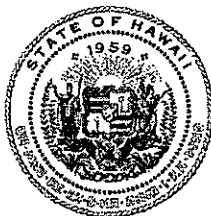
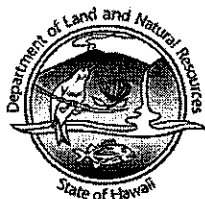


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of**  
**WILLIAM J. AILA, JR.**  
**Chairperson**

**Before the House Committee on**  
**FINANCE**

**Wednesday, March 2, 2011**  
**11:00 AM**  
**State Capitol, Conference Room 308**

**In consideration of**  
**HOUSE BILL 376, HOUSE DRAFT 1**  
**RELATING TO STREAMLINING PERMIT, LICENSE, AND APPROVAL**  
**APPLICATION PROCESSING**

House Bill 376, House Draft 1 proposes to streamline the permitting process to promote the construction industry in Hawaii, including changing review times and guidelines for the State Historic Preservation Division (SHPD). The Department of Land and Natural Resources (Department) opposes the bill as the Department believes there must be a balance between encouraging construction and preserving our unique natural and cultural resources. In the long run our natural and cultural resources drive much tourism in our state and need to be treated as the important resources that they are.

The Department is specifically opposed to SECTION 3 of the bill which proposes a maximum of sixty days to complete a review and comment "beginning from the time the department is advised of the proposed project by the agency or officer." This language is problematic for the following reasons:

1. While SHPD could agree to a maximum of sixty days to complete its comments, we sometimes need to wait more than sixty days for project proponents to respond to our comments, and even then, on complicated projects it may take more discussion to come to an agreement about mitigation for a resource. If SHPD does not complete its initial review within 30 days, the Counties have the ability to move forward with a project (13-284.5, Hawaii Administrative Rules (HAR)), thus we believe that the current law addresses the need of construction project to move forward.
2. The start time for the 60 day clock is when the department is "advised of the proposed project by the agency or officer." Merely advising the department of a project does not ensure that the

WILLIAM J. AILA, JR.  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

required information (13-284, HAR) is provided to the department. 13-284, HAR clearly defines the materials needed for the clock to start, including the receipt of required fees. The Department believes the rules as they exist provide sufficient guidance.

3. The new language states, "Projects previously reviewed by the department pursuant to this section and found to have no impact . . . shall not be subject to subsequent department reviews under this section. Again, the rules provide guidance on this area (see 13-284, HAR generally and specifically (13-284 (5) (4) HAR, and allow for SHPD or an agency to determine that a project will have "no effect" based on previous studies or ground disturbance. The language provide in this bill could lead to confusion and further delay. For example, inventory studies done over ten years ago may have found no impact, but only tested a limited area. New information could change SHPD's determination on a project (i.e. Brescia).

SHPD feels that the current rules allow for the counties to take control of the Historic Preservation Review process through either moving forward if SHPD does not comment within 30 days, or hiring their own staff to do reviews per 13-284-5 (5) (2) HAR.

In addition, the Department opposes SECTION 4 of the measure, which states that unless rules are adopted that specifies a maximum time period to grant or deny a permit, any application shall be deemed approved within thirty calendar days after a complete application is submitted to the State on or after January 1, 2012.

In accordance with Section 179D-28, Hawaii Revised Statutes (HRS), any construction, enlargement, repair, alteration, or removal work on a dam or reservoir requires a permit to be issued by the Department . Dam permits are issued to ensure that any work on dams or reservoirs meet certain safety standards. A complete application and supporting documents are required to be submitted to the Department for review before a recommendation to issue a permit can be brought before the Board and Land and Natural Resources (Board). The number of supporting documents may include, but are not limited to: (1) Plans, specifications and construction schedule; (2) Hydraulic and hydrologic report; (3) Geotechnical report; (4) See page analysis; (5) Spillway Analysis; (6) Foundation Analysis; (7) Analysis of the downstream effects and other pertinent information. The Department needs sufficient time to review these documents, evaluate the impacts with respect to Chapter 343 HRS, prepare a staff report, and obtain the Board's approval before a permit can be issued. 30 days is insufficient time for this process and automatic approval after 30 days is bad policy for a program intended to protect public safety and could potentially put lives at risk. Depending on the volume of permit applications received, 3-6 months is the typical period from receipt of a complete application to issuance of a permit.

