists, one preservation architect and one architectural historian to provide all project reviews for the entire state, include federal undertakings. The division has lost clerical and support positions, as well as approvals for contracting for additional staff. The lack of funding, staffing and support for the

division makes it difficult for it to meet its mandates for high quality and timely review of projects. This leads to frustration by those seeking approvals, as well as by those whose priority is the protection of the state's historic and cultural resources.

The bill attempts to address this impasse by setting a maximum number of reviews and a maximum number of days for those reviews. While the intent may be to provide greater timeliness and certainty to developers, it will come at the expense of protections for historic sites and cultural resources. The absolute deadline on taking action could also lead to a quick denial of projects rather than a slower and more thoughtful approval, simply in an attempt to meet the deadlines. The state's historic and cultural resources should not be penalized by removing protections at the local or the state level.

The provision limiting the number of SHPD reviews per undertaking disregards the reality that developments have multiple phases of design and construction and there is a need to check-in at key points, especially if the undertaking changes. In most development undertakings, there is a continuum of due diligence, planning, entitlements, design and construction. It is rare that all possible effects on historic properties are known at each stage of the development and design process. For example, the area of potential effect for historic sites is less defined at the time of a land use change or subdivision than it is at the time of construction. The certainty and specificity of SHPD's review is directly proportionate to the level of information provided to it, which can and does change as undertakings evolve.

For example, while SHPD may determine that no historic properties are affected by a simple change in entitlements, that same undertaking could very well have an effect at the time of site planning and construction. This is especially true when the historic properties are unknown (such as from sub-surface archeological sites or native Hawaiian burials), undocumented (such as cultural landscapes or traditional cultural properties), when the project takes many years from concept to execution (in which time structures may become eligible for the historic register by virtue of increasing age or significance), or when the scope and scale of the undertaking changes. It is also a rare development that does not change in its details from the time of concept, to schematic design, to design development, to construction. At any of these stages, a historic property that was not previously anticipated to be affected could become at risk. Therefore, an earlier determination of no adverse effect may not hold true when the undertaking becomes more specific and more information is provided, and vice versa.

HB2434 HD2 Section 2 provides for third party reviewers to certify that proposals are in compliance with applicable codes and standards. HHF requests that this section **be amended to require that any architects, engineers or other third parties that review an application for a permit, license or approval for a project that affects historic properties meet the education and experience standards and qualifications for preservation professionals as defined by the Secretary of the Interior's Standards.** This will help ensure that reviewers are qualified to make the determinations entrusted to them when making decisions that impact the historic and cultural resources of the Islands and refers to industry standards in federal statute.

In establishing appropriate rules and procedures related to integrating protection of historic properties with contemporary uses, there are many good models that allow for a more systematic and predictable approach, including the use of Certified Local Governments with local preservation ordinances; programmatic agreements; and preservation planning. These methods should be explored for additional ways to address both real and perceived conflicts in a way that is thoughtful and deliberate, without sacrificing the historic resources of the state in the process. HHF encourages the legislature, DLNR and the counties to initiate any of these pro-active ways to address ways in which protection of Hawai'i's historic resources and meeting contemporary needs can both be met in harmony.

Thank you for the opportunity to comment and for your consideration of these suggested amendments to the bill.

From: Linda Faye Collins [lfc96796@gmail.com]
Sent: Wednesday, March 10, 2010 4:17 PM
To: TIATestimony
Subject: HB2434

To: Committee on Land, Agriculture, and Hawaiian Affairs

Committee on Transportation, International and Intergovernmental Affairs

RE: HB 2434, Hearing on Friday, March 12, 2010, 1:15 p.m.

RELATING TO PERMIT, LICENSE, AND APPROVAL APPLICATION PROCESSING.

Authorizes counties to contract with a third-party reviewer to streamline construction permit, license, and other application processing; Provides that applications will be deemed approved if Historic Preservation Division fails to review and comment within 60 days, and after 30 days if agencies fail to establish maximum time periods for permit and other application processing.

TESTIMONY OF LINDA F. COLLINS, Historic Hawaii Foundation Trustee

Honorable Chairs and Committee Members:

HB2434 would amend the section of state law (HRS 6E-42) that provides for the review and comment on any project that could affect a historic structure, site, burial or aviation artifact. The bill would mandate that once the State Historic Preservation Division (SHPD) has provided one approval of a proposed project—whether by affirming a determination of no effect on historic properties or through inaction—subsequent reviews would not be allowed.

As written, this bill could undermine the basic protections for historic properties in Hawai‘i. Please vote to amend the bill by adding language to clarify that “projects” refers to each distinct application for approval, entitlement or funding on a particular piece of property, and not to a single sweeping approval of any and all development activity that may ever occur on that piece of project, even if the project changes or and/or more information is known.

Thank you for your consideration of this matter.

Respectfully,

Linda F. Collins

Trustee, Historic Hawaii Foundation

Box 1195, Waimea, Kauai 96796

email: lfc96796@gmail.com

TO: Senator Clayton Hee, Chair
Senate Committee on Water, Land, Agriculture & Hawaiian Affairs
and
Senator Kalani J. English, Chair
Senate Committee on Transportation, International and Intergovernmental Affairs

FROM: Sara L. Collins, Ph.D., Legislative Chair
Society for Hawaiian Archaeology
sara.l.collins.sha@gmail.com

HEARING: March 12, 2010, 1:15 PM, Conference Room 224

SUBJECT: Testimony in OPPOSITION to HB 2434, HD2 (Relating to Permit License, and Approval Application Processing)

I am Dr. Sara Collins, Chair of the Legislative Committee of the Society for Hawaiian Archaeology (SHA). We have over 200 members that include professional archaeologists and advocates of historic preservation in general. On behalf of SHA, I am providing testimony in opposition to HB 2434, HD2.

