
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 additionally finds that due to the current
6 demand for the construction of affordable housing and other
7 critical infrastructure, the state historic preservation
8 division consistently receives more reports than they have time
9 to review. According to the department of land and natural
10 resources report to the legislature in October 22, project
11 reviews in the state historic preservation division's
12 archaeology branch face "a 6-month to 1-year backlog as the
13 volume of permit and project submissions have risen . . .".

14 The legislature also finds that allowing the state historic
15 preservation division to engage with third-party consultants
16 could help expedite the review process so that more affordable
17 housing units can be produced in a timely manner. Delegating
18 review responsibilities will reduce the state historic
19 preservation division's intake load and allow the division to
20 focus on core historical review properties.



1 Therefore, legislature believes that it must take immediate
2 action to mitigate the overwhelming volume of submissions to the
3 state historic preservation division and the impacts on permit
4 applicants.

5 Accordingly, the purpose of this Act is to:

6 (1) Authorize the department of land and natural
7 resources, through the state historic preservation
8 division, to contract its review of proposed state
9 projects, projects on privately-owned historic
10 property, and projects affecting historic properties
11 if the proposed project involves a development
12 intended to be affordable housing, to third-party
13 consultants, under certain conditions; and

14 (2) Appropriate funds to the state historic preservation
15 division for the recruitment and retention of
16 qualified third-party consultants to expedite review
17 of proposed state affordable housing projects and
18 affordable housing projects affecting historic
19 properties.

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



1 **"§6E-8 Review of effect of proposed state projects. (a)**
2 Before any agency or officer of the State or its political
3 subdivisions commences any project [~~which~~] that may affect
4 historic property, aviation artifact, or a burial site, the
5 agency or officer shall advise the department and allow the
6 department an opportunity for review of the effect of the
7 proposed project on historic properties, aviation artifacts, or
8 burial sites, consistent with section 6E-43, especially those
9 listed on the Hawaii register of historic places. The proposed
10 project shall not be commenced, or if it has already begun,
11 continued, until the department has given its written
12 concurrence. If:

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

18 the department may give its written concurrence based on a
19 phased review of the project; provided further that there shall
20 be a programmatic agreement between the department and the



1 project applicant that identifies each phase and the estimated
2 timelines for each phase.

3 The department shall provide written concurrence or non-
4 concurrence within ninety days after the filing of a request
5 with the department. The agency or officer seeking to proceed
6 with the project, or any person, may appeal the department's
7 concurrence or non-concurrence to the Hawaii historic places
8 review board. An agency, officer, or other person who is
9 dissatisfied with the decision of the review board may apply to
10 the governor, who may take action as the governor deems best in
11 overruling or sustaining the department.

12 (b) The department of Hawaiian home lands, [~~prior to~~]
13 before commencing any proposed project relating to lands under
14 its jurisdiction, shall consult with the department regarding
15 the effect of the project upon historic property or a burial
16 site.

17 (c) The State, its political subdivisions, agencies, and
18 officers shall report to the department the finding of any
19 historic property during any project and shall cooperate with
20 the department in the investigation, recording, preservation,
21 and salvage of the property.



1 (d) Whenever a proposed state project involves the
2 development of residential units intended for affordable
3 housing, as that term is defined under section 201H-57, the
4 department may retain a third-party consultant to conduct the
5 review described under subsection (a) no later than sixty days
6 after the filing of a request with the department; provided that
7 after an initial evaluation, the department determines that:

8 (1) The department will not be able to provide its written
9 concurrence or non-concurrence within sixty days of
10 the filing of the request with the department;

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

14 (3) The contract with the third-party consultant:

15 (A) Requires the third-party consultant to provide a
16 recommendation to the department within thirty
17 days of the date that the consultant is retained
18 to conduct the review and comment; and

19 (B) Allows the department to reserve the right to
20 determine whether use of a third-party consultant



1 was appropriate and terminate the contract if the
2 third-party consultant:

3 (i) Has evidenced insufficient compliance with
4 the state historic preservation rules and
5 statutes; or

6 (ii) Has not completed assigned historic
7 preservation reviews accurately.