The Department just recently went through the rulemaking process to create new rules since the existing dam safety law was drastically changed in 2007 as a result of the Kaloko Dam breach disaster. The Department will be unable to revise the existing rules to include a maximum time period for permit review and have these rules adopted by January 1, 2012. The Department respectfully requests additional time and have this date revised to "January 1, 2013."

**PRESENTATION OF THE  
BOARD OF PROFESSIONAL ENGINEERS, ARCHITECTS,  
SURVEYORS AND LANDSCAPE ARCHITECTS**

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-SIXTH LEGISLATURE  
Regular Session of 2011

Wednesday, March 2, 2011  
11:00 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON HOUSE BILL NO. 376, H.D.1, RELATING TO STREAMLINING  
PERMIT, LICENSE, AND APPROVAL APPLICATION PROCESSING.**

TO THE HONORABLE MARCUS R. OSHIRO, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Board of Professional Engineers, Architects, Surveyors and Landscape Architects ("Board") wishes to provide written comments to clarify the intent of House Bill No. 376, H.D.1.

The purpose of House Bill No. 376, H.D.1 is to streamline the review process for permits, licenses, and approvals to minimize time delays, and to expedite the start of construction for workforce housing and other projects that will result in the generation of construction and other related jobs.

The bill proposes to allow each county to provide a third-party with permit, license, and approval processing review powers to increase the efficiency and timeliness of permit, license, or approval applications submitted to the State or respective county (emphasis added). Presumably, this may be interpreted to allow each county to delegate to a third-party the ability to approve an application for license to practice as an architect, engineer, surveyor or landscape architect in Hawaii.

Although in support of the intent to expedite the approval of construction projects, the Board would like to inform the Committee that pursuant to Chapter 464, Hawaii Revised Statutes, only the Board of Professional Engineers, Architects, Surveyors and Landscape Architects has the authority to license architects, engineers, surveyors and landscape architects in Hawaii. The Board already has in place the requirements for licensure, which include an applicant's education, experience and examination, and the expertise to evaluate the applications.

Therefore, the Board recommends that the bill be clarified that there is no intent to allow a third-party the ability to approve architects, engineers, surveyors and landscape architects for licensure to practice in Hawaii.

Thank you for the opportunity to provide comments on House Bill No. 376, H.D.1.



**HB 376, HD 1**  
**RELATING TO STREAMLINING PERMIT, LICENSE, AND APPROVAL APPLICATION**  
**PROCESSING**  
House Committee on Finance

March 2, 2011

11:00 a.m.

Room: 308

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The Office of Hawaiian Affairs (OHA) **OPPOSES** HB 376, HD 1, which would streamline portions of the review process for various county and state permits, licenses, and approvals.

HB 376, HD 1 grants counties the authority to delegate their mandates to protect Hawai'i's natural and cultural resources to "third-party reviewers." This is unacceptable. Article XI, Section 1 of the state Constitution expressly spells out the state's mandate to protect Hawai'i's natural resources:

For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

It is the responsibility of the counties, as instrumentalities of the state, to ensure that permit, license, and approval of applications comply with various laws, rules, court orders, and the state Constitution. Counties cannot pass off a constitutional mandate in the interests of quicker review for individual projects.

Furthermore, HB 376, HD 1, reduces the possibility of a proposed project being comprehensively and impartially reviewed. Under HB 376, HD 1, architects and engineers, the third-party reviewers, would be "retained by an owner of the property being reviewed and all fees and costs for third-party review services shall be the responsibility of the owner of the property being reviewed." With owners having complete control over which third-party reviewer to contract with, OHA is concerned over the level of scrutiny to be applied if conflicts arise with construction codes or land use ordinances. Although a "[t]hird-party reviewer shall not have the authority to grant modifications, variances, waivers, exemptions or

other discretionary approvals," a third-party reviewer would be able to make a determination if such a discretionary approval is even necessary or if the project can proceed as a matter of course. In addition, such determinations would be without consequences, as HB 376, HD 1 also insulates third-party reviewers from liability unless their actions rise to the level where intentional misconduct, gross negligence, or malfeasance can be proven.

