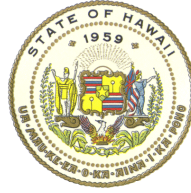
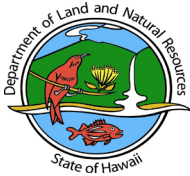


DAVID Y. IGE
GOVERNOR OF HAWAII



**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 Committees on
GOVERNMENT OPERATIONS
and
WATER AND LAND**

**Wednesday, March 18, 2021
3:05 PM**

State Capitol, Via Videoconference, Conference Room 016

**In consideration of
SENATE CONCURRENT RESOLUTION 78
REQUESTING THE AUDITOR TO CONDUCT AN AUDIT OF THE
DEPARTMENT OF LAND AND NATURAL RESOURCES'
STATE HISTORIC PRESERVATION DIVISION**

Senate Concurrent Resolution 78 would direct the State Auditor to conduct a comprehensive management and performance audit of the State Historic Preservation Division (SHPD) within the Department of Land and Natural Resources (Department). **The Department appreciates the intent of this measure and offers comments.**

The Department notes that the SHPD has made significant improvements in operations and management in recent years. It has met the requirements imposed on it by the National Park Service mandated "Corrective Action Plans" (CAP) and is no longer a "high risk recipient" of federal funds.

In addition, the final element of the National Park Service CAP was the establishment of a digital information management system for efficient and effective project tracking and review. The Hawaii Cultural Resource Information Management System (HICRIS), funded by the Legislature, was completed in 2020 and went live on December 17, 2020. HICRIS represents a significant advancement in the way SHPD operates and interacts with federal, state, and county agencies, project sponsors, and their technical consultants. SHPD staff. All public and private users are now getting oriented with HICRIS and its requirements. It will facilitate project submittal and processing, ensure that submittals are correctly and completely submitted, and make it possible for SHPD to readily track status and progress on project reviews. All of these will improve the efficiency and effectiveness of project review. The Department believes the operational impact on project reviews is already progressing and will be fully visible within a year or so.

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

Eventually HICRIS will also be the portal to SHPD's project technical reports, and decision documents. With the support of the Legislature SHPD has been able to make good progress on digitizing its records. Unfortunately, in response to the fiscal crisis, SHPD was forced to halt procurement on its digitization contracting last year, and is not seeking funding for a digitization contract this year due to restricted general funds. SHPD staff will do a limited amount of digitization of its files and library, but other duties will limit the amount of scanning that can be done, significantly extending into the future the time when HICRIS is functioning completely as designed and planned.

With respect to specifics of House Bill 865, which similarly directs the State Auditor to conduct a management audit of SHPD, the audit is to include but not be limited to:

- (1) Whether SHPD has adequate staffing and resources to conduct timely project reviews.

The Department welcomes consideration of staffing needs. The Department believes that SHPD is understaffed and underfunded but is tightly constrained by current fiscal realities.

- (2) Staff response time to inquiries.

The Department requests clarification of what the State Auditor is being directed to examine. The Department notes that despite staff vacancies SHPD completes 65% of all project reviews within the timeframes specified in rule.

- (3) Current project management practices, including efforts to identify categorical exemptions, historic properties and districts that should have special protections or treatment, identification of types of sites that do not require permit review, filing systems, and efforts to streamline processes such as the inadvertent discovery process for burial sites.

It is unclear what "project management practices" refers to. SHPD does not manage projects. SHPD reviews projects when they are submitted to SHPD. The Department suggests that project review practices is what is intended. The Department also notes out that Chapter 6E, Hawai'i Revised Statutes (HRS), does not require that all projects be submitted to SHPD for review. Sections 6E-8 and 6E-42, HRS, give county and state agencies discretion to determine what projects to submit to SHPD for review and only send projects to SHPD if they have a potential to affect historic properties. Whether a project has such potential depends on the unique characteristics of the project and the location where it will occur. Establishing categorical exemptions on a statewide basis is likely to be very difficult.

Nevertheless, SHPD is already engaged in review of its internal processes and procedures to clarify and improve them. SHPD also is working on a comprehensive review and revision of the rules governing SHPD's procedures to make them clearer, wherever possible simpler, more effective and efficient.

- (4) Record retention methodologies.

As part of its response to the CAP, SHPD has hired a Librarian/Archivist to manage its records. Record and data management will also be facilitated by HICRIS, subject to availability of funding to digitize SHPD's files and library.

- (5) Standardization of monitoring protocols, including the establishment of cultural impact assessment guidance and policies.

SHPD is already reviewing its operations to identify ways to streamline them, and reviewing regulations to clarify and streamline them, SHPD is examining all reasonable ways to standardize protocols, including project monitoring.

The Department is unclear on the reference to cultural impact assessment guidance and policies. Cultural impact assessments are part of the environmental review processes established by Chapter 343, HRS. SHPD is working on developing guidance for when cultural impact assessments are submitted to it to support and facilitate project reviews under Sections 6E-8 or 6E-42, HRS, but such guidance would have to be limited to Chapter 6E, HRS, as SHPD has no authority to adopt policies for Chapter 343, HRS.

