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GOVERNOR OF HAWAII



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

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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
CARTY S. CHANG
Interim Chairman**

**Before the House Committee on
WATER and LAND**

**Friday, March 20, 2015
11:00 AM
State Capitol, Conference Room 325**

**In consideration of
SENATE BILL 877, SENATE DRAFT 2
RELATING TO HISTORIC PRESERVATION**

Senate Bill 877, Senate Draft 2 proposes to amend the definition of historic property so that privately owned residences would be excluded unless they are listed in or nominated by the owner for inclusion in the Hawaii Register of Historic Places (Hawaii Register) or are located in a historic district. The stated purpose of this amendment is to eliminate review of permits by the Department of Land and Natural Resources (Department) under §6E-42, Hawaii Revised Statutes (HRS), for projects that affect privately owned residences which are deemed historic solely because they are fifty-years old. **The Department appreciates the intent of this measure and offers the following comments.**

While the Department agrees that there is an issue arising from the current statutory definition of historic property, which relies solely on age, it cannot support a categorical exemption for all private residences at this time. The inventory contemplated in SECTION 3 of Senate Bill 877 Senate Draft 2, should be completed before an exemption is considered or implemented. Implementing the categorical exemption for virtually all private residences before the survey is completed will inevitably lead to the inadvertent damage and destruction of historic homes.

When this issue was raised during the 2014 Session of the Legislature, the Legislature deferred action to give the State Historic Preservation Division (Division) in the Department the opportunity to address this matter. The Department appreciates this decision and believes that the Division has made great strides toward addressing the issue of review of residential permits. In January 2014, the average review time for a residential permit review by the Department was seventeen days, and

the mode was seven. A year later, the average turnaround has been reduced to five days, and the mode is three – a three-fold decrease in the average length of time it takes the Division to process a residential permit review. Furthermore, the Division has developed a list of project types that have no potential to effect historic properties. This list was distributed to the counties in February 2015, with the instruction that permits for projects on the list should no longer be submitted to the Division for review. The Division estimates that when fully implemented, this will reduce the number of reviews by over thirty percent. The Division will continue to consider adding project types to this list, and continues to work with the counties to train staff and to consider ways in which the list can be made more useable by county staff.

SECTION 3 of Senate Bill 877 Senate Draft 2 directs the state historic preservation division to conduct a survey to identify potential historic districts and single-family residences that may be eligible. In the Department's view a comprehensive survey to identify places, including single-family residences that are potentially eligible for the Hawaii Register provides the definitive solution to the problem of unnecessary review of residential permits. Once the inventory is complete, the Division would be able to provide a list of places that needed to be reviewed to the counties. The Counties would then only send permits to the Division for review for those addresses on the potentially eligible list. The Division believes that this would reduce the number of permits submitted for review by as much as 90%.

The Division recognizes the survey as a critical tool in protecting and managing Hawai'i's historic properties. This survey has not been undertaken because the Division lacks the resources to carry it out. Accordingly, the Department is deeply concerned about SECTION 3 directing the Division to conduct a survey without providing resources for that purpose. Redirecting staff from other, critical tasks, such as permit reviews, is deeply problematic. Especially since even doing so, the Division could only complete a minor portion of the survey called for in SECTION 3, Senate Bill 877, Senate Draft 2. In the absence of an appropriation to support the survey, Senate Bill 877, Senate Draft 2 imposes an impossible burden on the Division.

The Department notes that Senate Bill 504, Senate Draft 2, addresses the need for the survey and provides appropriations to support it. Because the survey is critical to definitively resolving this issue and funding is essential to undertaking the survey in a meaningful fashion, the Department has a strong preference for Senate Bill 504, Senate Draft 2. Should the Committee wish to move this bill, the Department urges that do so only if it can include appropriations to support the inventory activity.

