

LATE

SB

877



February 4, 2015

Senator Laura H. Thielen, Chair
Senator Brickwood Galuteria, Vice Chair
Senate Committee on Water and Land

Support of SB 877 Relating to Historic Preservation; Department of Land and Natural Resources; Historic Property; Definition; Inventory of Historic Buildings

- Includes only buildings, structures, objects, districts, areas, or sites that are significant in Hawaii's history, architecture, archeology, engineering, or culture in the definition of "historic property." Requires the Department of Land and Natural Resources (DLNR) to provide the counties with a list that identifies the types of projects that have no potential to affect a historic property and the types of properties likely to be eligible for inclusion in the Hawaii Register of Historic Places; develop a plan for completing a comprehensive inventory of historic buildings in the State; and submit a plan, together with a proposed budget, to the legislature.

WTL Hearing: Wednesday, February 4, 2015, 2:45 p.m., in C.R. 224

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. One of LURF's missions 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 appreciates the opportunity to express its **support of SB 877**.

SB 877. This bill proposes to amend the definition of "historic property" to include only buildings, structures, objects, districts, areas, or sites that are significant in Hawaii's history, architecture, archeology, engineering, or culture. Requires the DLNR to provide the counties with a list that identifies the types of projects that have no potential to affect a historic property and the types of properties likely to be eligible for inclusion in the Hawaii Register of Historic Places; develop a plan for completing a comprehensive inventory of historic buildings in the State; and submit a plan, together with a proposed budget, to the legislature.

LURF's Position. LURF members recognize and support the value of preserving and developing the historic and cultural property within the State; and many LURF members have listed their properties, buildings, structures, objects, districts, areas, or sites on the Hawaii Register of Historic Places, based on their significance relating to Hawaii's history, architecture, archeology, engineering, or culture.

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 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 historic preservation review by SHPD 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 those reviews. LURF has also been informed that the SHPD staff time spent on the arguably unnecessary reviews of "fifty year old" tract homes and other non-historic structures prevents the SHPD from focusing on residences and other structures that are worthy to be placed on the Hawaii Register of Historic Places.

For the above reasons, LURF supports SB 877 and respectfully urges your favorable consideration of this bill.

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

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: darakawa@lurf.org
Subject: Submitted testimony for SB877 on Feb 4, 2015 14:45PM
Date: Wednesday, February 04, 2015 1:57:28 PM
Attachments: [150204 SB 877 HISTORIC PRESERVATION - Historic Property Definition \(WTL\) \(dza\).pdf](#)

SB877

Submitted on: 2/4/2015

Testimony for WTL on Feb 4, 2015 14:45PM in Conference Room CR224

Submitted By	Organization	Testifier Position	Present at Hearing
David Z. Arakawa	Land Use Research Foundation of Hawaii	Support	No

Comments:

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Subject: *Submitted testimony for SB877 on Feb 4, 2015 14:45PM*
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SB877

Submitted on: 2/4/2015

Testimony for WTL on Feb 4, 2015 14:45PM in Conference Room CR224

Submitted By	Organization	Testifier Position	Present at Hearing
Kalawai'a Goo	Individual	Support	No

Comments:

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Subject: Submitted testimony for SB877 on Feb 4, 2015 14:45PM
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Attachments: [SB877 Significant Historic Property no Criteria WTL 020415 FINAL.pdf](#)

SB877

Submitted on: 2/4/2015

Testimony for WTL on Feb 4, 2015 14:45PM in Conference Room CR224

Submitted By	Organization	Testifier Position	Present at Hearing
Office of Hawaiian Affairs	Office of Hawaiian Affairs	Oppose	Yes

Comments:

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SB877
RELATING TO HISTORIC PRESERVATION
Senate Committee on Water and Land

February 4, 2015

2:45 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) Administration will recommend that the Board of Trustees **OPPOSE** SB877, which would require state and county permitting agencies and landowners to make determinations on the significance of historic properties before those properties are properly identified and inventoried, upending the current historic preservation process and threatening iwi kūpuna and irreplaceable historic sites.

OHA understands that this bill is intended to address an alleged backlog of permit and land use applications for improvements to old houses, due to the perception that the historic preservation review process for such applications results in undue delay. OHA has investigated this matter, and it appears that this perception may not accurately reflect reality: as the State Historic Preservation Division has testified, after a review of 3,000 residential improvement permit applications, the average SHPD processing time was a mere 17 days, with the most common processing time being 5 days. In other words, the apparent delays in processing residential improvement applications generally are rarely ever due to historic preservation review. However, OHA understands that there may be a need for a legislative statement to restrict the overwhelming number of these applications SHPD currently receives, and to help alleviate the public perception that SHPD is to blame for such delay.

OHA notes that amending the definition of “historic property”, as this bill proposes to do, may have far-reaching and unintended consequences for Native Hawaiian historic and cultural resources relative to the narrow residential issue this bill seeks to address.

First, amending the definition of “historic property” in Chapter 6E, HRS, would overstep a basic initial phase in the historic review process for all projects, and require state and county agencies as well as landowners to engage in archaeological inquiries for which they may not have the resources or expertise. Currently, state and county permitting agencies and landowners wishing to undertake a project must first allow SHPD staff to determine whether historic resources may be threatened and request that the landowners identify, inventory, and collect information on any potentially impacted “historic properties,” or properties of over fifty years in age. Subsequently, SHPD then makes a determination as to whether these properties may be “significant”, looking to the state historic register criteria as well as the importance of such properties to Native Hawaiians or other ethnic groups. See HAR §§ 13-275-6, 13-284-6. Such a

significance determination by SHPD guides the next steps in the historic preservation review and mitigation process.

By amending the definition of “historic property” to be based on whether it is “significant in Hawaii’s [sic] history, architecture, archaeology, engineering, or culture,” this bill would instead require what is essentially a “significance” determination by the state or county agency or landowner proposing a project, without the assistance of SHPD. Without information from SHPD staff (who have the relevant resources and subject matter expertise) that important sites may exist and might be affected by a project, and without the detailed archeological surveys subsequently performed for such sites, significance determinations for historic sites will be ill-informed, if such sites are discovered at all. As a result, properties of cultural significance to Native Hawaiians and other ethnic groups may be irreparably harmed, undermining the basic intent of our historic preservation review process. In many cases, the public may never discover when cultural sites valuable to Native Hawaiians are destroyed, without even being recognized.

Second, OHA notes that although this bill requires the state or county agency considering a project to make a determination on the significance of any potentially affected historic sites, it does not define “significant”, nor does it delineate a process by which these determinations must be made. Such an ambiguity in the substance and process of these determinations may render our historic preservation statutes unimplementable, pending further rule revisions which may take several years or more. Until SHPD’s regulations are revised, the lack of a historic preservation review process may result in significant delays to all projects potentially impacting historic sites.

The proposed amendment to the HRS Chapter 6E definition of “historic property” would fundamentally change our entire historic preservation review process, and potentially bring it to a complete halt. As written, the implementation of the new historic preservation review process and whether and how historic and cultural sites will be sufficiently protected are unclear. OHA believes that the concern over residential properties this bill seeks to alleviate can be much more effectively addressed by carving out a narrow exemption from the historic preservation review requirement that does not alter and potentially weaken our entire historic preservation review process. OHA staff are committed to working with SHPD and other stakeholders to come up with such a mutually agreeable approach; however, OHA does not believe that this measure offers a feasible or reasonable solution.

Therefore, OHA urges the Committee to **HOLD** SB504. Mahalo for the opportunity to testify on this important measure