

SB 504

LATE

Testimony

Measure Title: RELATING TO HISTORIC PRESERVATION.

Report Title: State Historic Preservation Division; Architectural Survey and Study; Appropriation (\$)

Description: Includes only buildings, structures, objects, districts, areas, or sites that are significant in Hawaii's history, architecture, archeology, engineering, or culture in the definition of "historic property". Requires the state historic preservation division of the Department of Land and Natural Resources to initiate a pilot reconnaissance architectural survey project to document selected residences built between 1945 and 1980 and conduct a study of Hawaii mid-century architecture. Requires the division to provide the public and the counties with a list that identifies the types of projects that have no potential to affect a historic property; provide a list of properties identified by street address and tax map key that are likely to be ineligible for inclusion in the Hawaii register of historic places to the counties; and provide owners of historic property with notice of the property's likely eligibility in the Hawaii register of historic places. Appropriates funds.

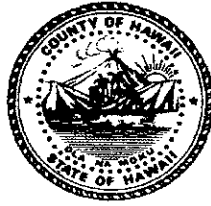
Companion:

Package: None

Current Referral: HEA/WTL, WAM

Introducer(s): TANIGUCHI

William P. Kenoi
Mayor



Duane Kanuha
Director

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PLANNING DEPARTMENT

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February 4, 2015

The Honorable Senator Laura Thielen
Hawai'i State Capitol
415 S. Beretania Street, Room 223
Honolulu, Hawai'i 96813

Dear Senator Thielen:

SUBJECT: Senate Bills No. 504 and 520
Testimony
Duane Kanuha, Director of the Hawai'i County Planning Department

Thank you for soliciting comments on the two subject Senate Bills.

We are aware of the volume of projects that the State Historic Preservation Division (SHPD), Architecture Branch, is tasked with reviewing pursuant to Chapter 6E-42, Hawai'i Revised Statutes (HRS), and the delay that this review can cause for construction projects. It is, however, in part through this process that identification and recordation of structures important to the history and cultures of this State occurs.

As the process currently happens, permit requests for structures built more than fifty years ago are forwarded to the SHPD for review against Chapter 6E-42. Review time by the State appears to be influenced by the level of staffing and workload of the SHPD. Many of the projects sent to the State for review are returned with a "no historic properties affected" determination, and permits can be allowed to proceed. In some instances, significant historic properties are identified and mitigation measures can be applied in coordination with the landowner to record or preserve a valuable piece of Hawai'i's history.

Recently the SHPD circulated a letter with a draft listing of projects that could be allowed to occur on structures greater than fifty years old without the formal review required by Chapter 6E-42, HRS (letter can be found here: <http://dlnr.hawaii.gov/shpd/files/2014/10/6E-42-No-potential-affect-to-historic-properties.pdf>). This draft list of projects would exempt many of the permit requests we receive for structures greater than fifty years old from SHPD review. Once a

The Honorable Senator Laura Thielen
Hawai'i State Capitol
Page 2
February 4, 2015

final list of projects determined to have no affect to historic properties is approved by SHPD, County requests for 6E-42 reviews should be reduced and the SHPD's workload should be somewhat lessened.

With regards to Senate Bill No. 520, the Planning Department cautions against the categorical exemption of all single-family dwellings from the definition of "historic property". The aforementioned exemption list proposed by the SHPD should be adequate to exempt a majority of projects proposed for single-family dwellings, while providing for appropriate identification and mitigation for those structures that do qualify as "historic properties".