HISTORIC HAWAII FOUNDATION

TO: Rep. Ryan I. Yamane, Chair
Rep. Ty J.K. Cullen, Vice Chair
Committee on Water & Land

FROM: Kiersten Faulkner, Executive Director
Historic Hawaii Foundation

Committee: Friday, March 20, 2015
11:00 a.m.
Conference Room 325

RE: SB 877 SD2, Relating to Historic Preservation

On behalf of Historic Hawaii Foundation (HHF), I am writing with **comments and concerns about SB 877 SD2, with suggested amendments.** The bill would amend Hawai'i Revised Statutes §6E to change the definition of historic property to exclude privately-owned single-family residences fifty years or older, except for those listed on the Hawai'i register of historic places, nominated for listing on the register, or located in a historic district; and to direct the department of land and natural resources to conduct a survey to identify potential historic districts and residences eligible for historic designation, including owner notification of the possible eligibility.

BACKGROUND

The constitution of the State of Hawai'i recognizes the value of conserving and developing the historic and cultural property within the State for the public good, and the Legislature has declared 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.

In order to meet this mandate and to ensure that the historic and cultural resources of Hawai'i are treated appropriately, it is necessary to have a framework based on criteria and standards to define and differentiate which properties are subject to the state's historic preservation program.

SB 504 SB2 Section 2

This section would amend the definition of "historic property" to exclude "single-family residences" (which are not defined) from the definition of historic property, unless the residence is listed on or nominated for the Hawai'i register of historic places, or is located in a historic district.

This would be a fundamental change to the definition of historic property. Currently, the marker of 50-years of age provides a bright line for all property types, and further evaluation of a property's significance, historic integrity and other elements of eligibility for the register of historic places occur through the process outlined in Hawai'i Administrative Rules. The proposed redefinition would treat one property type—residences—differently than all other property types, which is arbitrary and capricious. It would remove fair

access to the state's preservation program and its protection for historic properties based on factors unrelated to the inherent characteristics or merit of the historic property.

By summarily dismissing all residential property from even considering and evaluating potential historic significance, the proposed exclusion of residences would inevitably lead to the destruction or damage to significant historic properties, and would be to the overall detriment of Hawaii's cultural heritage.

Historic Hawai'i Foundation believes that excluding residential property from the definition of historic property is unnecessarily broad and harmful. **Therefore, HHF opposes the bill's Section 2 and asks that it be removed from the bill.**

Historic Hawai'i Foundation feels that there are more appropriate mechanisms to ensure the protection of historic properties through focusing the department's review and comment process on those projects which have the potential to inflict harm on historic resources. HHF recommends that SB 877 SD2 be amended to an HD1 that would include a mechanism to remove minor project types from the department's review:

1. Do not alter the current definition of "historic property" in HRS 6E-2, but keep it in the current form:

"Historic property means any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old."
2. Amend HRS 6E-2 to add definitions for "categorical exclusion" and "dwelling."
 - "Categorical exclusion" means any type of construction, alteration, disposition, improvement, repair or ordinary maintenance activity to an existing building that does not represent a change in design, material, outer appearance or other characteristic which might otherwise qualify that building for the Hawaii register of historic places.
 - "Dwelling" means a building or portion thereof designed or used exclusively for residential occupancy and having all necessary facilities for permanent residency such as living, sleeping, cooking, eating and sanitation. A single-family detached dwelling is an individual, freestanding, unattached dwelling unit, typically built on a lot larger than the structure itself, resulting in an area surrounding the house.
3. Add a new subsection to 6E-42 Review of Proposed Projects
6E-42-__ Categorical exclusions for privately-owned, single-family detached dwellings.
 - (a) The department shall maintain and publish a list of categorical exclusions that apply solely to privately-owned dwellings that are not designated on or eligible for the state register of historic places, including contributing resources in a historic district.
 - (b) Applications for activities contained on the list of categorical exclusions shall be exempt from historic preservation review by the department.
 - (c) This list of categorical exclusions shall be provided to officers and agencies of the State and any of its political subdivisions on an annual basis.
 - (d) The department shall conduct a review of the list of categorical exclusions annually and provide an opportunity for public review and comment on any proposed revisions to the list.

