

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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FIRST DEPUTY

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DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
FINANCE

Friday, February 21, 2020
12:00 PM
State Capitol, Conference Room 308

In consideration of
HOUSE BILL 2446, HOUSE DRAFT 1
RELATING TO AFFORDABLE HOUSING

House Bill 2446, House Draft 1 proposes to direct the State Historic Preservation Division (Division) in Department of Land and Natural Resources (Department) to contract its review of projects involving the development of affordable housing to third-party consultants, if the Division determines that it cannot complete its review in 60-days. **The Department offers comments on this measure.**

House Bill 2446, House Draft 1 proposes identical amendments to Sections 6E-8 (state projects), 6E-10 (privately owned historic properties), and 6E-42 (projects requiring a state or county permit potentially effecting historic properties), Hawaii Revised Statutes (HRS), requiring the Division to contract its review of proposed projects to third-party consultants if the projects involve 80% or more affordable housing units, and the Division will be unable to complete its review in 60-days. The third-party review consultant would be required to make its recommendations to the Division in 30-days.

The Department recognizes the need to address the housing short-fall in Hawaii and appreciates the desire to expedite the affordable housing projects. The Department believes that, given the lengthy lead time for planning, acquiring entitlements, arranging financing, etc., addressing historic preservation reviews can be accommodated under current law, if the developer begins the historic preservation review process early in the planning process, rather than as one of the very last steps prior to initiating construction. The Department makes this observation understanding that review times are too long, and that the Division has had difficulty meeting established timelines for reviews. It is also true that the Division has made real progress in reducing review times; in 2019 65% of reviews were completed within the mandated review time

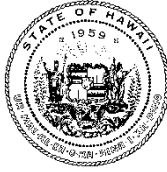
frames. This is a 19% improvement over 2018 performance. The Division has also made substantial progress in filling staff vacancies over the last six months, which should lead to further reductions in review times.

The Department believes that it will be possible to establish a program for vetting and approving third-party consultants to carry out such reviews. The Department is gravely concerned that House Bill 2446, House Draft 1 requires the Division to select and engage third-party consultants but provides no resources with which to pay those consultants. The Division does not have funding in its budget for this activity. Enacting this provision will impose a performance requirement that the Division cannot meet due to lack of funding.

Finally, the Department notes that House Bill 2542 Relating To Land Development would amend Section 6E-42, HRS, to establish a program allowing the Division to delegate Section 6E-42, HRS, reviews to the counties, if a county requests it, and also to establish a program for third-party reviewers. The Department believes that the provisions of House Bill 2524 would accomplish the goal of expediting reviews, as well as accomplish the underlying goals of House Bill 2446, House Draft 1, and do so without creating a requirement for additional funding for the Division. The Department strongly prefers House Bill 2542 to accomplish these goals.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
BONNIE KAHAKUI
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
FINANCE
Friday, February 21, 2020, 12:00 PM

HB 2446, HD1
RELATING TO AFFORDABLE HOUSING

Chair Luke and Vice Chair Cullen and members of the committee, thank you for the opportunity to submit testimony on HB 2446 HD1. The State Procurement Office (SPO) appreciates the intent of the bill.

The SPO, however, has concerns on the request to exempt, from 103D, the procurement of a third-party consultant to conduct the review (Section 2, page 4, line 10, Section 3, page 7, lines 11-12, Section 4, page 10, lines 16-17). There are multiple firms that would be able to compete for this work.

The Hawaii Public Procurement Code (code) is the single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, government disclosure and transparency in the procurement and contracting process vital to good government.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with both HRS chapter 103D and 103F conveys a sense of disproportionate equality in the law's application.

Exemptions to the code mean that all procurements made with taxpayer monies will not have the same oversight, accountability and transparency requirements mandated by those procurement processes provided in the code. It means that there is no requirement for due diligence, proper planning or consideration of protections for the state in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. As such, Agencies can choose whether to compete any procurement or

go directly to one contractor. As a result, leveraging economies of scale and cost savings efficiencies found in the consistent application of the procurement code is lost. It also means Agencies are not required to adhere to the code's procurement integrity laws.

