
A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION REVIEWS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that section 6E-42,
2 Hawaii Revised Statutes, plays an essential role in the
3 protection and management of the State's historic places, burial
4 sites, and aviation artifacts by requiring agencies and offices
5 of the State and its subdivisions to submit for review all
6 projects that may affect historic properties to the state
7 historic preservation division of the department of land and
8 natural resources before approval.

9 The department of land and natural resources notes that in
10 every other state in the union, many of these reviews would be
11 subject to review at the county or municipal level--only Hawaii
12 requires reviews and evaluations at the state level. The
13 department of land and natural resources believes that it is
14 reasonable and appropriate to authorize the counties to assume
15 responsibilities for such reviews.

16 In order to improve protection of Hawaii's historic
17 properties by ensuring more decisions are made at the regional



1 level, and promote more timely reviews, the purpose of this Act
2 is to assign the responsibility for certain historic
3 preservation project reviews under section 6E-42, Hawaii Revised
4 Statutes, to the respective counties.

5 SECTION 2. Section 6E-42, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§6E-42 Review of proposed projects. (a) Except as
8 provided in section 6E-42.2, before any agency or officer of the
9 State or its political subdivisions approves any project
10 involving a permit, license, certificate, land use change,
11 subdivision, or other entitlement for use[, ~~which~~] that may
12 affect historic property, aviation artifacts, or a burial site,
13 the agency or office shall advise the department or the
14 designated county preservation officer and [~~prior to~~] before any
15 approval allow the department or designated county preservation
16 officer an opportunity for review and comment on the effect of
17 the proposed project on historic properties, aviation artifacts,
18 or burial sites, consistent with section 6E-43, including those
19 listed in the Hawaii register of historic places[-] or national
20 register of historic places, or located in a designated historic
21 district. If:



1 (1) The proposed project consists of corridors or large
2 land areas;

3 (2) Access to properties is restricted; or

4 (3) Circumstances dictate that construction be done in
5 stages,

6 the department's or designated county preservation officer's
7 review and comment may be based on a phased review of the
8 project; provided that there shall be a programmatic agreement
9 between the department and the project applicant that identifies
10 each phase and the estimated timelines for each phase.

11 (b) The department or designated county preservation
12 officer shall inform the public of any project proposals
13 submitted to it under this section that are not otherwise
14 subject to the requirement of a public hearing or other public
15 notification.

16 (c) No later than January 2, 2023, responsibility for
17 review of projects pursuant to this section shall be the
18 responsibility of the respective counties, and pursuant to any
19 administrative rules adopted thereunder; provided that the
20 department certifies in writing that the county has:



- 1 (1) Adopted an ordinance to govern the county's review
2 process that is consistent with the requirements of
3 this section and with any administrative rules adopted
4 pursuant to this section;
- 5 (2) Designated a county preservation officer who meets the
6 professional qualification standards established by
7 the department;
- 8 (3) Hired qualified professional staff who meet standards
9 established by the department to conduct the reviews;
- 10 (4) Established sufficient internal organizational
11 controls to ensure that the qualified professional
12 staff can make independent determinations regarding
13 the effects of projects on historic properties;
- 14 (5) Ensured that the qualified professional staff can
15 function in a manner that does not create a conflict
16 of interest or the appearance of a conflict of
17 interest;
- 18 (6) Provided for appropriate public notification in a
19 manner consistent with standards established by the
20 department;



1 (7) Ensured that copies of all reports, maps, and
2 documents, including those reflecting the county
3 preservation official's comments, recommendations, and
4 decisions, are provided to the department to be
5 incorporated into the historic preservation digital
6 document management system and library; and

7 (8) Entered into a written agreement with the department
8 in which the department certifies that the county has
9 met the requirements of this section and is assuming
10 responsibility for review of projects under section
11 6E-42; provided further that the delegation of
12 authority shall automatically be suspended or
13 terminated if the county is unable to retain
14 sufficient qualified professional staff or if it
15 becomes apparent that the county does not have
16 sufficient staffing capacity to complete the delegated
17 reviews in a timely manner.

18 (d) The department shall retain authority for review under
19 this section for projects affecting properties listed or
20 nominated for inclusion in the Hawaii register of historic



1 places or the national register of historic places or occurring
2 within or affecting a designated historic district.

3 (e) The department may establish a program to certify
4 third-party individuals and organizations to review documents
5 before submission of the documents to the department or
6 designated county preservation officer for review to ensure
7 consistency. Third-party reviewers shall be utilized to address
8 backlogs within the department and may be released once the
9 volume of permits reaches a manageable level for the existing
10 department staff to review. Certification of third-party
11 individuals and organizations shall be done in consultation with
12 the office of Hawaiian affairs.

13 A review by a third party shall ensure that the information
14 submitted is complete and complies with the department
15 documentation requirements, that any accompanying data and
16 analysis supports recommendations made in the submission, and
17 that the project reviewed complies with all of the requirements
18 imposed by the department and this chapter.

19 Third-party reviewers certified by the department shall
20 satisfy the following requirements:



1 (1) Staff who conduct the reviews shall meet professional
2 qualifications and standards established by the
3 department;

4 (2) Individuals and organizations that apply for
5 certification shall demonstrate that they have
6 established sufficient internal organizational
7 controls to ensure the qualified professional staff
8 can make independent determinations regarding the
9 effects of projects on historic properties and can
10 function in a manner that does not create a conflict
11 of interest or the appearance of a conflict of
12 interest; and

13 (3) Individuals or organizations certified to conduct
14 third-party document reviews that precede the
15 department's or designated county preservation
16 officer's review shall be independent from the
17 individual or organization that drafted or generated
18 the documents.

19 [~~e~~] (f) The department shall adopt rules in accordance
20 with chapter 91 to implement this section."



1 SECTION 3. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2022-2023, to
4 be allocated to the counties by the department of land and
5 natural resources, in order to provide financial assistance in
6 conjunction with article VIII, section 5, of the state
7 constitution and with assigning the responsibility for certain
8 historic preservation project reviews under section 6E-42,
9 Hawaii Revised Statutes, to the respective counties; provided
10 that the department of land and natural resources may retain up
11 to ten per cent of the amount appropriated to cover
12 administrative expenses incurred while carrying out the purposes
13 of this Act.

14 The sum appropriated shall be expended by the state
15 historic preservation division of the department of land and
16 natural resources.

17 SECTION 4. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Historic Preservation Review; Counties; Appropriation

Description:

Transfers authority for certain reviews of projects in conjunction with section 6E-42, Hawaii Revised Statutes, from the Department of Land and Natural Resources to the Counties. Defines the role of third-party reviewers for the Department of Land and Natural Resources. Provides financial assistance to the counties to hire qualified staff to conduct the reviews. Takes effect 7/1/2050. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