- (e) The department shall adopt rules in accordance with Chapter 91 to implement this section.

Historic Hawai'i Foundation respectfully asks the committee either to amend the bill as described above, or to hold the bill in committee.

SB 504 SB2 Section 3

This section requires the State Historic Preservation Division to conduct architectural surveys to identify potential historic districts and single-family residences that may be eligible for listing on the Hawai'i register of historic places; to notify the property owners of such eligibility; and to report to the legislature.

Historic Hawai'i Foundation strongly supports the use of Inventory and Survey projects to identify historic properties and districts that are most significant and should be the subject of preservation treatments. This type of inventory has been neglected for several decades, so the official list of historic properties underrepresents certain property types, including those from the recent past (e.g. post-World War II).

A comprehensive survey of every parcel in the state is a long-term project that will take several years, so Historic Hawai'i Foundation recommends a phased approach to achieve this outcome.

HHF has no objection to this section.

We look forward to continuing to work with the legislature to address these concerns and issues. Thank you for the opportunity to comment.



March 17, 2015

Representative Ryan I. Yamane, Chair
Representative Ty J.K. Cullen, Vice Chair
House Committee on Water & Land

Support of, and Amendments to SB 877, SD2 Relating to Historic Preservation (Amends the definition of "historic property" to require that fifty-year-old privately owned single family residences be considered historic properties for purposes of Chapter 6E, Hawaii Revised Statutes, only if the property is listed or eligible for listing on the Hawaii Register of Historic Places or is located in a Historic District. Requires the State Historic Preservation Division of the Department of Land and Natural Resources to conduct a survey on properties eligible for listing on the Hawaii Register of Historic Places and to provide owners of historic property with notice of the property's likely eligibility. Requires a report to the Legislature. Effective 7/1/2050. Repeals 12/31/2018.)

WAL Hearing: Friday, March 20, 2015, 11:00 a.m., in Conference Room 325

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF members recognize the cultural value in historic preservation. LURF members have preserved and maintained their historic and cultural properties, as well as listed some of their properties, structures and sites on the Hawaii Register of Historic Places (Hawaii Register), based on their historic or cultural significance

LURF appreciates the opportunity to express its **SUPPORT of SB 877, SD2**. LURF also respectfully recommends the following AMENDMENTS: **(1) to broaden the application of this bill to "privately-owned residential structures,"** which would apply to non-historic residential duplexes, apartment buildings and other multi-family residential structures that are over fifty years old; and **(2) to delete the repeal date.**

SB 877, SD2. This measure clarifies the definition of a "Historic property" which is required to be reviewed by the Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (DLNR). The revised definition includes the following temporary categorical exclusion: *"privately owned single-family residences fifty years or older shall only be considered historic properties for the purposes of this chapter if the residence is listed on the Hawaii register of historic places, is nominated for listing on the Hawaii register of historic places, or is located in a historic district."* This measure has a defective effective date of July 1, 2050 and a repeal date is December 31, 2018.

The purposes of this measure are to:

1. Direct the SHPD to temporarily redirect its resources to conduct a survey of potential historic districts and single-family residences for eligibility for listing on the Hawaii Register of Historic Places and categorically exclude on a temporary basis certain single-family residences from the definition of "historic property";
2. Direct the SHPD to:
 - a. Conduct a survey to identify potential historic districts and single-family residences that may be eligible for listing on the Hawaii Register of Historic Places; and
 - b. Notify the property owner of the property's potential eligibility for listing on the Hawaii Register of Historic Places; and
3. Require the SHPD to submit a report to the Legislature no later than twenty days prior to the convening of the regular session of 2018.