We are most concerned with Section 3 of the subject bill and ask, at the least, that Section 3 be removed entirely from HB 2434, HD2. This section of the bill proposes to amend §6E-42, Hawaii Revised Statutes (HRS) by setting a maximum of 60 days for the Department of Land and Natural Resources (represented by the State Historic Preservation Division [SHPD]) to review and comment on applications it receives from a State or County agency. Section 3 further stipulates that if the department fails to "complete a review and comment" within 60 days that the proposed project "shall be deemed approved." Finally, Section 3 proposes to amend §6E-42, HRS by stipulating that projects which have undergone a previous review by the department and were found to have "no impact on historic properties, aviation artifacts, or burial sites" will not be subject to subsequent reviews.

We find Section 3 to be problematic for several reasons:

- The language used in Section 3 of HB 2434, HD 2 is confusing because it does not comport with existing terminology used elsewhere in §6E, HRS, and because it assigns to the department responsibilities that, by law, the department does not have the right to carry out. Under §6E-42, the department is acting in an advisory capacity to the state and county agencies on permits and approvals that are issued under the authority of those agencies, not that of the department. The department cannot, therefore, "approve" these applications; it can only: (1) review the application for any **effect** (not impact) on significant historic sites; and (2) make recommendations to the originating agency on what steps, if any, should be taken with respect to significant historic sites, such as recommended permit conditions.
- The proposed amendments ignore the fact that there are existing regulatory timeframes for SHPD's review of materials (e.g., applications, reports, plans, etc.) submitted under §6E-42, HRS. The implementing regulations at Hawaii Administrative Rules (HAR) §13-284 call for the SHPD's review to be completed within 30 days of receipt of the application if it is determined or demonstrated that significant historic sites are not present on the property. If significant historic sites are present within the area covered by the application, additional review periods occur as additional documents (such as inventory survey reports) are submitted, but all subsequent reviews also have specific

timelines. Furthermore, we note that §6E-10 contains provision for a review period of up to 90 days in the case of applications that may affect a privately owned historic site listed on the Hawai'i Register of Historic Places (HRHP). Finally, §6E -8 includes review timelines of up to 90 days for projects carried out by State and County agencies. In view of these existing timelines, both in the statute and regulation, we see no need for the proposed amendments.

- We are concerned that HB 2434, HD2 as written will curtail or remove existing opportunities for public participation in the §6E review process. Currently, the review deadlines in HAR §13-284 contain a number of opportunities for public review of and comment on applications and associated documents submitted to SHPD under §6E-42, HRS. If the proposed amendments are adopted, it is not clear that any of these opportunities will remain.
- The proposal to stop additional review(s) of projects that were previously reviewed by the department and found not to have a significant effect on significant historic properties is dangerously shortsighted. Our members are familiar with many cases where significant changes have occurred over time in previously reviewed projects. These changes – in design, scope, or methodology – were such that projects formerly found not to have an effect on significant historic sites became actions that caused significant harm to such sites as subsurface cultural layers or human burials. Also, subsequent work on neighboring lands may provide evidence that historic properties are, in fact, likely in an area that was previously thought to have been disturbed or rarely used traditionally. The proposed exemption would preclude SHPD from applying continually evolving and refined approaches to predicting the probability of historic properties in a project area.

Finally, we would like to note that our members have experienced first hand the frustrations associated with SHPD's late reviews of documents generated through §6E-42, HRS compliance actions. We believe, however, that SHPD's difficulties arise from its gradual deterioration over the last few years rather than from inherent deficiencies in the language of §6E-42, HRS. We have repeatedly called for SHPD to be fully staffed by qualified historic preservation professionals. Unfortunately, this has not happened for various reasons, and so the agency has been left very ill equipped to do its job under the current statutory and regulatory controls, inevitably leading to delays in conducting reviews. Changes such as those proposed in the subject bill will not improve this situation but simply make it more likely that significant historic sites, including burials, will be damaged or destroyed because of a failure to identify them in a timely manner. The inadvertent discovery of significant historic sites like burials, after permits or other entitlements are approved is not good for anyone involved in such a situation, and it is obviously bad for our historic heritage, which is irreplaceable.

In view of the above issues, we respectfully ask that your committees hold HB 2434 HD2 and not pass it any further. Thank you for considering our comments. Should you have any questions, please feel free to contact me at the above email address.