Senate Bill No. 504 is more developed in the sense that the review process for historic properties is not waived through modification of the definition of "historic property". The proposed inclusion of four significance criteria into the definition of "historic property", which are generally the same as the eligibility criteria outlined in the Code of Federal Regulations Title 36 §60 and Hawai'i Administrative Rules §13-198-1 for nominations to the historic registers, adds clarification for those properties that would qualify as an "historic property". Under the proposed definition of "historic property" it would appear that a determination of eligibility for inclusion on an historic register has been made. However, the determination that a property is eligible for inclusion on an historic register appears to be a determination of the Hawai'i Historic Places Review Board and not one of the State Historic Preservation Officer (SHPO); care should be taken that there is not a conflict there. Funding of a pilot reconnaissance architectural survey and generation of a list of properties that are and are not likely to be eligible for inclusion on an historic register would be very helpful to the permitting authorities of the County.

If you have questions or require further information, please feel free to contact me at (808) 961-8125.

Sincerely,



DUANE KANUHA
Planning Director, County of Hawai'i Planning Department

Wednesday, February 04, 2015 1:12 PM

Aloha Sen. Laura

Many thanks for seeking our input into the two bills relating to SHPD review of single-family homes that are at least 50 years old. We agree that the law could certainly be more narrow instead of casting such a wide net.

I believe the Maui Planning Department is unique in that we have a Cultural Resources Planner with a background in architectural/historic preservation, Annalise Kehler. She assists SHPD in their review of building permits on Maui, effectively performing "triage" and helping both applicants and SHPD. We asked for Annalise's input on the two bills.

We would not be able to support the first bill, SB520 because it would surely have a negative effect on our historic neighborhoods and housing stock. This bill would allow dwellings that are potentially eligible for listing on the State or National Register of Historic Places to be demolished without any review or any mitigation. Mitigation is important -- even though it ultimately allows demolition, it also allows us to piece together information about historic housing types and neighborhoods. In some cases, it also makes applicants reconsider demolishing their historic homes.

On the other hand, the second bill, SB504, presents some great ideas. Changing the definition of "historic property" to include only those that are eligible for listing in the State or National Register makes sense and is feasible. Of course, a determination would still have to be made whether a structure fits the definition (*i.e.*, is eligible for listing), but it certainly narrows the scope of the law, which is a good thing. SHPD could probably produce a list of project types that would not affect historic properties fairly easily.

The main problem we see with SB504, though, is funding and staff to make this happen. SHPD would need money to hire more permanent staff. They are severely understaffed (as Sen. Laura certainly knows), with just two architectural historians reviewing permits for the whole state. Developing a list of properties eligible or ineligible for listing would require survey work first. If they could get the funding to do these activities, it would greatly increase the efficiency of their work.

A statewide survey of historic properties would be most helpful, but the \$300,000 that is being proposed to fund this activity might not be realistic. SHPD might be able to give you a better idea of what this would cost.

Hope this information is helpful. Feel free to contact any of us -- Will, Annalise or myself -- if you have any questions or require additional information.

(And mahalo to Sen. Laura for continued support of the KIRC!)

Aloha,
Michele.

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From: [Curt Kiriu](#)
To: [HEA Testimony](#)
Subject: Senate Committee on Higher Education and the Arts: Testimony on SB 504
Date: Tuesday, February 03, 2015 9:01:59 PM
Attachments: [image012.png](#)

Chair Thielen and Vice Chair Galuteria, and members of the Committee,

I would like to provide the following comments on S.B. 504, which proposes to:

1. Identify only buildings, structures, objects, districts, areas, or sites that are significant in Hawaii's history, architecture, archeology, engineering, or culture in the definition of "historic property".
2. Require the state historic preservation division of the Department of Land and Natural Resources to initiate a pilot reconnaissance architectural survey project to document selected residences built between 1945 and 1980 and conduct a study of Hawaii mid-century architecture.
3. Require the division to provide:
 - a. The public and the counties with a list that identifies the types of projects that have no potential to affect a historic property;
 - b. A list of properties identified by street address and tax map key that are likely to be ineligible for inclusion in the Hawaii register of historic places to the counties; and,
 - c. Owners of historic property with notice of the property's likely eligibility in the Hawaii register of historic places.
4. Appropriates funds in the amount of \$600,000.00 for this effort.

