

JAN 17 2025

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 condo in Hawaii was about \$670,000, more than double the price
15 in the average state, 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 to conduct the review described under subsection (a) if, after
19 an initial 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 historic property on the
5 Hawaii register of historic places, the landowner shall notify
6 the department of the construction, alteration, disposition, or
7 improvement of any nature and allow the department opportunity
8 for review of the effect of the proposed construction,
9 alteration, disposition, or improvement of any nature on the
10 historic property. The proposed construction, alteration,
11 disposition, or improvement of any nature shall not be
12 commenced, or in the event it has already begun, continue, until
13 the department shall have given its concurrence or ninety days
14 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 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 to conduct the review described under subsection (a) if, after
5 an initial evaluation, the department determines that:

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

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

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

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



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



1 consultant, as applicable, to examine or survey the historic or
2 cultural property."

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

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

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



1 the department's review and comment may be based on a phased
2 review of the project; provided that there shall be a
3 programmatic agreement between the department and the project
4 applicant that identifies each phase and the estimated timelines
5 for each phase.

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

10 (c) The department shall retain a third-party consultant
11 to conduct the review and comment described under subsection (a)
12 if, after an initial evaluation, the department determines that:

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

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

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



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

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

10 SECTION 5. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect upon its approval.

16
INTRODUCED BY: 



S.B. NO. 575

Report Title:

Historic Preservation Reviews; 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.

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