The National Association of State Procurement Officials state: "Businesses suffer when there is inconsistency in procurement laws and regulations. Complex, arcane procurement rules of numerous jurisdictions discourage competition by raising the costs to businesses to understand and comply with these different rules. Higher costs are recovered through the prices offered by a smaller pool of competitors, resulting in unnecessarily inflated costs to state and local governments."

When public bodies, are removed from the state's procurement code it results in the harm described above. As these entities create their own procurement rules, businesses are forced to track their various practices. Moreover, a public body often can no longer achieve the benefits of aggregation by using another public body's contract because different state laws and regulations may apply to the various public bodies making compliance more difficult.

Each year new procurement laws are applied to state agencies causing state agency contracts to become more complex and costly, while other public bodies, such as agencies with strong legislative influence, are exempted. Relieving some public bodies from some laws by exempting or excluding them from compliance with a common set of legal requirements creates an imbalance wherein the competitive environment becomes different among the various jurisdictions and the entire procurement process becomes less efficient and costlier for the state and vendors.

Thank you.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

**HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 308
FRIDAY, FEBRUARY 21, 2020 AT 12:00 P.M.**

To The Honorable Sylvia Luke, Chair;
The Honorable Ty J.K. Cullen, Vice Chair; and
Members of the Committee on Finance,

TESTIMONY IN SUPPORT OF HB2446 RELATING TO AFFORDABLE HOUSING

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce, with approximately 650 members. I am writing share our support of HB2446.

Affordable housing and rentals are one of our top priorities this year. In working with developers, two of the biggest obstacles to expediting these projects are state and county redundancies and the time it takes to go through various reviews, with SHPD being one of the top areas most frequently mentioned as being a challenge. As reviews take more time and if there are any delays, this translates to higher costs which are passed on to homeowners. This bill helps to address these issues by requiring SHPD to contract third-party consultants if the division cannot complete its review within 60 days. All efforts to gain more affordable housing and rentals in Maui County and throughout the State of Hawaii should be a top state priority. Therefore, we support this bill.

We appreciate the previous committees taking our testimony into consideration and the direction this bill is going. However, we feel clearly defining how long SHPD has to complete their initial evaluation and determination before hiring the third-party consultant is important and we would suggest it be no more than a week.

Further, the bill states that the consultant will provide a recommendation, but it does not state if SHPD is then required to accept that recommendation and if any further reviews or modifications must be within their 60 day timeframe. As the goal is to expedite affordable housing reviews, we ask that these comments be considered and language adjusted in the bill to address these concerns.

We appreciate the opportunity to testify on this matter and ask that this bill be passed.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

HB-2446-HD-1

Submitted on: 2/19/2020 2:14:35 PM

Testimony for FIN on 2/21/2020 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephanie P. Donoho	Kohala Coast Resort Association	Support	No

Comments:



February 20, 2020

Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair
Members of the House Committee on Finance

RE: **HB 2446, HD1 – RELATING TO AFFORDABLE HOUSING**
Hearing date – February 21, 2020 at 12:00 p.m.

Aloha Chair Luke, Vice Chair Cullen and members of the committee,

Thank you for allowing NAIOP Hawaii to submit testimony in **SUPPORT** of HB 2446, HD1 – RELATING TO AFFORDABLE HOUSING. NAIOP Hawaii is the Hawaii chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

HB, HD1 2446 would provide SHPD 60 days to complete their review of proposed state projects, projects on privately owned historic property, and projects affecting historic properties that involve affordable housing. If SHPD is unable to do so in that time, the agency would be required to procure third-party consultants to conduct the review.

This measure is important to aid in addressing Hawai'i's affordable housing shortage. Currently, SHPD review can take anywhere from several months to almost a year. These delays can cause projects to drastically increase in costs and lose momentum to be completed. The Joint Economic Package of bills made it clear that affordable housing is one of the State's priorities. This bill is an important step in addressing the shortage and is long overdue.

