

JAN 23 2014

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# A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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

1           SECTION 1. The purpose of this Act is to repeal provisions  
2 of Act 85, Session Laws of Hawaii 2013, which allowed certain  
3 projects that may affect historic properties, aviation  
4 artifacts, or burial sites to be reviewed in phases.

5           SECTION 2. Section 6E-2, Hawaii Revised Statutes, is  
6 amended by repealing the definition of "programmatic agreement".

7           "~~Programmatic agreement~~" means a document that sets forth  
8 the terms of a formal, legally binding agreement and establishes  
9 a process for consultation, review, and compliance with federal  
10 laws.] "

11           SECTION 3. Section 6E-8, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "**§6E-8 Review of effect of proposed state projects.** (a)

14 Before any agency or officer of the State or its political  
15 subdivisions commences any project which may affect historic  
16 property, aviation artifact, or a burial site, the agency or  
17 officer shall advise the department and allow the department an  
18 opportunity for review of the effect of the proposed project on



1 historic properties, aviation artifacts, or burial sites,  
2 consistent with section 6E-43, especially those listed on the  
3 Hawaii register of historic places. The proposed project shall  
4 not be commenced, or if it has already begun, continued, until  
5 the department has given its written concurrence. [~~If:~~

6 ~~(1) The proposed project consists of corridors or large~~  
7 ~~land areas,~~

8 ~~(2) Access to properties is restricted; or~~

9 ~~(3) Circumstances dictate that construction be done in~~  
10 ~~stages,~~

11 ~~the department may give its written concurrence based on a~~  
12 ~~phased review of the project; provided that there shall be a~~  
13 ~~programmatic agreement between the department and the project~~  
14 ~~applicant that identifies each phase and the estimated timelines~~  
15 ~~for each phase.]~~

16 The department shall provide written concurrence or non-  
17 concurrence within ninety days after the filing of a request  
18 with the department. The agency or officer seeking to proceed  
19 with the project, or any person, may appeal the department's  
20 concurrence or non-concurrence to the Hawaii historic places  
21 review board. An agency, officer, or other person who is  
22 dissatisfied with the decision of the review board may apply to



1 the governor, who may take action as the governor deems best in  
2 overruling or sustaining the department.

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

7 (c) The State, its political subdivisions, agencies, and  
8 officers shall report to the department the finding of any  
9 historic property during any project and shall cooperate with  
10 the department in the investigation, recording, preservation,  
11 and salvage of the property.

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

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

16 "**§6E-42 Review of proposed projects.** (a) Before any  
17 agency or officer of the State or its political subdivisions  
18 approves any project involving a permit, license, certificate,  
19 land use change, subdivision, or other entitlement for use,  
20 which may affect historic property, aviation artifacts, or a  
21 burial site, the agency or office shall advise the department  
22 and prior to any approval allow the department an opportunity



1 for review and comment on the effect of the proposed project on  
2 historic properties, aviation artifacts, or burial sites,  
3 consistent with section 6E-43, including those listed in the  
4 Hawaii register of historic places. [~~If~~

5 ~~(1) The proposed project consists of corridors or large~~  
6 ~~land areas,~~

7 ~~(2) Access to properties is restricted; or~~

8 ~~(3) Circumstances dictate that construction be done in~~  
9 ~~stages,~~

10 ~~the department's review and comment may be based on a phased~~  
11 ~~review of the project; provided that there shall be a~~  
12 ~~programmatic agreement between the department and the project~~  
13 ~~applicant that identifies each phase and the estimated timelines~~  
14 ~~for each phase.]~~

15 (b) The department shall inform the public of any project  
16 proposals submitted to it under this section that are not  
17 otherwise subject to the requirement of a public hearing or  
18 other public notification.

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



1 SECTION 5. 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 6. Statutory material to be repealed is bracketed  
5 and stricken.

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

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INTRODUCED BY: Amid J. Ige



# S.B. NO. 2980

**Report Title:**

Historic Preservation; Project Phased Review; Repeal

**Description:**

Repeals provisions of Act 85, Session Laws of Hawaii 2013, which allowed a project that may affect historic property, aviation artifact, or burial site to be reviewed in phases.

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