8 (e) Whenever the department retains any third-party
9 consultant pursuant to subsection (d), including an architect,
10 engineer, archaeologist, planner, or other professional, to
11 review an application for a permit, license, or approval, the
12 third-party consultant shall:

13 (1) Meet the educational and experience standards as well
14 as the qualifications for preservation professionals
15 pursuant to the rules adopted by the state historic
16 preservation division;

17 (2) Follow state ethics rules; and

18 (3) Not review any project that the third-party consultant
19 or the consultant's employer has previously worked on.

20 (f) The project proponent shall pay for the reasonable fee
21 requirements of the third-party consultant; provided that the



1 project proponent may contract with or sponsor any county,
2 housing authority, non-profit organization, or person, to meet
3 the fee requirements.

4 [~~d~~] (g) The department shall adopt rules in accordance
5 with chapter 91 to implement this section."

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

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



1 days have elapsed. Within ninety days after notification, the
2 department shall:

3 (1) Commence condemnation proceedings for the purchase of
4 the historic property if the department and property
5 owner do not agree upon an appropriate course of
6 action;

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

9 (3) In coordination with the owner, undertake or permit
10 the investigation, recording, preservation, and
11 salvage of any historical information deemed necessary
12 to preserve Hawaiian history, by any qualified agency
13 for this purpose.

14 (b) Nothing in this section shall be construed to prevent
15 the ordinary maintenance or repair of any feature in or on ~~[an]~~
16 a historic property that does not involve a change in design,
17 material, or outer appearance or change in those characteristics
18 which qualified the historic property for entry onto the Hawaii
19 register of historic places.

20 (c) Any person, natural or corporate, who violates the
21 provisions of this section shall be fined not more than \$1,000,



1 and each day of continued violation shall constitute a distinct
2 and separate offense under this section for which the offender
3 may be punished.

4 (d) If funds for the acquisition of needed property are
5 not available, the governor may, upon the recommendation of the
6 department allocate from the contingency fund an amount
7 sufficient to acquire an option on the property or for the
8 immediate acquisition, preservation, restoration, or operation
9 of the property.

10 (e) The department may retain a third-party consultant,
11 that the department may require to be paid for by the private
12 landowner, to conduct the review described under section (a) if,
13 after an initial evaluation, the department determines that:

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

17 (2) The third-party consultant has the qualifications and
18 experience to conduct the review pursuant to
19 subsection (f); and

20 (3) The third-party consultant will contract to provide a
21 recommendation to the department within thirty days of



1 the landowner's notification; provided that the
2 contract allows the department to reserve the right to
3 determine whether use of a third-party consultant was
4 appropriate and terminate the contract if the
5 third-party consultant:

6 (A) Has evidenced insufficient compliance with the
7 state historic preservation rules and statutes;
8 or

9 (B) Has not completed assigned historic preservation
10 reviews accurately.

11 (f) Whenever the department retains any third-party
12 consultant, including an architect, engineer, archaeologist,
13 planner, or other professional, to review an application for a
14 permit, license, or approval under subsection (e), the
15 third-party consultant shall:

16 (1) Meet the education and experience standards as well as
17 the qualifications for preservation professionals as
18 determined by rules adopted by the state historic
19 preservation division;

20 (2) Follow state ethics rules; and



1 (3) Not review any project that the third-party consultant
2 or the consultant's employer has previously worked on.

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 [~~r~~] 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 (h) The department shall adopt rules in accordance with
6 chapter 91 to implement this section."

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

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



1 (1) The proposed project consists of corridors or large
2 land areas;

3 (2) Access to properties is restricted; or

4 (3) Circumstances dictate that construction be done in
5 stages,

6 the department's review and comment may be based on a phased
7 review of the project; provided that there shall be a
8 programmatic agreement between the department and the project
9 applicant that identifies each phase and the estimated timelines
10 for each phase.