The bill's proposed changes to Chapter 6E, Hawaii Revised Statutes, are equally problematic. The State Historic Preservation Division (SHPD) is suffering from a severe lack of resources. Rather than direct needed resources to SHPD, HB 376, HD 1 seeks to overhaul Chapter 6E and strip power from SHPD. If projects were automatically approved when the agency fails to complete reviews and offer comments within sixty days, the counties may fail to uphold the goals and intent of the Historic Preservation Program. The Legislature has already found with Section 1 of Chapter 6E, Hawaii Revised Statutes, that:

The Constitution of the State of Hawaii recognizes the value of conserving and developing the historic and cultural property within the State for the public good. The legislature declares that the historic and cultural heritage of the State is among its important assets and that the rapid social and economic developments of contemporary society threaten to destroy the remaining vestiges of this heritage. The legislature further declares that it is in the public interest to engage in a comprehensive program of historic preservation at all levels of government to promote the use and conservation of such property for the education, inspiration, pleasure, and enrichment of its citizens. The legislature further declares that it shall be the public policy of this State to provide leadership in preserving, restoring, and maintaining historic and cultural property, to ensure the administration of such historic and cultural property in a spirit of stewardship and trusteeship for future generations, and to conduct activities, plans, and programs in a manner consistent with the preservation and enhancement of historic and cultural property.

Furthermore, HB 376, HD 1, reduces the authority of SHPD by precluding the review of previously approved projects. Archaeological surveys completed twenty years ago are often deemed to be inadequate by today's archeological standards. Unfortunately, previous approvals relied on these surveys. SHPD must be allowed to review previously approved projects in order to ensure that all historic properties are carefully protected with current and accurate information.

OHA understands that the approval process for projects can be lengthy. Even the current review process, which is fairly thorough, results in mistakes and missed problems. If the process is shortened, these errors will surely increase, and Hawai'i's natural and cultural resources will surely suffer as a result.

As such, OHA urges the committee to HOLD HB 376, HD 1. Mahalo for the opportunity to testify.

# HISTORIC HAWAII FOUNDATION

**VIA WEB:** [www.capitol.hawaii.gov/emailtestimony](http://www.capitol.hawaii.gov/emailtestimony)

**TO:** Rep. Marcus R. Oshiro, Chair  
Rep. Marilyn B. Lee, Vice Chair  
Committee on Finance

**FROM:** Kiersten Faulkner, Executive Director  
Historic Hawaii Foundation

**Committee:** Wednesday, March 2, 2011  
11:00 a.m.  
Conference Room 308  
Agenda #2

**RE:** **HB376 HB1, Relating to Streamlining Permit, License, and Approval Application Processing**

On behalf of Historic Hawaii Foundation (HHF), I am writing in **opposition to HB376**, unless amended. The bill would authorize third-party review of applications; establishes maximum time periods for designated agencies to process permits and other applications before they are deemed granted if not acted upon; and eliminates subsequent reviews by the state historic preservation division (SHPD).

HB376, Section 3 would amend HRS §6E-42, which relates to the review process and timelines for “projects” that have potential effects on historic properties. “Project” is defined in HRS §6E-2 as “any activity directly undertaken by the State or its political subdivisions or supported in whole or in part through appropriations, contracts, grants, subsidies, loans, or other forms of funding assistance from the State or its political subdivisions or involving any lease, permit, license, certificate, land use change, or other entitlement for use issued by the State or its political subdivisions.”

The bill would mandate that once SHPD has provided one approval of a proposed project—whether by affirming a determination of no effect on historic properties or through inaction—subsequent reviews would not be allowed.

Historic Hawaii Foundation finds this section of the bill most concerning as written, but suggests that **an amendment could resolve the issue by adding language to clarify that “projects” refers to each distinct application for approval, entitlement or funding, and not to a single sweeping approval of any and all development activity that may ever occur on a particular piece of property.** This would close a loophole that could otherwise cause unintended consequences that would be devastating to historic and cultural resources of Hawai‘i.