LURF's Position. LURF members support the work of SHPD and agree that preserving historic properties preserves the character of neighborhoods and commercial districts; could result in reduced country real property tax assessments; allows commercial properties to seek federal tax credits; and can be an economic driver both in the historic districts and throughout the Hawaiian Islands.

Under the existing law, however, "historic property" is defined as "*any building, structure, object, district, area, or site...which is over fifty years old.*" As a result of this current broad definition that assumes age is equivalent to historic importance, there have been many private tract homes and other residences built in the 1960's and before, that must undergo an unnecessary and time consuming SHPD review prior to the granting of State and county permits for proposed renovations, repairs and demolition (including driveways and landscaping).

LURF understands that the broadness of the "fifty year old" definition has led to a large number of backlogged SHPD regulatory reviews and excessive delays in some of those reviews. The DLNR has confirmed that the SHPD staff time spent on the arguably unnecessary reviews of "fifty year old" tract homes and other non-historic homes prevents the SHPD from focusing on residences and other structures that are worthy to be placed on the Hawaii Register.

This measure clarifies the definition of "historic property" in a manner that will focus reviews on structures that really have historic value, rather than just blindly using the current "*over fifty years old*" criteria. The amended definition of "historic property" will provide for a more efficient review of building permit applications by each county department of planning and the SHPD; and provides the foundation for concentrating the SHPD's valuable efforts to survey, document and provide information relating to Hawaii's truly historic structures and resources.

For the above reasons, LURF **supports SB 877, SD2** and respectfully urges your favorable consideration of this measure, as well as **proposed amendments: (1) to broaden the application of this bill to "*privately-owned residential structures*"; and (2) to delete the repeal date.**

Thank you for the opportunity to present testimony regarding this measure.



**Testimony to the House Committee on Water & Land
Friday, March 20, 2015 at 11:00 A.M.
Conference Room 325, State Capitol**

RE: SENATE BILL 877 SD2 RELATING TO HISTORIC PRESERVATION

Chair Yamane, Vice Chair Cullen, and Members of the Committee:

The Chamber of Commerce Hawaii (“The Chamber”) offers **comments** on S.B. 877 S.D. 2, which proposes to do the following:

- Amends the definition of "historic property" to require that fifty-year-old privately owned single family residences be considered historic properties for purposes of chapter 6E, Hawaii Revised Statutes, only if the property is listed or eligible for listing on the Hawaii register of historic places or is located in a historic district.
- Requires the state historic preservation division of the department of land and natural resources to conduct a survey on properties eligible for listing on the Hawaii register of historic places and to provide owners of historic property with notice of the property's likely eligibility.
- Requires a report to the legislature and will be repealed on 12/31/2018.

The Chamber is Hawaii’s leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of members and the entire business community to improve the state’s economic climate and to foster positive action on issues of common concern.

This bill is one of several bills that were introduced to address a situation where large subdivisions of tract homes around Oahu (i.e. Kaneohe, Hawaii Kai, Halawa, Aiea, Pearl City, Waipahu, etc.) built in the 1960’s that are, or will be, older than 50 years old and are currently subjected to a review by SHPD prior to the County issuing ANY building permit for the property. This include a review by SHPD of building permits for the installation of photovoltaic panels. Subjecting homeowners in these tract subdivisions to a building permit review by the State Historic Preservation Division simply because of the age of their home seems to be unnecessary and unreasonable, delays the granting of permits for needed renovation or repair, and departs from the original intent of the law.

While this bill additional requirements on SHPD to perform a survey of properties eligible for listing on the register of historic places, we believe the problem should be addressed by simply exempting private residences from the definition of “Historic



Property” unless it has been entered or nominated by the owner for entry onto the Hawaii register of historic places. It also is “temporary” as it will be repealed at the end of 2018.

We prefer the language provided in H.B. 830, H.D. 1.

Thank you for the opportunity to express our views on this matter.

March 20, 2015

The Honorable Ryan I. Yamane, Chair

House Committee on Water & Land
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S.B. 877, S.D.2, Relating to Historic Preservation

HEARING: Friday, March 20, 2015, at 11:00 a.m.