As a licensed general contractor who specializes in home modifications for seniors and the physically challenged, I design and modify their homes to be accessible and safe for them to live in for their lifetime. I am concerned about the unnecessary automatic review of numerous residences that are older than 50 years. I recognize that there are many historically unique residences that are older than 50 years, and the property owners of these structures have the opportunity to secure real property tax relief if they voluntarily place their homes on the register.

I work on homes throughout Oahu and there are many large subdivisions of tract homes around (i.e. Kaneohe, Hawaii Kai, Manoa, Halawa, Aiea, Pearl City, Waipahu, etc.) which were constructed in the 1960's that are or will be older than 50 years old. My parent's home in Mililani (previously Wahiawa) was constructed in 1965 by Hicks Homes and is a typical redwood single wall house; and believe me there is nothing significantly historic about it.

The time wasted by contractors, homeowners and government employees and the frustration placed on homeowners in these tract subdivisions to acquire a building permit review by SHPD simply because of the age of the dwelling, seems to be unnecessary, unreasonable and a waste of government resources.

The bill essentially instructs SHPD to do what they are statutorily required to do, so it is difficult to understand as to why legislation S.B. 504 is necessary and why additional funds have to be appropriated to undertake this effort.

I appreciate the opportunity to express my personal opinions on this matter.

Thank you,

Curt Kiriu CAPS, CGR, CGP, ILS

President

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February 4, 2015

Senator Brian T. Taniguchi, Chair
Senator Lorraine R. Inouye, Vice Chair
Senate Committee on Higher Education and the Arts

Senator Laura H. Thielen, Chair
Senator Brickwood Galuteria, Vice Chair
Senate Committee on Water and Land

Support of SB 504 Relating to Historic Preservation; State Historic Preservation Division; Architectural Survey and Study; Appropriation (\$) – Amends the definition of “historic property.” Requires the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (DLNR) to initiate a pilot reconnaissance architectural survey project to document selected residences and conduct a study of Hawaii mid-century architecture. Requires the SHPD to provide a list that identifies the types of projects that have no potential to affect a historic property; provide a list of properties identified by street address and tax map key that are likely to be ineligible for inclusion in the Hawaii register of Historic Places; and provide owners of historic property with notice of the property's likely eligibility in the Hawaii Register of Historic Places. Appropriates funds.

HEA/WTL Hearing: Wednesday, February 4, 2015, 3:05 p.m., in C.R. 224

The Land Use Research Foundation of Hawaii (LURF) is 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 appreciates the opportunity to express its **support of SB 504.**

SB 504. This bill proposes to amend the definition of “historic property” to include only buildings, structures, objects, districts, areas, or sites that are significant in Hawaii's history, architecture, archeology, engineering, or culture. Requires the SHPD to initiate a pilot reconnaissance architectural survey project to document selected residences built between 1945 and 1980 and conduct a study of Hawaii mid-century architecture. Requires the SHPD to provide the public and the counties with a list that identifies the types of projects that have no potential to affect a historic property; provide a list of properties identified by street address and tax map key that are likely to be ineligible for inclusion in the Hawaii Register of Historic Places to the counties; and provide owners of historic property with notice of the property's likely eligibility in the Hawaii Register of Historic Places. Appropriates funds.

LURF's Position. LURF members recognize and support the value of preserving and developing the historic and cultural property within the State; and many LURF members have listed their properties, buildings, structures, objects, districts, areas, or sites on the Hawaii Register of Historic Places, based on their significance in Hawaii's history, architecture, archeology, engineering, or culture.