From: Preservation Associates [wichman@preservationassociates.net]
Sent: Thursday, March 11, 2010 4:06 PM
To: TIATestimony
Subject: HB2434-HD2

PRESERVATION ASSOCIATES

VIA EMAIL: TIATestimony@Capitol.hawaii.gov

TO: Senator Clayton Hee, Chair

Senator Jill N. Tokuda, Vice Chair

Committee on Water, Land, Agriculture and Hawaiian Affairs

Senator J. Kalani English, Chair

Senator Mike Gabbard, Vice Chair

Committee on Transportation, International and Intergovernmental Affairs

FROM: Wendy Wichman

Preservation Associates

Committee: Friday, March 12, 2010 1:15 p.m. Conference Room 224

RE: HB2434, HD2 Relating to Permit, License, and Approval Application Processing

Unless amended, I am writing to oppose to HB2434-HD2, Relating to Permit, License, and Approval Application Processing, which authorizes third-party review of applications; establishes maximum time periods for designated agencies to process permits and other applications before they are deemed granted if not acted upon; and eliminates subsequent reviews by the state historic preservation division (SHPD). As currently drafted, this proposed bill could undermine the basic protections for historic properties in Hawaii and create unpredictable delays during the later stages of construction projects. I want to express my support for two amendments requested by the Historic Hawai'i Foundation (HHF) which **would close a loophole that could otherwise cause unintended consequences that would be devastating to historic and cultural resources of Hawai'i.**

HHF is requesting the following amendments to proposed HB2434-HD2: 1) to clarify that "projects" refers to each distinct approval, rather than all phases of a development undertaking; and 2) to add qualifications for third-party reviewers of historic properties.

1) As currently drafted, HB2434-HD2, Section 3, would change the section of state law, HRS 6E-42, that provides for the review and comment on any project that could affect a historic structure, site, burial or aviation artifact. This change would mandate that once the State Historic Preservation Division (SHPD) has provided one approval of a proposed project—whether by affirming a determination of no effect on historic properties or through inaction—subsequent reviews would not be allowed. This change appears at first glance to look like it would "streamline and enhance the efficiency" of the permit review and approval process (a worthy goal), however it is more likely to create untimely disruptions to construction projects late in the game, when historic resources are inadvertently disturbed, word gets out, and concerned community members react angrily. The unintended consequences of such short-sighted "efficiency" would create divisiveness in those communities in which "workforce housing and other projects" are being planned, possible delays in construction, and potential public backlash. It would be more "efficient" to be diligent at the front end of an undertaking, so that discoveries can be resolved before construction is disrupted through protest and dissension. Unanticipated delays of this sort have the potential to be far more time-consuming, costly, and socially divisive than simply providing for an adequate permit review and approval process, even if a little lengthy, which creates acceptable solutions to the protection of on-site historic resources before tempers flare. We are entering a period in history where new technologies offer new possibilities for solutions, and they should be embraced for their potential to streamline the process, rather than be shut out as projects go through their various phases and changes are made to their design. Unless amended, this proposed draft will close the door on future solutions and create the illusion of streamlining construction, while setting up companies for the heavy cost of unanticipated disruptions from the discovery of historic resources on their project sites. As pointed out by the Office of Hawaiian Affairs (OHA) in their testimony on Feb 9, 2010 before the House Committee on Economic Revitalization, Business and Military Affairs, "archaeological surveys completed 20 years ago are often wholly inadequate. Unfortunately, past SHPD approvals relied on these surveys. Large development projects like Kuilima on the North Shore of Oahu were once deemed to have little impact on historic resources and were therefore approved. But when reviewed today, with improved archaeological methods and new information, major impacts to historic properties are discovered. SHPD must be allowed to review previously approved projects to ensure that all historic properties are carefully analyzed with the most current and accurate information." The advantage of early discovery in a development undertaking is that the costs can be more efficiently and predictably contained and managed through negotiations and mitigation with the state, than after the fact through community-led protests, lawsuits, and unexpected project delays. The amendment requested by HHF helps to resolve the issue by adding language to clarify that **"projects" refers to each distinct application for approval, entitlement or**

funding, and not to a single sweeping approval of any and all development activity that may ever occur on a particular piece of property, even if the project changes or as more information is known.

2) HB2434 HD2 Section 2 provides for third party reviewers to certify that proposals are in compliance with applicable codes and standards. HHF requests that this section **be amended to require that any architects, engineers or other third parties that review an application for a permit, license or approval for a project that affects historic properties meet the education and experience standards and qualifications for preservation professionals as defined by the Secretary of the Interior's Standards.** As their testimony points out, this will help ensure that reviewers are qualified to make the determinations entrusted to them when making decisions that impact the historic and cultural resources of Hawaii and refers to industry standards in federal statute. This is particularly important in light of current low staffing levels at SHPD. The professional staff of the historic preservation division has been steadily eroded over the past several years. Currently, there are three archeologists, one preservation architect and one architectural historian to provide all project reviews for the entire state, include federal undertakings. The division has lost clerical and support positions, as well as approvals for contracting for additional staff. The lack of funding, staffing and support for the division makes it difficult for it to meet its mandates for high quality and timely review of projects. This leads to frustration by those seeking approvals, as well as by those whose priority is the protection of the state's historic and cultural resources. While the intent of authorizing third-party reviewers is to "streamline and enhance the efficiency" of the permit and license review and approval process (a worthy goal), unless these contractual reviewers have met the same standards as preservation professionals, they will not be qualified as SHPD reviewers are to make the decisions that impact the state's historic and cultural resources. These qualifications take on an even greater importance in light of the proposed bill's provisions that third-party reviewers "shall be immune from liability" (unless they are guilty of misconduct or gross negligence or malfeasance). Construction for "workforce housing and other projects" is simply one way in which jobs can be created and should not be hastily pursued without adequate safeguards to protect the cultural integrity of our state's communities and the historic resources we hold so dear.

