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# A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION REVIEWS.

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

1           SECTION 1. The legislature finds that historic  
2 preservation review requirements play an essential role in the  
3 protection and management of the State's historic places, burial  
4 sites, and aviation artifacts by requiring state agencies and  
5 offices to submit all projects that may affect historic  
6 properties to the state historic preservation division of the  
7 department of land and natural resources for review before  
8 approval.

9           The legislature further finds that regulatory costs are a  
10 major contributor to the high cost of housing in Hawaii despite  
11 the State facing an unprecedented housing crisis. According to  
12 a report released by the university of Hawaii economic research  
13 organization in 2024, the median sale price of a new two-bedroom  
14 condominium in Hawaii was about \$670,000, more than double the  
15 national average price, and regulatory costs comprise \$387,000.  
16 Permit applicants face significant delays in obtaining county  
17 permits that require historic preservation review because of the



1 overwhelming volume of submittals for review. Consequently,  
2 much needed housing, economic development, and critical  
3 infrastructure projects often face significant delays in permit  
4 approvals and project implementation.

5 The legislature believes that it must take immediate action  
6 to mitigate the overwhelming volume of submittals and the  
7 impacts on permit applicants.

8 Accordingly, the purpose of this Act is to promote more  
9 timely reviews of projects by requiring the department of land  
10 and natural resources, through the state historic preservation  
11 division and subject to approval from the appropriate island  
12 burial council, to contract its review of proposed state  
13 projects, projects on privately owned historic property, and  
14 projects affecting historic properties to third-party  
15 consultants if the department will not be able to complete its  
16 review within sixty days.

17 SECTION 2. Section 6E-8, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 **"§6E-8 Review of effect of proposed state projects. (a)**

20 Before any agency or officer of the State or its political  
21 subdivisions commences any project [~~which~~] that may affect



1 historic property, aviation artifact, or a burial site, the  
2 agency or officer shall advise the department and allow the  
3 department an opportunity for review of the effect of the  
4 proposed project on historic properties, aviation artifacts, or  
5 burial sites, consistent with section 6E-43, especially those  
6 listed on the Hawaii register of historic places. The proposed  
7 project shall not be commenced, or if it has already begun,  
8 continued, until the department has given its written  
9 concurrence. If:

- 10 (1) The proposed project consists of corridors or large  
11 land areas;  
12 (2) Access to properties is restricted; or  
13 (3) Circumstances dictate that construction be done in  
14 stages,

15 the department may give its written concurrence based on a  
16 phased review of the project; provided that there shall be a  
17 programmatic agreement between the department and the project  
18 applicant that identifies each phase and the estimated timelines  
19 for each phase.

20 The department shall provide written concurrence or non-  
21 concurrence within ninety days after the filing of a request



1 with the department. The agency or officer seeking to proceed  
2 with the project, or any person, may appeal the department's  
3 concurrence or non-concurrence to the Hawaii historic places  
4 review board. An agency, officer, or other person who is  
5 dissatisfied with the decision of the review board may apply to  
6 the governor, who may take action as the governor deems best in  
7 overruling or sustaining the department.

8 (b) The department of Hawaiian home lands, prior to any  
9 proposed project relating to lands under its jurisdiction, shall  
10 consult with the department regarding the effect of the project  
11 upon historic property or a burial site.

12 (c) The State, its political subdivisions, agencies, and  
13 officers shall report to the department the finding of any  
14 historic property during any project and shall cooperate with  
15 the department in the investigation, recording, preservation,  
16 and salvage of the property.

17 (d) The department shall retain a third-party consultant,  
18 that the department may require to be paid for by the agency or  
19 officer of the State or its political subdivisions, to conduct  
20 the review described under subsection (a) if, after an initial  
21 evaluation, the department determines that:



1       (1) It will not be able to provide its written concurrence  
2       or non-concurrence within sixty days of the filing of  
3       the request with the department;

4       (2) The third-party consultant has the qualifications and  
5       experience to conduct the review pursuant to  
6       subsection (e); and

7       (3) The third-party consultant will contract to provide a  
8       recommendation to the department within thirty days of  
9       the filing of the request with the department.

10       (e) Whenever the department retains any third party,  
11       including an architect, engineer, archaeologist, planner, or  
12       other, to review an application for a permit, license, or  
13       approval under subsection (d), the third party shall meet the  
14       educational and experience standards as well as the  
15       qualifications for preservation professionals as determined by  
16       rules adopted by the state historic preservation division.

17       ~~[-d-]~~ (f) The department shall adopt rules in accordance  
18 with chapter 91 to implement this section."

19       SECTION 3. Section 6E-10, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           "**§6E-10 Privately owned historic property.** (a) Before  
2 any construction, alteration, disposition or improvement of any  
3 nature, by, for, or permitted by a private landowner may be  
4 commenced [~~which~~] that will affect [~~an~~] a historic property on  
5 the Hawaii register of historic places, the landowner shall  
6 notify the department of the construction, alteration,  
7 disposition, or improvement of any nature and allow the  
8 department opportunity for review of the effect of the proposed  
9 construction, alteration, disposition, or improvement of any  
10 nature on the historic property. The proposed construction,  
11 alteration, disposition, or improvement of any nature shall not  
12 be commenced, or in the event it has already begun, continue,  
13 until the department shall have given its concurrence or ninety  
14 days have elapsed. Within ninety days after notification, the  
15 department shall:

16           (1) Commence condemnation proceedings for the purchase of  
17           the historic property if the department and property  
18           owner do not agree upon an appropriate course of  
19           action;

20           (2) Permit the owner to proceed with the owner's  
21           construction, alteration, or improvement; or



1           (3) In coordination with the owner, undertake or permit  
2           the investigation, recording, preservation, and  
3           salvage of any historical information deemed necessary  
4           to preserve Hawaiian history, by any qualified agency  
5           for this purpose.