Under the existing law, however, "historic property" is defined as "*any building, structure, object, district, area, or site...which is over fifty years old.*" As a result of this broad definition that assumes age is equivalent to historic importance, there have been many private tract homes and other residences built in the 1960's and before, that must undergo an unnecessary historic preservation review by SHPD prior to the granting of State and county permits for proposed renovations, repairs and demolition (including driveways and landscaping). LURF understands that the broadness of the "50-year old" definition has led to a large number of backlogged SHPD regulatory reviews and excessive delays in those reviews. LURF has also been informed that the SHPD staff time spent on the arguably unnecessary reviews of "50-year-old" tract homes and other non-historic structures prevents the SHPD from focusing on residences and other structures that are worthy to be placed on the Hawaii Register of Historic Places.

For the above reasons, LURF supports SB 504 and respectfully urges your favorable consideration of this bill.

Thank you for the opportunity to present testimony regarding this measure.

From: mailinglist@capitol.hawaii.gov
To: [HEA Testimony](#)
Cc: kalawaiag@hotmail.com
Subject: *Submitted testimony for SB504 on Feb 4, 2015 15:05PM*
Date: Wednesday, February 04, 2015 4:15:34 PM

SB504

Submitted on: 2/4/2015

Testimony for HEA/WTL on Feb 4, 2015 15:05PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Kalawai'a Goo	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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SB504

RELATING TO HISTORIC PRESERVATION

Senate Committee on Higher Education and the Arts
Senate Committee on Water and Land

February 4, 2015

3:05 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **OPPOSE** SB504, which would require state and county permitting agencies and landowners to make determinations on the significance of historic properties before those properties are properly identified and inventoried, upending the current historic preservation process and threatening iwi kūpuna and irreplaceable historic sites.

OHA understands that this bill is intended to address an alleged backlog of permit and land use applications for improvements to old houses, due to the perception that the historic preservation review process for such applications results in undue delay. OHA has investigated this matter, and it appears that this perception may not accurately reflect reality: as the State Historic Preservation Division has testified, after a review of 3,000 residential improvement permit applications, the average SHPD processing time was a mere 17 days, with the most common processing time being 5 days. In other words, the apparent delays in processing residential improvement applications generally are rarely ever due to historic preservation review. However, OHA understands that there may be a need for a legislative statement to restrict the overwhelming number of these applications SHPD currently receives, and to help alleviate the public perception that SHPD is to blame for such delay.

OHA notes that amending the definition of “historic property”, as this bill proposes to do, may have far-reaching and unintended consequences for Native Hawaiian historic and cultural resources relative to the narrow residential issue this bill seeks to address.

First, amending the definition of “historic property” in Chapter 6E, HRS, would overstep a basic initial phase in the historic review process for all projects, and require state and county agencies as well as landowners to engage in archaeological inquiries for which they may not have the resources or expertise. Currently, state and county permitting agencies and landowners wishing to undertake a project must first allow SHPD staff to determine whether historic resources may be threatened and request that the landowners identify, inventory,

and collect information on any potentially impacted “historic properties,” or properties of over fifty years in age. Subsequently, SHPD then makes a determination as to whether these properties may be “significant”, looking to the state historic register criteria as well as the importance of such properties to Native Hawaiians or other ethnic groups. See HAR §§ 13-275-6, 13-284-6. Such a significance determination by SHPD guides the next steps in the historic preservation review and mitigation process.

By amending the definition of “historic property” to be based on the state historic register criteria, this bill would instead require what is essentially a “significance” determination by the state or county agency or landowner proposing a project, without the assistance of SHPD. Without information from SHPD staff (who have the relevant resources and subject matter expertise) that important sites may exist and might be affected by a project, and without the detailed archeological surveys subsequently performed for such sites, significance determinations for historic sites will be ill-informed, if such sites are discovered at all. As a result, properties of cultural significance to Native Hawaiians and other ethnic groups may be irreparably harmed, undermining the basic intent of our historic preservation review process. In many cases, the public may never discover when cultural sites valuable to Native Hawaiians are destroyed, without even being recognized.