Mahalo,

Wendy

Wendy Wichman
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www.hgea.org

The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Water, Land, Agriculture and Hawaiian Affairs
Committee on Transportation, International and Intergovernmental Relations

Testimony by
Hawaii Government Employees Association
March 12, 2010

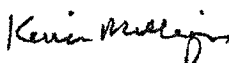
H.B. 2434, H.D. 2 – RELATING
TO PERMIT, LICENSE, AND
APPROVAL APPLICATION
PROCESSING

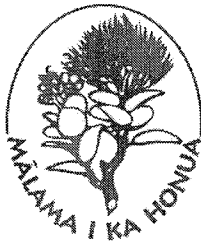
The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO submits comments on H.B. 2434, H.D. 2, which would allow each county to give third-parties permit, license and approval processing review powers. The objective is to streamline the permit and license review process, and expedite the start of construction projects that will generate needed jobs.

We support this worthy objective; however, we are concerned about the provision that any individual or entity that provides third-party review services is immune from liability, except for acts that result from the reviewer's intentional misconduct, gross negligence, or malfeasance. This type of liability will allow third-party reviewers to make questionable decisions without accountability. Third-party reviewers are not supposed to have the authority to grant modifications, variances, waivers, exemptions and any discretionary approvals, but what consequences, if any, could be applied if there is such broad liability protection?

The counties are not protected by such broad immunity, so why should it be granted to third-party reviewers? Under our current planning system, it is the responsibility of the counties and the state to ensure that permits, licenses and applications comply with all applicable laws, rules. Delegation of this important authority must be done carefully and with meaningful accountability. Thank you for the opportunity to provide comments on H.B. 2434, H.D. 2.

Respectfully submitted,


Nora A. Nomura
Deputy Executive Director



Sierra Club

Hawai'i Chapter

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SENATE COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

SENATE COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS

March 12, 2010, 1:15 P.M.

(Testimony is 3 page long)

TESTIMONY IN STRONG OPPOSITION TO SECTIONS 3 AND 4 OF HB 2434 (HD2) AND WITH A PROPOSED AMENDMENT TO SECTION 2

Aloha Chair Hee, Chair English, and Members of the Committees:

The Hawai'i Chapter of the Sierra Club ***strongly opposes*** HB 2434 (HD2), which could -- intentionally or not -- automatically approve a significant number of bad development projects in Hawai'i. While we support efforts to encourage economic development, this measure may undermine the desired goals of the policy and run counter to the concept of a democratically administered society.

I. Sections 3 and 4 -- Ham-Fisted Means that Eliminate Public Protection

Section 3 of this measure creates a 60-day automatic approval of any historic property review. Section 4 requires agencies enact rules limiting the time to approve or deny ***any*** permit. Without the adoption of agency rules, a 30 day "automatic approval" would be created.

The "automatic approval" of any permit is simply poor policy. Permits should be granted on their merits, not by mistake or governmental inefficiency. ***No community should suffer because government failed to perform.*** Consider:

- What happens when a building is automatically approved that doesn't meet health and safety standards? Is the State liable for any resulting injuries?
- What happens when additional information is required by the department or agency and the deadline passes?

- What happen when complex issues like subdivision approval of a massive development project -- that directly impacts traffic, public access, and smart growth -- are automatically approved because of timing blunder?
- What happens if an applicant fails to submit all the necessary information? Would building, electrical and plumbing permits be deemed “approved” because the agency did not have a completed application?
- What happens when there are complex environmental assessments and the like that need to be completed pursuant to Haw. Rev. Stat. Chapter 343 and the deadline passes?
- What happens when a contested case hearing is requested pursuant to chapter 91, HRS, and for any other period for administrative appeals and review and the deadline passes?
- Is it ever appropriate to automatically approve a permit that will irreparably damage the environment or native Hawaiian rights? Doesn't that violate protections provided by the State Constitution

The problems with this bill are staggering. For example, what if agencies aren't able to enact rules in a timely fashion? Some agencies are still struggling to pass rules over six years old. Theoretically, thousands of permits could be deemed automatically approved because of one malfunctioning agency. Do we really want health/welfare/safety requirements ignored?

We also are concerned about the language stating “Projects previously reviewed by the department pursuant to this section and found to have no impact on historic properties, aviation artifacts, or burial sites shall not be subject to subsequent department reviews under this section.” The inclusion of “burial sites” in this language suggests a possible intent to avoid the “complications” of having to deal with “inadvertent discoveries” of burials as well as historic properties, and thus attempting to implicitly repeal section 6E-43.6 (dealing with inadvertent discoveries of burials once construction has begun).

II. Section 2 - Third-Party Review.

Shifting towards “private” government may seem superficially beneficial, but it could leave Hawai'i residents in the lurch. Commissioned government agents must fulfill the obligations of government such as transparency, accountability, and accessibility. For example, documents being considered should be available for public inspection. Third-party reviewers should be accessible by the public. To this end, we suggest inserting language that states “notwithstanding any other provision, third-party reviewers will be considered an ‘agency’ for purposes of chapter 92.” Additional language will need to be inserted to ensure that this simply doesn't become a hidden form of government.

We also suggest the State and Counties require third-party reviewers to indemnify the state in order to ensure that the public does not bear the responsibility of negligent work.