Aloha Chair Yamane, Vice Chair Cullen and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its 8,400 members. HAR **strongly supports** S.B. 877, S.D.2 which amends the definition of "historic property" to require that 50-year-old privately owned single family residences be considered historic properties for purposes of chapter 6E, Hawaii Revised Statutes, only if the property is listed or eligible for listing on the Hawaii register of historic places or is located in a historic district. It also requires the state historic preservation division of the department of land and natural resources to conduct a survey on properties eligible for listing on the Hawaii register of historic places and to provide owners of historic property with notice of the property's likely eligibility.

According to the Department of Business, Economic Development, and Tourism's State of Hawai'i Databook 2013, nearly 40% of private residences on Oahu were built in 1969 or earlier. As the number of residences that are 50 years old or older increase over time, it is prudent for the State to reexamine the current processes and procedures regarding historic properties.

Under Hawaii Revised Statutes (“HRS”), §6E-2, historic property is defined as, “any building, structure, object, area or site, including heiau and underwater site, which is over fifty years old.”

Simply put, under HRS §6E-42, prior to approval of any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, the State Historic Preservation Division (SHPD) is to be advised.

Prior to any approval, SHPD must be allowed an opportunity for review and comment on the effect of the proposed project on the historic property. Also, SHPD must inform the public of any project proposals submitted to it that are not otherwise subject to the requirement of a public hearing or other public notification.

HAR believes that the definition of historic property of 50-years-old or older is overly broad, and includes far too many homes that have no qualities that would qualify it for inclusion on the Hawaii Register of Historic Places.

HAR strongly supports S.B.877, S.D.2 to the extent that this measure will serve as an improvement to current regulatory barriers to both home ownership and renovation.

Mahalo for the opportunity to testify.

BIA-HAWAII

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Testimony to the House Committee on Water & Land Friday, March 20, 2015 11:00 a.m. State Capitol - Conference Room 325

RE: S.B. 877, S.D. 2 RELATING TO HISTORIC PRESERVATION

Chair Yamane, Vice-Chair Cullen, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii offers **comments** on S.B. 877, S.D. 2, which amends the definition of "historic property" to require that fifty-year-old privately owned single family residences be considered historic properties for purposes of chapter 6E, Hawaii Revised Statutes, only if the property is listed or eligible for listing on the Hawaii register of historic places or is located in a historic district. Requires the state historic preservation division of the department of land and natural resources to conduct a survey on properties eligible for listing on the Hawaii register of historic places and to provide owners of historic property with notice of the property's likely eligibility. Requires a report to the legislature.

BIA-Hawaii recommends this bill rather reflect language in H.B. 830, which provides a clean exemption from the definition of "historic property" for any private residence that has not been entered, or nominated by the owner of the residence for entry, onto the Hawaii Register of Historic Places, as well as clarifies that nothing in Chapter 6E, HRS, shall be construed to require a review by the DLNR for any private residence exempted under the new "historic property" definition.

We appreciate the opportunity to share with you our views.

cullen4-Rachele

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2015 4:42 PM
To: waltestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB877 on Mar 20, 2015 11:00AM*

SB877

Submitted on: 3/17/2015

Testimony for WAL on Mar 20, 2015 11:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE



SB877 SD2
RELATING TO HISTORIC PRESERVATION
House Committee on Water and Land

March 20, 2015

11:00 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) provides the following **COMMENTS** on SB877 SD2, which seeks to exempt improvement projects on most private residences from historic preservation review. As drafted, SB877 SD2 would change the definition of historic property thereby complicating the review process and the application of the administrative rules; adding a narrow exemption to Chapter 6E-42, Hawaii Revised Statutes, would provide a simpler means to the same end.