The professional staff of the historic preservation division has been steadily eroded over the past several years. Currently, there is only one staff member to provide all architectural project reviews

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P.O. Box 1658 • Honolulu, HI 96806 • Tel: 808-523-2900 • FAX: 808-523-0800 • [www.historichawaii.org](http://www.historichawaii.org)

Historic Hawai‘i Foundation was established in 1974 to encourage the preservation of historic buildings, sites and communities on all the islands of Hawai‘i. As the statewide leader for historic preservation, HHF works to preserve Hawai‘i’s unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.

for the entire state, include federal undertakings. The division has lost its architectural branch chief, its preservation architect, its architectural historian and other professional, clerical and support positions. The lack of funding, staffing and support for the division makes it difficult for it to meet its mandates for high quality and timely review of projects. This leads to frustration by those seeking approvals, as well as by those whose priority is the protection of the state's historic and cultural resources.

The bill attempts to address this impasse by setting a maximum number of reviews and a maximum number of days for those reviews. While the intent may be to provide greater timeliness and certainty to developers, it will come at the expense of protections for historic sites and cultural resources. The absolute deadline on taking action could also lead to a quick denial of projects rather than a slower and more thoughtful approval, simply in an attempt to meet the deadlines. The state's historic and cultural resources should not be penalized by removing protections at the local or the state level.

The provision limiting the number of SHPD reviews per undertaking disregards the reality that developments have multiple phases of design and construction and there is a need to check-in at key points, especially if the undertaking changes. In most development undertakings, there is a continuum of due diligence, planning, entitlements, design and construction. It is rare that all possible effects on historic properties are known at each stage of the development and design process. For example, the area of potential effect for historic sites is less defined at the time of a land use change or subdivision than it is at the time of construction. The certainty and specificity of SHPD's review is directly proportionate to the level of information provided to it, which can and does change as undertakings evolve.

For example, while SHPD may determine that no historic properties are affected by a simple change in entitlements, that same undertaking could very well have an effect at the time of site planning and construction. This is especially true when the historic properties are unknown (such as from sub-surface archeological sites or native Hawaiian burials), undocumented (such as cultural landscapes or traditional cultural properties), when the project takes many years from concept to execution (in which time structures may become eligible for the historic register by virtue of increasing age or significance), or when the scope and scale of the undertaking changes.

It is also a rare development that does not change in its details from the time of concept, to schematic design, to design development, to construction. At any of these stages, a historic property that was not previously anticipated to be affected could become at risk. Therefore, an earlier determination of no adverse effect may not hold true when the undertaking becomes more specific and more information is provided, and vice versa.

HB376 Section 2 provides for third party reviewers to certify that proposals are in compliance with applicable codes and standards. **HHF requests that this section be amended to require that any architects, engineers or other third parties that review an application for a permit, license or approval for a project that affects historic properties meet the education and experience standards and qualifications for preservation professionals as defined by the Secretary of the Interior's Standards.** This will help ensure that reviewers are qualified to make



the determinations entrusted to them when making decisions that impact the historic and cultural resources of the Islands and refers to industry standards in federal statute.

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# Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803  
808.538.6616 hawaii.chapter@sierraclub.org

## HOUSE COMMITTEE ON FINANCE

March 2, 2011, 11:00 A.M.  
(Testimony is 3 page long)

### TESTIMONY IN STRONG OPPOSITION TO HB 376 HD1 WITH PROPOSED AMENDMENTS

Aloha Chair Oshiro and Members of the Committee:

The Hawai'i Chapter of the Sierra Club *strongly opposes* HB 376 HD1, which could -- intentionally or not -- automatically approve undesirable development projects throughout Hawai'i. While we support efforts to encourage economic development, this measure may undermine the desired goals of the policy and run counter to the concept of a democratically administered society.