Mahalo for this opportunity to provide testimony.

**HB 2434 HD2
RELATING TO PERMIT, LICENSE, AND APPROVAL APPLICATION PROCESSING**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

MARCH 12, 2010

Chair English, Chair Hee and Members of the Senate Committees on Transportation,
International & Intergovernmental Affairs and Water, Land, Agriculture & Hawaiian
Affairs:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB
2434 HD2, "A BILL FOR AN ACT RELATING TO PERMIT, LICENSE, AND APPROVAL
APPLICATION PROCESSING." We support this bill.

The State and County process for the review of permits and other approvals for
workforce housing and other projects often results in delays prior to the start of
construction. It is envisioned that the enactment of statutory provisions to streamline
and enhance the efficiency of the permit review and approval process along with
provisions to establish maximum time periods for agencies to grant or deny related
permits, licenses, and other approvals will expedite the start of construction for these
projects which will result in the generation of construction and other related jobs.

Section 2 of this bill contains enabling legislation authorizing the Counties to offer
third party review services for permits and other approvals. While we understand that
the City & County of Honolulu presently authorizes the use of third party review
services, we understand that liability concerns for entities providing these services has

been cited as a deterrent in attracting third party review service providers. We note that contained in the enabling legislation are provisions to establish a liability threshold to minimize liability exposure for providers of third party review services. We believe that these provisions should result in additional providers of third party review services.

Section 3 of this bill exempts projects previously reviewed by the State Historic Preservation Division and found to have no impact on historic properties and burial sites from subsequent reviews by this division. We believe that this provision will assist in streamlining the Historic Preservation review portion of the permitting process.

Sections 4 and 5 of this bill clarifies certain provisions in the existing statute that requires the establishment of maximum time periods for consideration of business or development related permits. We understand that these provisions will ensure that deadlines are set for the review of a broader range of permits, which will essentially provide applicants with an estimated time frame on the disposition of their permit applications.

Based on the aforementioned, we respectfully request your favorable consideration on this bill. Thank you for the opportunity to testify.



Hawaii's Thousand Friends

25 Mahuniu Ave., Suite 102, PMB 282 • Kailua, HI 96734 • Phone/Fax: (808) 262-0682 E-mail: htf@lava.net

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair

Senator Jill N. Tokuda, Vice Chair

COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS

Senator J. Kalani English, Chair

Senator Mike Gabbard, Vice Chair

HB 2434 HD2

RELATING TO PERMIT, LICENSE, AND APPROVAL
APPLICATION PROCESSING

March 12, 2010

Committee Chairs and Members:

Hawaii's Thousand Friends, a statewide non-profit water and land use planning organization, strenuously opposes HB 2434 HD2 that authorizes county third-party review, provides that applications will be deemed approved if Historic Preservation Division fails to review and comment within 60 days, and after 30 days if agencies fail to establish maximum time periods for permit and other application processing.

Under the guise of "streamlining the process" HB 2434 HD2 effectively cuts out any timely and meaningful public involvement and review of the appropriateness of a project. This measure reverses the established approval process, violates the public rights of review and challenge, and is contrary to the public interest.

On Oahu the limitation of 60 days for an agency to approve or reject a project places an impossible time frame on public review boards, including neighborhood boards, to deliberate and respond to applications affecting or impacting their jurisdictions because these Boards and committees only meet once a month.

As has been the norm if a community is not given adequate opportunity to properly examine and discuss a project and come to a decision the natural impulse is to pressure applicable agencies and elected officials urging them to "just say no" no matter the merit of the project.

The boldness of HB 2434 HD2 in declaring that a completed application, not an approved application but just completed, by 1/1/2011 is automatically approved if agencies have not

adopted rules setting a maximum time period to grant or deny a permit or license reeks of special interests with projects already in mind.

The proposed time limits, “If an agency has not adopted rules specifying the maximum time period to grant or deny a permit, license, or approval pursuant to this section, the application shall be deemed approved thirty calendar days after a completed application is submitted to the state or respective county agency...” seriously impinge on the public’s right to review, comment and petition for a contested case if an agency has not adopted rules.

Existing case in point:

At an August 19, 2009 hearing for a HCDA-submitted Special Management Area (SMA) permit application before the Office of Planning (OP), public confusion arose when the question of a contested case hearing request would be accepted. The OP has no rules for this and the public was advised that this would have to be determined by the AG’s office. To ensure due process, a member of the public requested a contested case at this hearing. The hearing process was stopped because OP, the designated reviewer of SMA permits for land under HCDA’s jurisdiction, did not have rules governing a contested case.

To compound the errors, OP instructed hearing attendees that they could petition for a contested case hearing within 10 days of OP staff recommendations for approval, and in November 2009 three parties wrote to OP requesting a contested case on the same SMA application. On January 11, 2010, OP director Abbey Mayer approved the proposed project and issued the Special Management Area Use Permit, also informing the petitioners that they would have to re-submit any requests for a contested case hearing. Once again on January 20, 2010 the three individual petitioners requested a contested case hearing and an explanation of what rules OP would follow in the contested case process, because OP remained without rules governing a contested case. To this date no information has come from OP.

The bottom line is, if HB 2434 HD2 is passed there is no way any of these parties could request or be granted due process via a contested case because OP has never adopted rules outlining the contested case process.