To the extent that SB877 SD2 is intended to address an alleged backlog of permits and land use applications for improvements to old homes, OHA notes that protecting historic architecture is not central to our mission. OHA does not oppose the attempt to develop a more efficient process to reduce the number of old homes required to undergo historic review, where appropriate. However, OHA generally is concerned with any statutory amendments that could potentially weaken procedural protections for bona fide historic sites provided by HRS Chapter 6E.

Accordingly, in order to uphold the intent of this measure, while also minimizing any inadvertent weakening of protections for important historic sites, OHA suggests the Committee's consideration of the following:

In order to ensure that the exemption sought by this measure is sufficiently narrow to avoid threatening protections for bona fide cultural sites and iwi kūpuna, **OHA recommends leaving the statutory definition of "historic property" intact and, instead, including an exemption in HRS Section 6E-42.** Section 6E-42 pertains to historic preservation review of private projects, such as those involving privately-owned residences, and is therefore the most appropriate place to specifically exempt these projects from review. We recommend adding a new subsection (b) to HRS Section 6E-42 as follows:

(b) notwithstanding any other law to the contrary, this section shall not apply to a project affecting only the existing structure of a privately owned single-family residence fifty years or older unless the residence is listed on the Hawai'i register of historic places, is nominated for listing on the Hawaii register of historic places, or is located in a historic district.

Mahalo for the opportunity to testify on this important measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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LATE

KIRK CALDWELL
MAYOR



GEORGE I. ATTA, FAICP
DIRECTOR

ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

March 20, 2015

The Honorable Ryan I. Yamane, Chair
and Members of the Committee
on Water & Land
Hawaii House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Yamane and Members:

Subject: Senate Bill No. 877, SD2
Relating to Historic Preservation

The Department of Planning and Permitting (DPP) **has concerns** related to Senate Bill No. 877, SD2, which would require that 50-year-old privately owned single-family residences be considered historic properties for purposes of Chapter 6E, HRS, only if they are listed or nominated for listing on the Hawaii Register of Historic Places or located in a historic district.

The proposed amendment contained in this Bill states: "...provided that privately owned single-family residences fifty years or older shall only be considered historic properties for the purposes of this chapter if the residence is listed on the Hawaii register of historic places, is nominated for listing on the Hawaii register of historic places, or is located in a historic district." However, the description of the bill states: "Amends the definition of 'historic property' to require that fifty-year-old privately owned single family residences be considered historic properties for purposes of chapter 6E, Hawaii Revised Statutes, only if the property is listed or eligible for listing on the Hawaii register of historic places or is located in a historic district." The section of the description that states or "eligible for listing" on the Hawaii register is problematic because it is overly broad and could be interpreted to mean any structure over 50 years of age. This is no different than the current situation where any structure 50 years or older is theoretically eligible for listing. The DPP is requesting that this statement be

The Honorable Ryan I. Yamane, Chair
and Members of the Committee
on Water & Land
Hawaii House of Representatives
Re: SB877, SD2
March 20, 2015
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clarified or narrowed with the phrase, "with the consent of the owner" or "from an inventory database developed by the State Historic Preservation Division. "

Thank you for this opportunity to comment on the proposals detailed in Senate Bill No. 877, SD2.

Very truly yours,

A handwritten signature in blue ink that reads "George I. Atta". The signature is written in a cursive style with a long horizontal flourish at the end.

George I. Atta, FAICP
Director

GIA:fmt
sb877sd2_WAL_HistoricPreservation-mf

cullen4-Rachele

From: mailinglist@capitol.hawaii.gov
 Sent: Friday, March 20, 2015 8:25 AM
 To: waltestimony
 Cc: sara.l.collins.sha@gmail.com
 Subject: Submitted testimony for SB877 on Mar 20, 2015 11:00AM

SB877

Submitted on: 3/20/2015

Testimony for WAL on Mar 20, 2015 11:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sara Collins	Society for Hawaiian Archaeology	Comments Only	No