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

15 (c) Whenever the project involves the development of
16 residential units intended as affordable housing, as that term
17 is defined under section 201H-57, the department may retain a
18 third-party consultant to conduct the review and comment
19 described under subsection (a) no later than sixty days after
20 being advised pursuant to subsection (a); provided that after an
21 initial evaluation, the department determines that:



- 1 (1) The department will not be able to provide its review
- 2 and comment within sixty days of being advised
- 3 pursuant to subsection (a);
- 4 (2) The third-party consultant has the qualifications and
- 5 experience required by subsection (d) to conduct the
- 6 review; and
- 7 (3) The contract with the third-party consultant:
- 8 (A) Requires the third-party consultant to provide a
- 9 recommendation to the department within thirty
- 10 days of the date that the consultant is retained
- 11 to conduct the review and comment; and
- 12 (B) Allows the department to reserve the right to
- 13 determine whether use of a third-party consultant
- 14 was appropriate and terminate the contract if the
- 15 third-party consultant:
- 16 (i) Has evidenced insufficient compliance with
- 17 the state historic preservation rules and
- 18 statutes; or
- 19 (ii) Has not completed assigned historic
- 20 preservation reviews accurately.



1 (d) Whenever the department retains any third-party
2 consultant, including any architect, engineer, archaeologist,
3 planner, or other professional, to review an application for a
4 permit, license, or approval under subsection (c), the third-
5 party consultant shall:

6 (1) Meet the educational and experience standards as well
7 as the qualifications for preservation professionals
8 pursuant to rules adopted by the state historic
9 preservation division;

10 (2) Follow state ethics rules; and

11 (3) Not review any project that the third-party consultant
12 or the consultant's employer has previously worked on.

13 (e) The project proponent shall pay the reasonable fee
14 requirements of the third-party consultant; provided that the
15 project proponent may contract with or sponsor any county,
16 housing authority, non-profit organization, or person, to meet
17 the fee requirements.

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

20 SECTION 5. The department of land and natural resources
21 shall publish on its website proposed rules implementing



1 sections 2, 3, and 4 of this Act within one year from the
2 effective date of this Act. Thereafter, the department of land
3 and natural resources, within one year, shall present its
4 proposed final rules to the board of land and natural resources.

5 SECTION 6. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2025-2026 and
8 the same sum or so much thereof as may be necessary for fiscal
9 year 2026-2027 for the state historic preservation division's
10 recruitment and retention of qualified third-party consultants.

11 The sums appropriated shall be expended by the department
12 of land and natural resources for the purposes of this Act.

13 SECTION 7. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$ or so
15 much thereof as may be necessary for fiscal year 2025-2026 and
16 the same sum or so much thereof as may be necessary for fiscal
17 year 2026-2027 to fund full-time equivalent (FTE)
18 positions to oversee third-party consultants.

19 The sums appropriated shall be expended by the department
20 of land and natural resources for the purposes of this Act.



1 SECTION 8. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 9. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 10. This Act shall take effect on July 1, 3000,
7 and shall be repealed on June 30, 2029; provided that sections
8 6E-8, 6E-10, and 6E-42, Hawaii Revised Statutes, shall be
9 reenacted in the form in which they read on the day prior to the
10 effective date of this Act; provided further that sections 2, 3,
11 and 4 of this Act shall take effect on July 1, 2027.



Report Title:

BLNR; DLNR; SHPD; Review and Comment; Affordable Housing;
Historic Preservation; Historic Preservation Review; Third-Party
Consultants; Appropriations

Description:

Beginning 7/1/2027 allows the State Historic Preservation Division of 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 projects involve the development of affordable housing and the division, after an initial evaluation, determines it will not be able to complete its review within sixty days. Establishes requirements for qualified third-party consultants providing review services. Requires the project proponent to pay for the reasonable fee requirements of the third-party consultant. Allows the project proponent to contract or sponsor with any county, housing authority, non-profit organization, or person, to meet the third-party consultant fee requirement. Requires the Department of Land and Natural Resources to publish a draft of its proposed rules within one year, and within one year thereafter, present its proposed final rules to the Board of Land and Natural Resources. Appropriates funds. Effective 7/1/3000. Sunsets 6/30/2029. (SD2)

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