Under HB 2434 HD2 the public will be denied due process just because of arbitrary time limits and the failure of an agency to adopt rules.

Under our current planning system it is the counties and the state’s responsibility to protect the public’s interest by ensuring that a permit, license and application comply with all applicable laws and rules. This obligation cannot be abrogated to a special interest third party just for the sake of expediency - especially since private developers would be able to hire their own reviewers, a blatant conflict of interest.

It is additionally inconceivable that Hawaii’s cultural resources could be lost because the State Historic Preservation Division, which is tragically underfunded and understaffed, would be unable to respond within the required 60 days.

And because archaeologists and other historic preservation professionals are not now licensed within DLNR or SHPD, it does not appear that this bill would allow the employment of private archaeologists to conduct the Chapter 6E review now conducted by SHPD. Specifying that burial sites “shall not be subject to subsequent department reviews under this section” suggests that the intent is to avoid inconvenient “complications” for the applicant of having to deal with “inadvertent discoveries” of burials as well as historic properties.

HB 2434 HD2 places the very fabric of our democratic, participatory and open system of government at risk and must be HELD.

Testimony In support of HB2434, HD2 Relating to Permit, License and Approval
Application Process

By Al Lardizabal, Director of Government Relations
Hawaii Laborers' Union

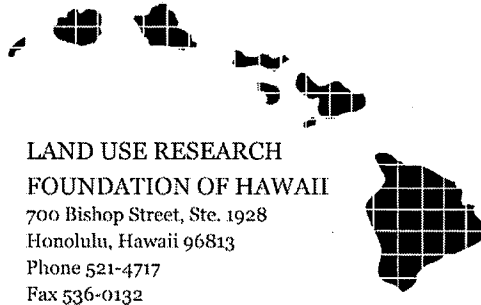
To the Senate Joint Committee on Water, Land, Agriculture and Hawaiian Affairs;
Senate Committee on Transportation, International and Intergovernmental Affairs

Chairman Clayton Hee, Chairman J. Kalani English and Members of the Joint
Committee:

The Hawaii Laborers' Union supports the intent of HB2434, HD2 that will in part, authorize the counties to contract with a third-party service to streamline the construction permit, license and other application processing.

As stated in the Committee Report, this bill will affect many types of construction projects with the most immediate impact on the building of the Honolulu Rail project, one of the most important driver of the economy of the City and County of Honolulu and perhaps the entire state. This is a significant one-time opportunity that deserves our full support. The status quo in the permit, licensing and application process is inadequate for putting Hawaii's people back to work today.

Thank you for the opportunity to submit this testimony in support of the measure.



LAND USE RESEARCH
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Via: <http://www.capitol.hawaii.gov/emailtestimony>

March 12, 2010

**HB 2434, HD2 Permit License, and Approval Application Processing
(Maximum time for permit approval)**

**Senate Committees on Water, Land, Agriculture and Hawaiian Affairs, and
Transportation, International and Intergovernmental Affairs
Hearing Date: Friday, March 12 at 1:15 p.m. in CR 224**

Honorable Chair Clayton Hee, Vice Chair Jill Tokuda and Members of the Senate
Committee on Water, Land, Agriculture and Hawaiian Affairs, and Honorable
Chair J. Kalani English, Vice Chair Mike Gabbard and Members of the Senate
Committee on Transportation, International and Intergovernmental Affairs,

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF **strongly supports** HB 2434, HD2, which addresses situations where counties do not have a maximum time period to process applications for permits, licenses, approvals, etc. In such cases, this bill establishes a maximum time period that an application for permit, license, or approval shall be deemed granted if not acted upon by the designated agency; specifies that if an agency does not have a maximum time period for approval, that the application shall be deemed approved (30) calendar days after a completed application is submitted; authorizes each county to contract with a third-party reviewer to streamline the processing of applications; provides immunity for third-party reviewers except for acts of intentional misconduct, gross negligence, or malfeasance; clarifies that previously approved projects that do not impact historic properties are not subject to subsequent reviews by the State Historic preservation Division (SHPD); provides that the maximum time period for SHPD review is sixty (60) days. The HD2 version defects the effective date to January 1, 2112.

The process of reviewing permits, licenses, and approvals for workforce housing and other projects submitted to the State and each county is long and often results in significant delays prior to the start of each project. The proponents of this bill envision that the enactment of certain statutory provisions will help to streamline and enhance the efficiency of the permit and license review and approval process. For example, statutory provisions that establish a maximum time period for agencies to grant or deny related permits, licenses, and approvals, will expedite the start of construction for workforce housing projects throughout the State and will result in the generation of construction and other related jobs that are badly needed in the economy.

Senate Concurrent Resolution No. 132, S.D. 1 (2009), established a Construction Industry Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the concurrent resolution, the Task Force has developed a series of proposals for state actions to preserve and create new jobs in the local construction industry. The intent of this bill is to implement one of the Task Force's proposals.

Accordingly, the purpose of this bill is to streamline portions of the review process for permits, licenses, and approvals to minimize time delays and to expedite the start of construction for workforce housing and other projects that will result in the generation of construction and other related jobs.

We appreciate the opportunity to present our **strong support of HB 2434, HD2**, and we ask for your favorable consideration of this bill.