Second, OHA notes that this measure may in fact result in further delays in processing project applications before SHPD. The change in definition proposed by this bill would require substantial revisions to SHPD’s administrative rules, and render them non-sensical and impossible to implement as currently written. Such a lack of an implementation process for historic preservation review under HRS Chapter 6E could result in projects being delayed until the SHPD rules are revised, which could be a matter of years.

Finally, OHA notes that this bill omits the express consideration of a property’s significance to Native Hawaiians or other ethnic groups, when agencies or landowners make their determination as to whether the property should be considered a “historic” property subject to further SHPD review. Currently, the express consideration of whether or not a property contains sites of significance to Native Hawaiians triggers consultation with OHA. The unique perspective, values, and knowledge highlighted by such consultation at times may dictate a different mitigation strategy than would be appropriate for a site classified as historic on another basis identified under this bill. Most importantly, without this express consideration and the consultation it triggers, Native Hawaiians will have no voice in the historic review process, and developers and permitting agencies will evaluate whether Hawaiian sites are significant to the Native Hawaiian community, without Native Hawaiians’ mana‘o.

The proposed amendment to the HRS Chapter 6E definition of “historic property” would fundamentally change our entire historic preservation review process, and potentially bring it to a complete halt. As written, the implementation of the new historic preservation review process and whether and how historic and cultural sites will be sufficiently protected are unclear. OHA believes that the concern over residential properties this bill seeks to alleviate can be much more effectively addressed by carving out a narrow exemption from the historic preservation review requirement that does not alter and potentially weaken our entire historic preservation review process. OHA staff are committed to working with SHPD and other stakeholders to come up with such a mutually agreeable approach; however, OHA does not believe that this measure offers a feasible or reasonable solution.

Therefore, OHA urges the Committees to **HOLD** SB504. Mahalo for the opportunity to testify on this important measure



**Testimony to the Senate Committees on Higher Education and the Arts and Water and Land
Wednesday, February 4, 2015
3:05 p.m.
State Capitol - Conference Room 224**

RE: SENATE BILL NO. 504 RELATING TO HISTORICAL PREVENTION

Chairs Taniguchi and Thielen, Vice-Chairs Inouye and Galuteria, and members of the Committees:

I would like to respectfully **oppose** S.B. 504, which proposes to:

1. Identify only buildings, structures, objects, districts, areas, or sites that are significant in Hawaii's history, architecture, archeology, engineering, or culture in the definition of "historic property".
2. Require the state historic preservation division of the Department of Land and Natural Resources to initiate a pilot reconnaissance architectural survey project to document selected residences built between 1945 and 1980 and conduct a study of Hawaii mid-century architecture.
3. Require the division to provide:
 - a. The public and the counties with a list that identifies the types of projects that have no potential to affect a historic property;
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 - c. Owners of historic property with notice of the property's likely eligibility in the Hawaii register of historic places.
4. Appropriates funds in the amount of \$600,000.00 for this effort.

I am concerned about the unnecessary automatic review of residences that are older than 50 years. I recognize that there are many unique residences that are older than 50 years, and the property owners of these structures have the opportunity to secure real property tax relief if they voluntarily place their homes on the register. However, there are also large subdivisions of tract homes around Oahu (i.e. Kaneohe, Hawaii Kai, Manoa, Halawa, Aiea, Pearl City, Waipahu, etc.) which were constructed in the 1960's that are or will be older than 50 years old. Subjecting homeowners in these tract subdivision to a building permit review by SHPD simply because of the age of the dwelling, seems to be unnecessary and unreasonable.

The bill essentially instructs SHPD to do what they are statutorily required to do under §6E-3(3), development of a statewide survey and inventory to identify and document historic properties, aviation artifacts, and burial sites, including all those owned by the State and the counties, so I am puzzled as to why the legislation is necessary and why additional funds have to be appropriated to undertake this effort.

Thank you for the opportunity to express my views on this matter.



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3:05 p.m.
State Capitol - Conference Room 224**

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