Mahalo for your consideration,

Catherine Camp, President
NAIOP Hawaii



1003 Bishop St. Suite 1975
Honolulu, Hawaii 96813
(808) 942-7474

To: Honorable Sylvia Luke, Chair; and Ty J.K. Cullen, Vice Chair
From: Lorraine Minatoishi Ph.D., AIA
Hearing: Committee on Finance, February 21, 2020, 12:00pm in Room 308.
Subject: **Oppose to 2446HD1**, Relating to Relating to Affordable Housing

Dear Chairperson Sylvia Luke, and Vice Chairperson Ty J.K. Cullen,

I am writing in opposition to House Bill 2446HD1.

I understand that Hawaii is in need of affordable housing; however, it should not come at the expense of the well-being of all the people of Hawaii. Proper preservation of our Aina is what our state its people is most proud. To push it to the side for affordable housing is short-sighted.

Forcing DLNR to adjust the way they do administer their office by hiring outside consultants. This is a time-consuming effort for the SHPD and may result in a slower review in any case.

In regards to the 60-day review, architectural projects and other large projects are multi-year developments. Financing, masterplanning, other EIS reviews or EA reviews, NEPA, SMA, architectural and engineering designs, etc all take a lot of time. To blame slowdown in SHPD review is short-sighted.

Please allow DLNR and SHPD to conduct their reviews and continue to protect our Aina in the way originally planned by our legislatures. They are doing a good job and we should be proud of the work they do everyday.

Thank you.

A handwritten signature in black ink, appearing to read 'Lorraine Minatoishi', written in a cursive style.

Lorraine Minatoishi, Ph.D., AIA



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Finance
Friday, February 21, 2020 at 12:00 P.M.
Conference Room 308, State Capitol**

LATE

RE: HB 2446 HD1, RELATING TO AFFORDABLE HOUSING

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

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent of** HB 2446 HD1, which proposes to require the State Historic Preservation Division (SHPD) to contract its review of proposed state projects, projects on privately owned historic property, and projects affecting historic properties to third-party consultants if the projects involve the development of affordable housing and the division, after an initial evaluation, determines it will not be able to complete its review within 60 days.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ 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.

The Chamber supports the original language of the bill. The HD1 amended the bill to allow SHPD to conduct an initial evaluation of its ability to complete a review within 60 days before triggering the requirement to obtain a third-party consultant. The HD1 also does not define the length of time or the criteria for this initial evaluation, and it's unclear if any improvement would be made regarding the duration of the permit process due to this initial evaluation step being added.

The original language of HB 2446 would assist SHPD review and process permits/approvals requiring their review. We understand the issue with SHPD has been the challenges of hiring and retaining qualified staff. Allowing for third-party reviews where private entities can be certified by SHPD to conduct non-discretionary reviews to assist SHPD and/or the counties in processing the various permits will address one of the major time delays caused by the understaffed SHPD Office. Third-party review is currently being used by the City and County of Honolulu in processing building permits.

Thank you for the opportunity to provide testimony.



LATE

**HOUSE COMMITTEE ON FINANCE
State Capitol, Conference Room 308
415 South Beretania Street
12:00 PM**

February 21, 2020

RE: HOUSE BILL NO. 2446, H.D. 1, RELATING TO AFFORDABLE HOUSING

Chair Luke, Vice Chair Cullen, and members of the committee:

My name is Dwight Mitsunaga, 2020 President of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA-Hawaii is in **strong support of the original version of H.B. 2446**, which proposes to require the State Historic Preservation Division to contract its review of proposed state projects, projects on privately owned historic property, and projects affecting historic properties to third-party consultants if the projects involve the development of affordable housing and the division will not be able to complete its review within 60 days. The House Committees on Water, Land, & Hawaiian Affairs and Housing amended the bill by allowing SHPD to conduct an **initial evaluation** of its ability to complete a review within sixty days before triggering the requirement to obtain a third-party consultant. The H.D. 1 does not define the length of time nor the criteria for this initial evaluation. The purpose of the bill is to have permits processed in a timely manner. This amendment would suggest that even if the bill were to pass, there would be very little if any improvement in the duration of the permit process because of an undefined "initial evaluation" step being added to the process.