Thank you for the opportunity to express our **strong support for HB 2434, HD2.**

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 11, 2010 10:29 PM
To: TIATestimony
Cc: DrKioniDudley@hawaii.rr.com
Subject: Testimony for HB2434 on 3/12/2010 1:15:00 PM

Testimony for TIA/WTl 3/12/2010 1:15:00 PM HB2434

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Dr. Kioni Dudley
Organization: The Friends of Makakilo
Address: 92-1365 Hauone St. Kapolei, HI
Phone: 672-8888
E-mail: DrKioniDudley@hawaii.rr.com
Submitted on: 3/11/2010

Comments:

The Friends of Makakilo, which now has more than 500 active members, very strongly opposes this bill. We see it as a disguised effort of Mayor Hanneman and the city administration to use a new state law to circumvent the requirement to obtain the sign-on of the historic sites organization for the FEIS on rail. If this Bill were enacted into law, the Mayor could give that important group 60 days after enactment to sign-on or be passed by. He could continue to ignore the great problems of incapacitating non-affordability of his design for rail, the ruination of irreplaceable view planes, the destruction of our sense of Paradise, the decimation of a town (Waipahu), and the driving of citizen-owned businesses into bankruptcy. Why should we endure such tremendous sacrifices when there are alternatives ready and waiting? The hold-off by the Hawaii Historic Foundation and by the governor will force the Mayor into re-considering alternatives, important alternatives. The use of the old OR&L right of way, for instance, could give relief to the communities most greatly impacted by traffic -- 'Ewa and 'Ewa Beach--communities the current route ignores. It would save billions of dollars, and would allow the project, from East Kapolei to the stadium, to be completed in 1/4 the time at 1/4 the cost, using far more of our local labor force than elevated rail. HB2434 is a torpedo. It won't be noticed till it hits.

If truth is told, we people on the West side, faced with 20,000 additional cars on our already stalled freeway by 2030, desperately need some form of rapid transit. But it must solve our traffic problems and preserve the most important aspects of Hawai'i. The current EIS does neither. The people of O'ahu need to be able to insist that the FEIS addresses our needs. This bill would prevent any input, and would force the Rail, as now conceived, on through to reality. The Friends of Makakilo very strongly opposes it.

JEANNINE JOHNSON

5648 Pia Street, Honolulu, Hawai'i 96821

Phone: 373-2874 (h) / 537-7261 (w)

March 9, 2010

COMMITTEE ON WATER, LAND, AGRICULTURE, & HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair

Senator Jill N. Tokuda, Vice Chair

COMMITTEE ON TRANSPORTATION, INTERNATIONAL & INTERGOVERNMENTAL AFFAIRS

Senator J. Kalani English, Chair

Senator Mike Gabbard, Vice Chair

Re: HB 2434, HD2 Relating to Permit, License, and Approval Application Processing

Hearing: Friday, March 12, 2010 at 1:15 pm in Conference Room 224

Aloha mai kākou,

I vehemently oppose HB2434, HD2 which authorizes counties to contract with a third-party reviewer to streamline construction permit, license, and other application processing; provides that applications will be deemed approved if the State Historic Preservation Division (SHPD) fails to review and comment within 60 days, and after 30 days if agencies fail to establish maximum time periods for permit and other application processing.

I found it interesting that the purpose of this bill is to streamline portions of the review process for permits, licenses, and approvals to facilitate construction and other related jobs. My husband is a project manager in the construction industry and has never mentioned that he was unable to receive any permit or license within the time period required. I can only assume that **the real purpose of this bill is to cut out due process and allow developers carte blanche for their large-scale projects.**

In the later part of the last century, developers had free rein to build their hotels in filled-in wetlands, thousands of homes in filled in fishponds and thousands of condos in a filled in salt lake resulting in a wholesale loss of our cultural resources. In this century, though, there are many environmental and cultural concerns the public has regarding Hawaiian burial sites and sacred places. I shudder to think what would happen if every proposed project were automatically approved when SHPD failed to complete its review within 60 days.

As you know, SHPD has the responsibility of "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.**" Over the past six years, however, there have been management and staffing problems, backlogged paperwork, a severe lack of resources and inability to maintain an inventory of historic sites. So many problems, in fact, that the National Park Service is investigating it. (See attached 8/6/09 Star Bulletin article.)

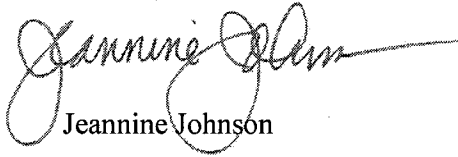
COMMITTEE ON WATER, LAND, AGRICULTURE, & HAWAIIAN AFFAIRS
COMMITTEE ON TRANSPORTATION, INTERNATIONAL & INTERGOVERNMENTAL AFFAIRS

March 9, 2010

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According to Patricia Price-Beggerly and J.R. McNeill, the “wholesale loss of cultural resources tends to accentuate the value of the few remaining sites in an area important to Hawaiian culture as reflected in its traditions and history. This makes it even more important that the cultural resources which are left be recovered or preserved.” Please oppose this bill because it is OUR kuleana to make sure that the few remaining cultural resources which are left are preserved and that our kūpuna do not get erased from the land.

Mahalo,

A handwritten signature in black ink, appearing to read 'Jeannine Johnson', with a long horizontal flourish extending to the right.

