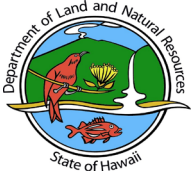


DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WATER AND LAND**

**Monday, February 8, 2021
1:00PM
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 570
RELATING TO HISTORIC PRESERVATION**

Senate Bill 570 proposes to amend the definition of “historic property” in Section 6E-2, Hawaii Revised Statutes (HRS), by adding the requirement that properties must be eligible for inclusion in the Hawaii register of historic places. **The Department of Land and Natural Resources (Department) supports this measure.**

Chapter 6E, HRS, currently defines a historic property as “any building, structure, object, district, area, or site, including heiau and under water site, which is over fifty years old....” Senate Bill 570 amends this definition by requiring that the property also be eligible for inclusion in the Hawaii register of historic places. To be eligible for inclusion in the Hawaii register of historic places, a property must be at least 50-years old, and be “significant in the history, architecture, archaeology, or culture of this State, its communities, or the nation.” (Hawaii Administrative Rules 13-198-2).

The Department believes that addition of the requirement that a property be significant in Hawaii’s history is reasonable and an important clarification that will make administration of the state’s historic preservation program more rational and effective. The Department fully supports this measure.

Thank you for the opportunity to comment on this measure.

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
ACTING 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



SB570

RELATING TO HISTORIC PRESERVATION
Ke Kōmike ‘Aha Kenekoa o ka Wai a me ka ‘Āina

Pepeluali 8, 2021

1:00 p.m.

Lumi 229

The Administration of the Office of Hawaiian Affairs (OHA) will recommend that the Board of Trustees **COMMENT** on SB570, which would amend the definition of “historic property” to require that any building, structure, object, district, area, or site, including heiau and underwater sites, in addition to being over fifty years old, must meet the criteria for being entered into the Hawai‘i Register of Historic Places (HRHP). While OHA appreciates the apparent desire to better manage the growing number of buildings over 50 years old that would currently be subject to historic preservation review, OHA notes that there is a vast distinction between historic buildings and Native Hawaiian cultural sites, and that a proposed amendment to the definition of historic property should take into account possible impacts to both site types; **accordingly, should the Committee choose to move this measure forward, OHA respectfully offers language to ensure that Native Hawaiian cultural sites remain appropriately protected under Hawai‘i Revised Statutes (HRS) Chapter 6E.**

To be eligible for the HRHP, and to be recognized as a “historic property” under this measure, a property or site must 1) possess integrity of location, design, setting, materials, workmanship, feeling, and association, and, 2) be considered significant per one of four criteria: a) associated with events that have made a significant contribution to broad patterns of our American or Hawaiian history, b) associated with the lives of persons significant in our past, c) embody distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic value, or d) has yielded, or may be likely to yield information in prehistory or history. These requirements are also included in SHPD rules to determine whether a historic property is “significant” and merits additional protection. However, there is no HRHP eligibility criteria that would recognize sites that may have “important value to the native Hawaiian people or to another ethnic group of the state due to associations with cultural practices once carried out, or still carried out, at the property or due to associations with traditional beliefs, events or oral accounts--these associations being important to the group's history and cultural identity” – a criteria also included in these SHPD rules concerning “significance.”

By limiting the definition of “historic property” to only those sites that may be eligible for the HRHP, this measure may remove any and all historic property protection from Native Hawaiian cultural sites that SHPD’s rules themselves would consider so significant as to merit particularly heightened scrutiny and protection – including consultation with OHA and Native Hawaiians.

OHA acknowledges that as we move forward in time, the number of buildings eligible for consideration under HRS 6E review will keep increasing since any building over fifty years can be considered historic. In some instances, this has caused problems for homeowners and organizations that must comply with the HRS Chapter 6E historic preservation review process when permits are sought for various improvements. From an administrative standpoint, this can place a greater burden on the State Historic Preservation Division (SHPD) since the number of projects they review will likely increase. The current historic preservation review process can also make it difficult to demolish or repair dilapidated buildings that do not obviously meet the standards of historic integrity or significance criteria simply due to the fact that they are fifty years old. In that sense, OHA could see relief being granted to homeowners, organizations, and SHPD by adding additional qualifications, such as those described for the HRHP, for buildings to be considered subject to historic preservation review.

However, OHA does have concerns regarding the application of the HRHP significance criteria to Hawaiian cultural sites as a prerequisite to their being considered “historic property” eligible for the protections of historic preservation review and consultation. **Amending the definition of historic property to now require HRHP eligibility could disqualify many cultural sites from being considered historic properties, including sites long considered particularly “significant” under SHPD rules, and thereby limit or remove any opportunity for mitigation options and consultation requirements for these sites.** Notably, Native Hawaiian cultural sites have intangible and spiritual aspects that are often difficult to evaluate by Western archaeologists, in contrast to historic buildings that are often solely evaluated on their physical characteristics. Furthermore, sometimes sites that would appear to be natural geological features to Western archaeologists are in fact considered vitally important to Native Hawaiians. Such sites must remain subject to the protections of Chapter 6E, including with respect to its consultation requirements, in order to properly identify and protect of such sites. Should the definition of a historic property be altered to require eligibility under HRHP, cultural sites with intangible or spiritual aspects could be disqualified from the HRS Chapter 6E review process, thus eliminating a critical nexus for consultation and mitigation consideration.