#### *I. Section 2 - Protecting Transparency and Accountability.*

Shifting towards "private" government frequently seems like a simple way to save costs and improve efficiency, but section 2 of this measure could leave Hawai'i residents in a lurch. Under the proposed language, large developments could be shifted over to third party review, without any ability for the public to monitor or comment on the progress of the project. HB 376 says "license or approval," seemingly meaning that complex actions like zoning and subdivision could be taken out of the public arena (counties have consistently argued these processes are not discretionary).

Further, documents considered should be available for public inspection. Third-party reviewers should be accessible by the public. To this end, we suggest inserting language that states "notwithstanding any other provision, third-party reviewers will be considered an 'agency' for purposes of chapter 92." Additional language will need to be inserted to ensure the public's right to hearing is protected to ensure this process simply doesn't become a hidden form of government.

We also suggest the State and Counties require third-party reviewers to indemnify the state in order to ensure that the public does not bear the responsibility of negligent work.

## ***II. Sections 3 and 4 -- Ham-Fisted Means that Eliminate Public Protection.***

Section 3 of this measure creates a 60-day automatic approval of any historic property review. Section 4 requires agencies enact rules limiting the time to approve or deny *any* permit. Without the adoption of agency rules, a 30 day “automatic approval” would be created.

The “automatic approval” of any permit is simply poor policy. Permits should be granted on their merits, not by mistake or governmental inefficiency. *No community should suffer because government failed to perform.* Consider:

- What happens when a building is automatically approved that doesn't meet health and safety standards? Is the State liable for any resulting injuries?
- What happens when additional information is required by the department or agency and the deadline passes?
- What happens when complex issues like subdivision approval of a massive development project -- that directly impacts traffic, public access, and smart growth -- are automatically approved because of timing blunder?
- What happens if an applicant fails to submit all the necessary information? Would building, electrical and plumbing permits be deemed “approved” because the agency did not have a completed application?
- What happens when there is a complex environmental assessment that needs to be completed pursuant to Haw. Rev. Stat. Chapter 343 and the deadline passes?
- What happens when a contested case hearing is requested pursuant to chapter 91, HRS, and for any other period for administrative appeals and review and the deadline passes?
- Is it ever appropriate to automatically approve a permit that will irreparably damage the environment or native Hawaiian rights? Doesn't that violate protections provided by the State Constitution

The problems with this bill are staggering. For example, what if agencies aren't able to enact rules in a timely fashion? Some agencies are struggling to pass rules over six years old. Theoretically, numerous approvals and permits could be deemed automatically approved because of one malfunctioning agency. Do we really want health/welfare/safety requirements ignored? Do we want residents to wonder why their government allowed a poorly-sited landfill placed next to them?

### *III. Other Options.*

In looking at the perceived problem of agency delay, it's alarming that there is a lack of real information. What is the scope of the problem? Is it an actual problem or merely a perception? What agencies are misbehaving? Are there are other reasons for unusual delay that might be solved through other means?

The Senate may to consider requesting a DBEDT investigate the situation and make a detailed report as to the length of review of each type of permit/approval and the reason for the length of time. Or thinking outside of the box, the Senate could propose the creation of an Office of the Ombudsman to appropriately investigate the issue and be empowered to take different forms of action.

By identifying actual issues, we may be able to solve real problems rather than applying a ham-fisted, one-size-fits-all "solution" to a perceived problem.

Mahalo for this opportunity to provide testimony.

TO: Representative Marcus Oshiro, Chair  
Representative Marilyn Lee, Vice-Chair  
House on Finance

FROM: Sara L. Collins, Ph.D., Legislative Chair  
Society for Hawaiian Archaeology  
[sara.l.collins.sha@gmail.com](mailto:sara.l.collins.sha@gmail.com)

HEARING: March 2, 2011, 11:00 AM, Conference Room 308  
SUBJECT: Testimony in OPPOSITION to HB 376, HD 1 (RELATING TO STREAMLINING PERMIT, LICENSE, AND APPROVAL APPLICATION PROCESSING)

I am Dr. Sara Collins, Chair of the Legislative Committee of the Society for Hawaiian Archaeology (SHA). We have over 150 members that include professional archaeologists and advocates of historic preservation in general. On behalf of SHA, I am providing testimony in opposition to HB 376, HD1.