Jeannine Johnson

cc: Sen. Sam Slom
Rep. Lyla Berg
Rep. Barbara Marumoto

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Preservation unit under probe

The state agency has drawn fire for failing to protect ancient sites

By Kaylee Noborikawa

POSTED: 01:30 a.m. HST, Aug 06, 2009

The National Park Service is investigating the state Historic Preservation Division, which has been under harsh criticism in recent years for its handling of ancient remains and historic sites, U.S. Rep. Neil Abercrombie said yesterday.

Abercrombie asked the park service to complete the evaluation as swiftly as possible due to its importance to the state's economy and "the danger that Hawaii's cultural and historical resources are not being adequately protected."

"I'm letting them know that I'm aware of it and that I don't want it to be on the back burner," he said. "I want it to be completed as fast as possible because everything is in limbo."

The Historic Preservation Division, which is responsible for preserving historical and cultural resources, has received many complaints about historic sites and ancient remains in recent years, including a recent bulldozing of Hawea heiau. There have been management and staffing problems, and many projects have stalled due to backlogged paperwork, posing problems for developers, archaeologists and the state's economy, Abercrombie said.

"This problem extends to projects funded through the American Recovery and Reinvestment Act, which were intended to be implemented in an expedient manner in order to help the state and national economy," Abercrombie said. "It's very worrisome to me that we could see all kinds of federal dollars held up because we can't do the basic work of the state Historic Preservation Division. We simply can't have that."

Thomas Dye, member and former president of the Society for Hawaiian Archaeology, said he has encountered many problems with the division, part of the Department of Land and Natural Resources, over the past six years.

He said the agency has had problems such as lost reports, high staff turnover and an inability to maintain an inventory of historic sites.

"They used to do a pretty good job of keeping a library of archaeological reports, (but) the last thing I knew, they were missing well over 100 reports, but slightly fewer than 200 reports, from the island of Oahu alone," said Dye, who met with the National Park Service team that performed the audit.

"They're very aware of the situation out here. It's something that's now spread throughout the historic preservation community," he said.

In 2007, the Historic Preservation Division was under scrutiny for its management of native Hawaiian burials and the treatment of ancestral bones. As a result of the pressure, then-administrator Melanie Chinen resigned. According to a Star-Bulletin article, former employees and several community organizations

criticized her management style, which drove away qualified employees and possibly resulted in 19 employees leaving the division.

Several of those positions are still unfilled, according to Dye, who worked for the division from 1990 to 1996.

Dye believes that the division has no historian or architectural historian on staff, two positions required for the division to be eligible for federal grant money. Historic Preservation Division officials did not return phone calls yesterday, but four positions are listed as vacant on its Web site.

Dye said the agency receives \$500,000 in federal funds annually to implement the National Preservation Act, but if it fails to meet federal mandates, those funds will be in jeopardy.

State Sen. Clayton Hee and several members of Livable Hawaii Kai Hui visited the remnants of Hawea heiau yesterday to talk about the investigation and view physical evidence of the Historic Preservation Division's deficiencies.


Division Administrator Pua Aiu recently has been criticized harshly by community groups over the handling of the bulldozed heiau in Hawaii Kai that was destroyed in June.

Kaleo Pike, a former division archaeologist, remembers what Aiu told her when she brought up Hawea heiau two months ago. "She told me, 'You saw a pile of stones and you thought that was significant?'"

Hee (D, Kahuku-Kaneohe) announced that he planned to launch an investigation into the division through the Committee on Water, Land, Agriculture, and Hawaiian Affairs. "Several people in the community have asked for a state investigation and the two investigations are colliding into the perfect storm," Hee said.

Find this article at:

http://www.starbulletin.com/news/20090806_preservation_unit_under_probe.html

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☐ Check the box to include the list of links referenced in the article.

From: Ann Yoklavich [ann.yuki.888@gmail.com]
Sent: Thursday, March 11, 2010 1:41 PM
To: TIATestimony
Subject: Testimony on HB2234, HD 2

Sent via e-mail to: TIATestimony@Capitol.hawaii.gov

TO: Senator Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair
Committee on Water, Land, Agriculture and Hawaiian Affairs

Senator J. Kalani English, Chair
Senator Mike Gabbard, Vice Chair
Committee on Transportation, International and Intergovernmental Affairs

FROM: Ann Yoklavich

Hearing: Friday, March 12, 2010, 1:15 p.m.
Conference Room 224, State Capitol, 415 South Beretania Street

RE: HB2434, HD2
Relating to Permit, License, and Approval Application Processing

Please amend the language of HB2434, or it will create loopholes that could cause unintended devastation to historic and cultural resources of Hawai'i. I agree with the testimony provided by Historic Hawaii Foundation, and note one other section where the language should be amended.

Section 3 of HB2434, HD2 proposes to add a maximum sixty day review and comment period on the Department of Land and Natural Resources / State Historic Preservation Division (DLNR/SHPD) "beginning from the time [DLNR/SHPD] is advised of the proposed project." The phrase in bold is too vague and could probably be challenged in court. Substitution of some wording such as the following is necessary to maintain protection for the cultural and historic resources of our state: "beginning from the time [DLNR/SHPD] has received the complete information necessary for its review about the proposed project."

Thank you for the opportunity to comment and for your consideration of this suggested amendment and those of Historic Hawaii Foundation to the bill.