In the 2020 Legislative Session, both chambers of the Hawaii State Legislature, and Governor Ige's administration put forward a comprehensive package of bills to improve the quality of life for Hawaii's middle-class families. A large part of the package attempted to address housing affordability. We understand that this bill is part of the effort to get more affordable housing projects into construction as quickly as possible.

This bill, in its original form, would assist SHPD review and process permits/approval requiring their review. We understand the issue with SHPD has been the challenges of hiring and retaining qualified staff. Allowing for third party reviews where private entities can be certified by SHPD to conduct non-discretionary reviews to assist SHPD and/or the Counties in processing the various permits will address one of the major time delays caused by the understaffed SHPD Office.

We are in strong support of the original version of H.B. 2446, and appreciate the opportunity to express our views on the matter.

LATE

TO: Rep. Sylvia Luke, Chair
Rep. Ty J.K. Cullen, Vice Chair
House Committee on Finance

**SOCIETY FOR HAWAIIAN
ARCHAEOLOGY**



FROM: Angus Raff-Tierney, M.A., Legislative Committee Chair,
Society for Hawaiian Archaeology
angusrafftierney@yahoo.com

HEARING: February, 21 2020, 12:00 PM, Conference Room 308

SUBJECT: Comments on HB 2446 HD1, Relating to Affordable Housing

I am Angus Raff-Tierney, Chair of the Legislative Committee of the Society for Hawaiian Archaeology (SHA). We have over 150 members including professional archaeologists and advocates of historic preservation. On behalf of SHA, I present our comments on HB 2446, HD1 (Relating to Affordable Housing).

We support the intent of HB 2446 HD1 which is to address the unacceptably large backlog of projects to be reviewed by the State Historic Preservation Division (SHPD) under Chapters 6E-8, 10, and 42, Hawaii Revised Statutes (HRS). This excessive backlog has resulted in delays affecting residential and commercial projects due to SHPD's failure to complete timely reviews of county permits.

HB 2446 HD1 would require the SHPD to retain third party consultants to review some Chapter 6E-8, -10, and -42 projects normally reviewed by SHPD for "affordable housing" projects, if they meet certain requirements.

We believe that having third parties conduct the review of documents would create more problems than it would solve. It is likely that any such third parties will likely be competing firms reviewing each other's work. This would create the appearance of a conflict of interest. Furthermore, there should be a no-conflict-of-interest statement such as: the third-party will not have worked on any aspect of the project or have been previously hired by those proposing, planning, or designing the project.

The bill gives the false impression that reviewing the applicant's submittal in thirty days will mean concurrence to proceed will automatically be in sixty days. It does not take into account common scenarios where the original submittal is inadequate. If the third-party reviewer recommends extensive revisions, it will take more than 60 days address the problems, particularly if it involves additional work. SHPD would be back to reviewing the project themselves and it would probably take more than 60 days.

On Page 4 (d), Section 2, Proposed amendments to Chapters 6E-8, HRS, it says "Whenever the proposed state project involves..." it should be "Whenever the state or **political subdivision** of the state propose a project involving..." This would cover affordable housing at the county or other levels, as 6E-8 does.

Instead of this bill and similar legislation, we recommend that the legislature adequately fund the SHPD to carry out its duties. This should include hiring full-time civil service employees who possess the qualifications prescribed by the Secretary of the Interior for historic preservation professionals in regulations under the National Historic Preservation Act, thus keeping the review process entirely with government employees. We believe that this would keep the review process independent and less vulnerable to conflicts of interest.

<https://hawaiianarchaeology.org/>

The Society for Hawaiian Archaeology is a registered tax-exempt organization established in 1980 to promote and stimulate interest and research in the archaeology of the Hawaiian Islands, encourage a more rational public appreciation of the aims and limitations of archaeological research, serve as a bond among those interested in Hawaiian archaeology, both professionals and non-professionals, and aid in directing their efforts into more scientific channels as well as encourage the publication of their results, advocate and assist in the conservation of archaeological data, discourage unethical commercialism in the archaeological field and work for its elimination.