
A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that section 6E-42,
2 Hawaii Revised Statutes, plays an essential role in the
3 protection and management of the State's historic places, burial
4 sites, and aviation artifacts by requiring agencies and offices
5 of the State and its subdivisions to submit for review all
6 projects that may affect historic properties to the state
7 historic preservation division in the department of land and
8 natural resources prior to approval.

9 Due to the lack of capacity in the state historic
10 preservation division, there is an unacceptable backlog of
11 projects needing review, which results in costly delays to
12 affordable housing and other important construction projects.

13 In order to increase this capacity, the purpose of this Act
14 is to allow the department of land and natural resources' state
15 historic preservation division to delegate the responsibility of
16 historic preservation project reviews to the respective
17 counties.



1 SECTION 2. Section 6E-42, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§6E-42 Review of proposed projects.** (a) Except as
4 provided in section 6E-42.2, before any agency or officer of the
5 State or its political subdivisions approves any project
6 involving a permit, license, certificate, land use change,
7 subdivision, or other entitlement for use[~~, which~~] that may
8 affect historic property, aviation artifacts, or a burial site,
9 the agency or office shall advise the department and prior to
10 any approval allow the department an opportunity for review and
11 comment on the effect of the proposed project on historic
12 properties, aviation artifacts, or burial sites, consistent with
13 section 6E-43, including those listed in the Hawaii register of
14 historic places. If:

- 15 (1) The proposed project consists of corridors or large
16 land areas;
17 (2) Access to properties is restricted; or
18 (3) Circumstances dictate that construction be done in
19 stages,

20 the department's review and comment may be based on a phased
21 review of the project; provided that there shall be a



1 programmatic agreement between the department and the project
2 applicant that identifies each phase and the estimated timelines
3 for each phase.

4 (b) The department shall inform the public of any project
5 proposals submitted to it under this section that are not
6 otherwise subject to the requirement of a public hearing or
7 other public notification.

8 (c) The department may delegate responsibility for review
9 and comment of proposed projects pursuant to this section, and
10 any administrative rules adopted thereunder, to the respective
11 counties; provided that the department has certified that the
12 county has:

13 (1) Adopted an ordinance to govern the county's review
14 process that is consistent with the requirements of
15 this section and with any administrative rules adopted
16 pursuant to this section;

17 (2) Hired qualified professional staff who meet standards
18 established by the department to conduct the reviews;

19 (3) Established sufficient internal organizational
20 controls to ensure that the qualified professional



1 staff can make independent determinations regarding
2 the effects of projects on historic properties;

3 (4) Ensured that the qualified professional staff can
4 function in a manner that does not create a conflict
5 of interest or an appearance of a conflict of
6 interest;

7 (5) Provided for appropriate public notification in a
8 manner consistent with standards established by the
9 department; and

10 (6) Entered into a written agreement with the department
11 memorializing the delegation to the county;

12 provided further that the delegation of authority shall
13 automatically be suspended or terminated if the county fails to
14 retain its qualified professional staff or if it becomes
15 apparent that the county does not have sufficient staffing
16 capacity to complete the delegated reviews in a timely manner.

17 (d) The department shall not delegate reviews or comments
18 to the county for projects affecting properties listed in the
19 Hawaii register of historic places or the national register of
20 historic places, or for projects subject to review under section
21 6E-43.



1 (e) The department may establish a program to certify
2 third-party individuals and organizations to review documents
3 prior to submission of the documents to the department for
4 review. A review by a third party shall ensure that the
5 information submitted is complete and complies with the
6 department's documentation requirements and that any
7 accompanying data and analysis supports recommendations made in
8 the submission. All third-party document reviews shall be
9 conducted in accordance with the following requirements:

10 (1) Staff who conduct the reviews shall meet professional
11 qualifications and standards established by the
12 department;

13 (2) Individuals and organizations that apply for
14 certification shall demonstrate that they have
15 established sufficient internal organizational
16 controls to ensure the qualified professional staff
17 can make independent determinations regarding the
18 effects of projects on historic properties and can
19 function in a manner that does not create a conflict
20 of interest or an appearance of a conflict of
21 interest; and



1 (3) Individuals or organizations certified to conduct
 2 third-party document reviews that precede the
 3 department's review shall be independent from the
 4 individual or organization that drafted or generated
 5 the documents.

6 [~~e~~] (f) The [~~department~~] board of land and natural
 7 resources shall adopt [~~rules in accordance with chapter 91~~]
 8 written policies at a public meeting to implement this section.
 9 Adoption of these written policies shall be exempt from the
 10 requirements of chapter 91."

11 SECTION 3. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect on July 1, 2021.

14

INTRODUCED BY: *Doug Carnes*

JAN 25 2021



H.B. NO. 821

Report Title:

State Historic Preservation Division; Project Reviews; Counties

Description:

Authorizes the state historic preservation division to delegate the responsibility of historic preservation project reviews to the impacted county and establish a program for third-party individuals and organizations to conduct document reviews on proposed projects.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