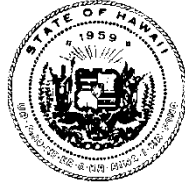
If the intent of the current amendment is to target historic buildings, then the proposed amendment to the definition of historic property should be tailored to target historic buildings only. Otherwise, the current draft of this measure may have unintended consequences for Native Hawaiian cultural sites currently considered and protected as historic properties. In order to prevent the potential irrevocable loss or destruction of the last remaining vestiges of our cultural and historical heritage, OHA respectfully offers the following language to replace that found on page 1, lines 6-7 of this bill, to read as follows:

“~~which~~ that is over fifty years old[-]; provided that buildings, inclusive of privately owned homes,

must also meet the criteria for being entered into the Hawaii register of historic places.”

Mahalo for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR



DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON WATER AND LAND

February 8, 2021 at 1:00 p.m.
State Capitol, Room 229

In consideration of
S.B. 570
RELATING TO HISTORIC PRESERVATION.

The HHFDC supports S.B. 570, which amends the definition of "historic property" in §6E-2, HRS, to clarify that such properties must meet the criteria for being entered into the Hawaii Register of Historic Places. The bill will allow SHPD to focus on actual historic properties and help to clear their backlog of reviews.

Thank you for the opportunity to provide written comments in support of this bill.

HISTORIC HAWAII FOUNDATION

TO: Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Committee on Water & Land (WTL)

FROM: Kiersten Faulkner, Executive Director
Historic Hawai'i Foundation

Committee: Monday, February 8, 2021
1:00 p.m.
Via Video Conference/Conference Room 229

RE: SB570, Relating to Historic Preservation

On behalf of Historic Hawaii Foundation (HHF), I am writing in **support for the intent of SB570, with additional recommendations.** The bill would amend Hawai'i Revised Statutes §6E-2 to revise the definition of "historic property" to include those properties that are 50 years of age and that meet the criteria for being entered into the Hawai'i register of historic places.

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.

Currently, HRS §6E-2 defines historic properties as any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old. This definition has the advantage of being simple to understand and simple to evaluate, as it relies on a single piece of data: age of construction.

However, that definition is also unnecessarily broad, and assumes that age is equivalent to historic importance. Within the discipline and practice of historic preservation, there are two additional criteria used to screen properties: *historic significance* and *integrity*. The criteria for being entered into the State of Hawai'i Register of Historic Places address these additional aspects and are appropriate to add to the State's definition of "historic property."

Historic Hawai'i Foundation supports amending HRS 6E-2 to include the requirement that properties meet the criteria for being entered into the state register of historic places.

However, we also note that with such an addition, the reference to the property's age is no longer needed or relevant. Therefore, the definition could simply read:

"Historic property means any building, structure, object, district, area, or site, including heiau and underwater site, that meets the criteria for being entered in the Hawai'i register of historic places."

Thank you for the opportunity to comment.

680 Iwilei Road Suite 690 • Honolulu, HI 96817 • Tel: 808-523-2900 • preservation@historichawaii.org • www.historichawaii.org

Historic Hawai'i Foundation is a statewide nonprofit organization established in 1974 to encourage the preservation of historic buildings, sites, structures, objects and districts 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.

LATE

SB-570

Submitted on: 2/7/2021 3:21:03 PM

Testimony for WTL on 2/8/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carol Marie Lee	Individual	Comments	No

Comments:

Aloha Chair Inouye and Vice-Chair Agaran,

Mahalo for the opportunity to submit testimony in strong opposition of this measure. By amending or changing a definition of the original "titled" statute changes the intent and purpose of the statute in its original form.

I also see that without testimony in support from the DLNR signals that the goal of this change is not viewed as helpful nor **pono**. The beneficiaries of this measure are suspect.

I humbly ask that this measure be deferred at this time until the community that could be most adversely affected by this change have time to review this measure.

Mahalo for your consideration.

Ka`onohi Lee

Malama na mea kahiko



minatoishi architects

LATE

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

To: Honorable Senator Lorraine R. Inouye, Chair;
Honorable Senator Gilbert S.C. Keith-Agaran, Vice Chair
From: Lorraine Minatoishi Ph.D., AIA
Hearing: Senate Committee on Water and Land in Room 229
Subject: **OPPOSE** SB570, Relating to Historic Preservation

Dear Chair Inouye and Chair Keith-Agaran,

I strongly **OPPOSE** Bill SB570 Relating to Historic Preservation.

I am an architect and a member on the National AIA Historic Resources Committee and as an architect who deals with Historic Properties on a daily basis, I am very much aware of the importance of protections of our historic properties. By modifying the definition of *historic property*, the strength of the protection of our cultural and historic resources is weakened considerably. The addition of “*and meets the criteria for being entered into the Hawaii register of historic places*” seems innocuous; however, the addition of a single line will change how the planning department and state agencies will manage our historic structures.

At present, any commercial or public structure over 50 years old must be reviewed for eligibility and significance during the EIS or EA process based on 6E requirements or before obtaining a permit. This protects historic properties from those who want to demolish or significantly change their structures. Once this definition is modified, unless the structure has been previously identified as significant or eligible, in other words, on the historic register, the planning department or OEQC will have no way of making such determinations. And, due to their workload, their natural tendency would be to skip going through State Historic Preservation Division (SHPD) and the 6E process entirely if given the opportunity.

I believe the change in definition will have a significant effect on historic properties. The Department of Planning and Permitting staff do not have any knowledge of historic properties, nor should they be required to. The only thing they need to know is if it is 50 years old. If they also have to determine eligibility, then nothing but those properties already listed will be sent to SHPD. It will be quite sad for our state, which is known to be a strong advocate for cultural and historic properties. It is even written into our State Constitution! Please do not dilute or try to negate one of the best things about our state – which is our care for our historic sites, buildings, monuments, and structures.

Sincerely,

Lorraine Minatoishi, Ph.D., AIA