Comments: Aloha Representative Yamane and Committee Members, We have the following comments: With regard to Section 1 of the bill, setting forth the purpose of the bill, we believe it would be extremely ill-advised to require SHPD to “temporarily redirect its resources” to conduct the requested survey without providing sufficient additional funding to enable SHPD to maintain its present level of effort in other areas. At present, SB 877 contains no provision providing this essential funding. Robbing Peter to pay Paul in the manner contemplated in SB877 SD2 would inevitably cause delays in SHPD’s review of documents submitted to it as part of the historic review process and would make it impossible for SHPD to respond in a timely manner, as mandated by statute, to inadvertent discoveries of burials or other unanticipated needs. While it could be argued that the undertaking of such a survey is within the responsibilities already assigned to SHPD by statute, that division (like all of DLNR) lacks adequate numbers of qualified staff to accomplish the full range of its responsibilities in a timely manner. Imposing a new requirement that this survey be accomplished on the very short time schedule imposed in Section 3 would seriously disrupt the ability of SHPD to accomplish its other tasks. If, notwithstanding these objections, the Legislature is determined to require completion of the proposed survey on such a tight schedule it must either provide the necessary additional funding or amend Sections 6E-8(a)(3), 6E-10(c), 6E-43(d) and (e), and 6E-43.6(c) and (d) to eliminate the existing requirements that SHPD accomplish certain specified tasks within the time limits set forth therein. Unless one or the other of these mitigating steps are included in the bill, SHPD would be unable to fulfill its constitutionally mandated tasks. With regard to Section 2 of the bill, which would amend the definition of “historic property” in section 6E-2, we have the following comments: We don’t see the need for legislative action here as SHPD has already substantially eliminated any backlog on reviewing such structures and is working on regulations that would exempt most existing single-family residences from SHPD review. If the Legislature is nevertheless committed to a legislative fix, we believe the following proposed amendments to Chapter 6E-42 are narrowly drawn so as to resolve any residual concerns regarding existing single-family residences without having any broader effect that would perhaps inadvertently weaken existing protections for other historic properties: 6E- 42 Review of proposed projects. (a) Except as provided in section 6E-42.5, before any agency or officer of the State or its political subdivisions approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office shall advise the department and prior to any approval allow the department an opportunity for review and

comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places.... 6E-42.5 Excluded activities for privately-owned, single-family detached dwelling units. a) The department shall develop and annually publish a list of excluded activities to include categories of construction, alteration, disposition, improvement, repair or ordinary maintenance activities to privately-owned single-family detached dwelling units that do not represent a change in design, material, outer appearance or other characteristics which might otherwise qualify such structures for the Hawaii register of historic places. b) Applications for proposed projects: i. On privately-owned single-family detached dwelling units that are not designated on or nominated for the Hawaii register of historic places or located in a historic district; and ii. Solely involving activities on the list of excluded activities maintained by the department pursuant to subsection (a); shall be exempt from the requirements of section 6E-42. c) The list of excluded activities maintained by the department under subsection (a) shall be provided to officers and agencies of the State and any of its political subdivisions responsible for the implementation of section 6E-42 on an annual basis. d) The list required under subsection (a) shall be effective for a period of one year from final publication, notwithstanding chapter 91, provided that any proposed list shall be published on the website of the office of the lieutenant governor for a period of not less than thirty days, and that public notice of any such proposed list shall be mailed to all persons who have made a timely written request of the agency for advance notice of its list publication. All interested persons shall be given an opportunity to submit data, views, or arguments regarding the list, orally or in writing. The agency shall fully consider all written and oral submissions respecting the proposed list. e) For the purposes of this section, "dwelling" means a building or portion thereof designed or used exclusively for residential occupancy and having all necessary facilities for permanent residency such as living, sleeping, cooking, eating and sanitation. A single-family detached dwelling is an individual, freestanding, unattached dwelling unit, typically built on a lot larger than the structure itself, resulting in an area surrounding the house. Mahalo for considering our comments.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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