We are most concerned with Section 3 of the subject bill and ask, at the least, that Section 3 be removed entirely from HB 376, HD 1. This section of the bill proposes to amend §6E-42, Hawaii Revised Statutes (HRS) by setting a maximum of 60 days for the Department of Land and Natural Resources (represented by the State Historic Preservation Division [SHPD]) to review and comment on applications it receives from a State or County agency. Section 3 further stipulates that if the department fails to "complete a review and comment" within 60 days that the proposed project "shall be deemed approved." Finally, Section 3 proposes to amend §6E-42, HRS by stipulating that projects which have undergone a previous review by the department and were found to have "no impact on historic properties, aviation artifacts, or burial sites" will not be subject to subsequent reviews.

We find Section 3 to be problematic for several reasons:

- The proposed amendments ignore the existing regulatory timeframes for SHPD's review of materials (e.g., applications, reports, plans, etc.) submitted under §6E-42, HRS. The implementing regulations at Hawaii Administrative Rules (HAR) §13-284 call for the SHPD's review to be completed within 30 days of receipt of the application if it is determined or demonstrated that significant historic sites are not present on the property. If significant historic sites are present within the area covered by the application, additional review periods occur as additional documents (such as inventory survey reports) are submitted, but all subsequent reviews also have specific timelines. Furthermore, we note that §6E-10 contains provision for a review period of up to 90 days in the case of applications that may affect a privately owned historic site listed on the Hawai'i Register of Historic Places (HRHP). Finally, §6E -8 includes review timelines of up to 90 days for projects carried out by State and County agencies. In view of these existing timelines, both in the statute and regulation, we see no need for the proposed amendments.
- The proposal to stop additional review(s) of projects that were previously reviewed by the department and found not to have a significant effect on significant historic properties is dangerously shortsighted for several reasons. Our members are familiar with many cases where significant changes have occurred over time in previously reviewed projects. These changes – in design, scope, or methodology – were such that projects formerly found not to have an effect on significant historic sites became actions that

caused significant harm to such sites as subsurface cultural layers or human burials. Also, subsequent work on neighboring lands may provide evidence that historic properties are, in fact, likely in an area that was previously thought to have been disturbed or rarely used traditionally. The proposed exemption would preclude SHPD from applying continually evolving and refined approaches to predicting the probability of historic properties in a project area. An example of the latter situation is the property on which the Keeaumoku Street WalMart store in Honolulu is located. The first development reviews that SHPD conducted of proposed activities for this property yielded determinations of "no historic properties affected." These determinations were made at a time before it was known that large numbers of burials existed beneath the fill soils in parts of the Kewalo and Kaka`ako areas of Honolulu.

- We are concerned that HB 376, HD 1 as written will curtail or remove existing opportunities for public participation in the §6E review process. Currently, the review deadlines in HAR §13-284 contain a number of opportunities for public review of and comment on applications and associated documents submitted to SHPD under §6E-42, HRS. If the proposed amendments are adopted, it is not clear that any of these opportunities will remain. Perhaps the proposed amendment could be partially reworded so as to read as follows:

"The department shall have a maximum of sixty days to complete a review and comment, beginning from the time the Department gives public notice to interested parties of its receipt of documents submitted for review."

Finally, we would like to note that our members have experienced first hand the frustrations associated with SHPD's late reviews of documents generated through §6E-42, HRS compliance actions. We believe, however, that SHPD's difficulties arise from its gradual deterioration over the last few years rather than from inherent deficiencies in the language of §6E-42, HRS. We have repeatedly called for SHPD to be fully staffed by qualified historic preservation professionals who are provided sufficient resources to do their jobs. We are hopeful that the new administration will find ways to accomplish these goals. Until these goals are met, the agency will continue to be ill equipped to do its job under the current statutory and regulatory controls, inevitably leading to delays in conducting reviews. Changes such as those proposed in the subject bill will not improve this situation but simply make it more likely that significant historic sites, including burials, will be damaged or destroyed because of a failure to identify them in a timely manner. The inadvertent discovery of significant historic sites like burials, after permits or other entitlements are approved is not good for anyone involved in such a situation, and it is obviously bad for our historic heritage, which is irreplaceable.