- (6) The actions, initiatives, and performance of SHPD to address the existing project review backlog.

SHPD has a contract in place with an archaeological consulting firm to review make recommendations to SHPD on backlogged reports (other than those prepared by the firm). A request-for-proposals for a second contract is currently in the procurement process. These contracts are being funded with a specific appropriation from the Department's Special Land and Development Fund. The Department intends to continue to fund such contracts as long as funding is appropriated and until the backlog has been resolved. The Department notes SHPD has very limited operational funding to pay for this kind of contract that could speed up reviews.

- (7) Any recommended improvements, including proposed legislation, to update, redefine, or realign the state historic preservation division's mission and organization based on balancing cultural and historic preservation with the State's evolving land development needs.

The Department is acutely aware of the evolving needs of the people of Hawai'i. The current COVID-19 crisis has made the need for greater flexibility and for mechanisms that allow for flexible adaptive responses from the Department abundantly clear. The Department's view is that rapid, flexible response includes policy changes that must allow for delegation of responsibility for adaptive response by the Legislature to the Board of Land and Natural Resources. The Department suggests language such as the following to allow for more rapid adoption and implementation of rules governing operations.

Notwithstanding any other provision of law, the board of land and natural resources shall have the authority to adopt administrative rules and policies. Adoption of these

administrative rules is exempt from the requirements of chapter 91. Administrative rules shall be adopted in accordance with the process set forth in section (A).

(A) All department of land and natural resources divisions shall make available on the website of the department of land and natural resources each proposed rule and the full text of the division's proposed rule or changes to existing rules.

(i) Divisions shall post notice of consideration of proposed amended rules 30 days prior to the board of land and natural resources meeting at which the amended rule will be considered by the board of land and natural resources on both the division's and the department of land and natural resources' website. The notice shall include:

(ii) The full text of the proposed amended rule; and

(iii) The date, time, and place where the board of land and natural resources meeting will be held and where interested persons may provide written testimony or be heard on the proposed rule adoption, amendment, or repeal.

(iv) The board of land and natural resources shall afford all interested persons opportunity to submit data, views, or arguments, orally or in writing. The board of land and natural resources shall fully consider all written and oral submissions respecting the proposed rule. The board of land and natural resources shall make its decision at the public meeting.

(B)(i) Any administrative rule hereafter adopted, amended, or repealed shall become effective ten days after adoption by the board of land and natural resources, or if the board of land and natural resources specifies a later effective date, the later date shall be the effective date.

(ii) Each division shall prepare a copy of the rule changes according to the Ramseyer format and post this on the division's and the department of land and natural resources' website.

Thank you for the opportunity to comment on this measure.

SCR-78

Submitted on: 3/17/2021 1:53:54 PM

Testimony for GVO on 3/18/2021 3:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Suzanne D. Case	Testifying for DLNR	Comments	No

Comments:

I am available for questions. Please allow me Zoom access. Thank you.

HISTORIC HAWAII FOUNDATION

TO: Senator Sharon Y. Moriwaki, Chair
Senator Donovan M. Dela Cruz, Vice Chair
Committee on Government Operations (GVO)

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: Thursday, March 18, 2021
3:05 p.m.
Via Video Conference/Conference Room 016

**RE: SCR78, REQUESTING THE AUDITOR TO CONDUCT AN AUDIT OF THE
DEPARTMENT OF LAND AND NATURAL RESOURCES' STATE HISTORIC
PRESERVATION DIVISION**

On behalf of Historic Hawai'i Foundation (HHF), I am writing **in support of the intent of SCR 78**, requesting the state auditor to conduct a performance and management audit of the state historic preservation division (SHPD) of the department of land and natural resources.

SHPD is responsible for providing leadership for the State in preserving, restoring, and maintaining historic and cultural properties in a spirit of stewardship and trusteeship for present and future generations, and to conduct activities, plans and programs for the preservation and enhancement of historic and cultural property.

The scope of responsibilities to safeguard and support Hawaii's heritage is immense. SHPD has a variety of tools, including review and comment on development proposals that have the potential to affect historic and cultural properties; consultation with stakeholders who have an interest in and concern for those properties; resolution of potential effects via avoiding, minimizing and mitigating effects; and providing incentives through grants, tax credits and technical assistance.

All of these responsibilities rely on adequate resources and staffing with both professional and administrative personnel. The level of staffing for the archaeology, architecture, culture and history and administrative functions is directly correlated to the quality and timeliness of the project reviews and response to inquiries.

Historic Hawai'i Foundation supports measures that will assist SHPD in meeting its purpose and goals. The proposed performance and management audit should be conducted in a spirit of cooperation and collaboration to identify areas that would benefit from additional resources, operating procedures, authorities and other actions or initiatives. It should not be approached as a punitive or undermining measure.

We hope such a review would assist both the legislature and the administration in directing resources to support this critical agency in its important work. Thank you for the opportunity to comment.