6           (b) Nothing in this section shall be construed to prevent  
7           the ordinary maintenance or repair of any feature in or on ~~an~~  
8           a historic property that does not involve a change in design,  
9           material, or outer appearance or change in those characteristics  
10          which qualified the historic property for entry onto the Hawaii  
11          register of historic places.

12          (c) Any person, natural or corporate, who violates the  
13          provisions of this section shall be fined not more than \$1,000,  
14          and each day of continued violation shall constitute a distinct  
15          and separate offense under this section for which the offender  
16          may be punished.

17          (d) If funds for the acquisition of needed property are  
18          not available, the governor may, upon the recommendation of the  
19          department allocate from the contingency fund an amount  
20          sufficient to acquire an option on the property or for the



1 immediate acquisition, preservation, restoration, or operation  
2 of the property.

3 (e) The department shall retain a third-party consultant,  
4 that the department may require to be paid for by the private  
5 landowner, to conduct the review described under subsection (a)  
6 if, after an initial evaluation, the department determines that:

7 (1) It will not be able to provide its written concurrence  
8 or non-concurrence within sixty days of the  
9 landowner's notification;

10 (2) The third-party consultant has the qualifications and  
11 experience to conduct the review pursuant to  
12 subsection (f); and

13 (3) The third-party consultant will contract to provide a  
14 recommendation to the department within thirty days of  
15 the landowner's notification.

16 (f) Whenever the department retains any third party,  
17 including an architect, engineer, archaeologist, planner, or  
18 other, to review an application for a permit, license, or  
19 approval under subsection (e), the third party shall meet the  
20 educational and experience standards as well as the



1 qualifications for preservation professionals as determined by  
2 rules adopted by the state historic preservation division.

3 [~~e~~] (g) The department or the department's third-party  
4 consultant, as applicable, may enter, solely in performance of  
5 its official duties and only at reasonable times, upon private  
6 lands for examination or survey thereof. Whenever any member of  
7 the department or the department's third-party consultant, as  
8 applicable, duly authorized to conduct investigations and  
9 surveys of [a] a historic or cultural nature determines that  
10 entry onto private lands for examination or survey of historic  
11 or cultural finding is required, the department or the  
12 department's third-party consultant, as applicable, shall give  
13 written notice of the finding to the owner or occupant of such  
14 property at least five days prior to entry. If entry is  
15 refused, the member or the department's third-party consultant,  
16 as applicable, may make a complaint to the district  
17 environmental court in the circuit in which such land is  
18 located. The district environmental court may thereupon issue a  
19 warrant, directed to any police officer of the circuit,  
20 commanding the officer to take sufficient aid, and, being  
21 accompanied by a member of the department[7] or the department's



1 third-party consultant, as applicable, between the hours of  
2 sunrise and sunset, allow the member of the department or the  
3 department's third-party consultant, as applicable, to examine  
4 or survey the historic or cultural property."

5 SECTION 4. Section 6E-42, Hawaii Revised Statutes, is  
6 amended to read as follows:

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

- 19 (1) The proposed project consists of corridors or large  
20 land areas;  
21 (2) Access to properties is restricted; or



1           (3) Circumstances dictate that construction be done in  
2                    stages,  
3 the department's review and comment may be based on a phased  
4 review of the project; provided that there shall be a  
5 programmatic agreement between the department and the project  
6 applicant that identifies each phase and the estimated timelines  
7 for each phase.

8           (b) The department shall inform the public of any project  
9 proposals submitted to it under this section that are not  
10 otherwise subject to the requirement of a public hearing or  
11 other public notification.

12           (c) The department shall retain a third-party consultant,  
13 that the department may require to be paid for by the agency or  
14 officer of the State or its political subdivisions, to conduct  
15 the review and comment described under subsection (a) if, after  
16 an initial evaluation, the department determines that:

17           (1) It will not be able to provide its review and comment  
18                   within sixty days of being advised pursuant to  
19                   subsection (a);



1       (2) The third-party consultant has the qualifications and  
2       experience to conduct the review required by  
3       subsection (d); and

4       (3) The third-party consultant will contract to provide a  
5       recommendation to the department within thirty days of  
6       being advised pursuant to subsection (a).

7       (d) Whenever the department retains any third party,  
8       including any architect, engineer, archaeologist, planner, or  
9       other, to review an application for a permit, license, or  
10      approval under subsection (c), the third party shall meet the  
11      educational and experience standards as well as the  
12      qualifications for preservation professionals as determined by  
13      rules adopted by the state historic preservation division.

14      [~~(e)~~] (e) The department shall adopt rules in accordance  
15      with chapter 91 to implement this section."

16      SECTION 5. This Act does not affect rights and duties that  
17      matured, penalties that were incurred, and proceedings that were  
18      begun before its effective date.

19      SECTION 6. Statutory material to be repealed is bracketed  
20      and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect on July 1, 3000.



**Report Title:**

Historic Preservation Reviews; State Historic Preservation Division; Third-party Consultants

**Description:**

Requires the Department of Land and Natural Resources to contract its review of proposed state projects, projects on privately owned historic property, and projects affecting historic properties to third-party consultants if the Department is unable to complete its review within sixty days. Authorizes the Department to assess the cost of the third-party consultant to the project proponent. Effective 7/1/3000. (HD1)

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

