

STAND. COM. REP. NO.

679

Honolulu, Hawaii

MAR 06 2015

RE: S.B. No. 877
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Higher Education and the Arts, to which was referred S.B. No. 877, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require that fifty-year-old privately owned single-family residences be considered historic properties for purposes of chapter 6E, Hawaii Revised Statutes, only if they are listed or nominated for listing on the Hawaii Register of Historic Places or located in a historic district; and
- (2) Exempt properties not included or eligible for listing on the Hawaii Register of Historic Places from review under section 6E-42, Hawaii Revised Statutes, and direct the counties to not submit projects affecting such properties for historic review.

Your Committee received testimony in support of this measure from the Chamber of Commerce Hawaii, Land Use Research Foundation of Hawaii, Building Industry Association-Hawaii, Complete Construction Services Corp., Hawaii Association of REALTORS, and one individual. Your Committee received testimony in opposition to this measure from the Office of Hawaiian Affairs, Society for Hawaiian Archaeology, and Historic Hawaii Foundation. Your



Committee received comments on this measure from the Department of Land and Natural Resources.

Your Committee finds that the intent of this measure is to categorically exclude certain single-family residences from the definition of historic property for purposes of historic preservation consideration. Additionally, this measure is intended to address the longstanding issue of extended delays during permit review of projects involving single-family residences that fall under the existing statutory language of section 6E-2, Hawaii Revised Statutes.

Your Committee finds that the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources has recently enacted internal administrative reforms that have effectively resolved the issue of permit review delays. More specifically, these reforms have resulted in a laudable turnaround time of five days in which SHPD now reviews a residential permit. Accordingly, it appears the issue has been resolved and no longer requires legislative action.

Your Committee further finds that the provisions of this measure, which excludes properties not included or eligible for listing on the Hawaii Register of Historic Places, are not narrow enough to reflect the measure's intent to focus on exempting only single-family residences. This measure as currently written would weaken existing protections for historic sites by providing a blanket exemption for unintended properties. More specifically, the criteria for an exemption would apply to all private properties not included or eligible for listing on the Hawaii Register of Historic Places. This far-reaching exemption extends far beyond this measure's intended purpose to provide an exemption only to single-family residences.

Your Committee further finds that this broad exemption language would additionally alter the existing review process in which SHPD initially determines whether or not an affected property satisfies the criteria required to be listed on the Hawaii Register of Historic Places.

If enacted as currently written, this measure would replace SHPD's role in the initial review process with the permitting agency of each county. The current process should not be altered because SHPD's in-house expertise provides a clear benefit for all involved parties. Notably, such expertise may be lacking in the



county permitting agencies. Your Committee finds that SHPD's in-house expertise is particularly necessary at the stage of initial review to ensure minimal delay-causing obstacles during subsequent construction. Accordingly, it is crucial that the initial decision of eligibility for a review exemption remain with SHPD.

Your Committee accordingly finds that, if enacted as currently written, this measure would produce two significant results affecting historic properties. The first result would be an unintended and wide-reaching exemption for properties that are not single-family residences and are not included or eligible for inclusion on the Hawaii Register of Historic Places. The second result would be the alteration of an existing SHPD practice of determining initial eligibility which has helped SHPD address the problem of delay in permit reviews.

Your Committee has amended this measure by:

- (1) Amending the purpose section to state the cultural value in historic preservation and more clearly articulate the purpose and intent;
- (2) Inserting language to require SHPD to temporarily direct its resources to initiate a survey project to identify potential historic districts and single-family residences in the State that may be eligible for inclusion on the Hawaii Register of Historic Places;
- (3) Inserting language to require SHPD to notify the owner of property that may be eligible for inclusion on the Hawaii Register of Historic Places;
- (4) Inserting language to further require SHPD to submit a report on its compliance with this measure to the Legislature no later than twenty days prior to the convening of the Regular Session of 2018;
- (5) Deleting language exempting properties not included or eligible for listing on the Hawaii Register of Historic Places from review under section 6E-42, Hawaii Revised Statutes, and prohibiting counties from submitting projects affecting such properties to the Department of Land and Natural Resources for review;
- (6) Repealing this measure on December 31, 2018; and



- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Higher Education and the Arts that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 877, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 877, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Higher Education
and the Arts,



BRIAN T. TANIGUCHI, Chair



Record of Votes
Committee on Higher Education and the Arts
HEA

*Only one measure per Record of Votes