In view of the above issues, we respectfully ask that your committees amend HB 376, HD 1 by removing Section 3 pertaining to Chapter 6E-42, HRS, should the bill move forward. We have no concerns over or comments on other portions of the subject bill. Thank you for considering our comments. Should you have any questions, please feel free to contact me at the above email address.

Legislative Testimony  
HB 376  
RELATING TO STREAMLINING PERMIT, LICENSE, AND APPROVAL  
APPLICATION PROCESSING  
House Committee on Water, Land and Ocean Resources  
March 2, 2011 11:00 a.m. Room 308

As a voting resident of Hawaii, I would like to submit my testimony in opposition to HB 376. I am concerned that the bill puts Hawaii's cultural treasures (both historic structures and historically significant sites) at risk through its proposal to: (1) automatically approve projects when the State Historic Preservation Division (SHPD) fails to complete reviews and offer comments within 60 days and (2) give counties the authority to delegate to third-party reviewers their kuleana to protect Hawaii's unique cultural gifts.

I am concerned that HB 376 is at odds with the goals articulated by the Hawaii legislature and the Hawaii Constitution to conserve and promote the sustainable stewardship of Hawaii's natural and cultural resources for future generations (Article XI, Section 1). As a reminder, the Hawaii legislature has recognized the historic and cultural heritage as one of Hawaii's most precious assets and has asserted its commitment to a comprehensive program of historic preservation to steward this asset for the enrichment of its citizens, current and future. Please remember this commitment as you consider the potentially destructive consequences of HB 376's proposal to streamline approval on projects impacting Hawaii's unique and fragile cultural treasures.

Mahalo for this opportunity to share testimony.

Tai-An Miao  
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# **JEANNINE JOHNSON**

5648 Pia Street, Honolulu, Hawai'i 96821

Phone: 373-2874 (h) / 537-7261 (w)

March 1, 2011

## COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

Rep. Marilyn B. Lee, Vice Chair

Re: HB 376, HD1 Relating to Streamlining Permit, License & Approval App. Processing  
Hearing: Wednesday, March 2, 2011 at 11 am in Conference Room 308

Aloha mai kākou,

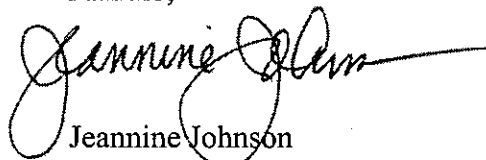
I vehemently oppose HB 376, HD1 which authorizes counties to contract with a third-party reviewer to streamline construction permit, license, and other application processing; provides that applications will be deemed approved if historic preservation division fails to review and comment within 60 days, and after 30 days if agencies fail to establish maximum time periods for permit and other application processing.

In the later part of the last century, developers had free rein to build their hotels in filled-in wetlands, thousands of homes in filled in fishponds and thousands of condos in a filled in salt lake resulting in a wholesale loss of our cultural resources. In this century, though, there are many environmental and cultural concerns the public has regarding Hawaiian burial sites and sacred places. I shudder to think what would happen if every proposed project were automatically approved when the State Historic Preservation Department (SHPD) failed to complete its review within 60 days.

As you know, SHPD has the responsibility of “preserving, restoring, and maintaining historic and cultural property, to ensure the administration of such historic and cultural property in a spirit of stewardship and trusteeship for future generations.” Over the past seven years, however, there have been management and staffing problems, backlogged paperwork, a severe lack of resources and inability to maintain an inventory of historic sites. So many problems, in fact, that the National Park Service investigated the Department and issued a report that confirmed it had significant operational problems.

According to Patricia Price-Beggerly and J.R. McNeill, the “wholesale loss of cultural resources tends to accentuate the value of the few remaining sites in an area important to Hawaiian culture as reflected in its traditions and history. This makes it even more important that the cultural resources which are left be recovered or preserved.” Please oppose this bill because it is OUR kuleana to make sure that the few remaining cultural resources which are left are preserved and that our kūpuna do not get erased from the land.

Mahalo,



Jeannine Johnson