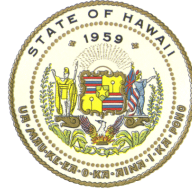
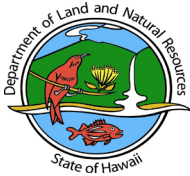


DAVID Y. IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**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

**Testimony of  
SUZANNE D. CASE  
Chairperson**

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

**Tuesday, February 8, 2022  
9:00AM**

**State Capitol, Conference 430, Via Videoconference**

**In consideration of  
HOUSE BILL 2167  
RELATING TO HISTORIC PRESERVATION REVIEWS**

House Bill 2167 proposes to amend Section 6E-42, Hawaii Revised Statutes (HRS), to delegate most historic preservation reviews under Section 6E-4,2 HRS, to the various counties. **The Department of Land and Natural Resources (Department) fully supports this Administration measure and offers comments.**

House Bill 2167 correctly notes that Hawai'i is the only state in the Union that reserves to the state government authority to carry out reviews of county permits for their potential effects on historic properties. In all other states such reviews are reserved to local levels of government, i.e., the municipalities, or counties. The Department believes that the delegation proposed by this measure is entirely appropriate.

The Department believes that it is essential that the processes implemented by various counties be uniform and that there is consistency in the Section 6E-42c, HRS, review process across the state compliant with the processes set forth in the relevant Hawaii Administrative Rules. The Department believes that House Bill 2167 provides the basis for ensuring just such consistency.

House Bill 2167 SECTION 2 amends Section 6E-42, HRS, to authorize a county preservation officer to carry out most 6E-42 reviews. Reviews for projects that might affect properties listed in or nominated for inclusion in the Hawaii or National Registers of Historic Places or occurring in designated historic districts would be reserved to the Department.

The Department recommends that this measure be revised at Section 6E-42(d) to read

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

places or the national register of historic places *or occurring within or affecting a designated historic district.* *(Department proposed amending language italicized.)*

House Bill 2167 establishes a two-step process for accomplishing the delegation to the counties. The first step requires each county to establish a program that meets the requirements detailed in the measure to assume Section 6E-42, HRS, review authority. House Bill 2167 appropriates funds to help the counties defray the expenses incurred during this planning and development process in the first year after enactment, which is the final year of the current biennium. The Department notes that the counties will certainly have annual operating expenses for this program that will have to be covered by appropriations from future budgets.

House Bill 2167 also authorizes the Department to establish a program to certify third-party reviewers who would be authorized to review documentation for accuracy, completeness, and compliance with the minimum requirements of the Department's administrative rules. The Department believes that such a program would help to ensure that at the time the documentation is submitted to the Department it is complete and compliant with rule, ensuring that the Department can complete its review in an effective and timely manner.

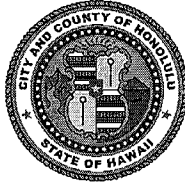
With respect to the third-party review program, the Department understands that this program would be implemented by parties external to the Department and would be funded directly by permit applicants. The Department does not envision the third-party review as a way to resolve the current review backlog. Neither this measure nor the Governor's budget appropriates funds for the Department to cover such expenses should the intent be for the Department to directly employ the third-party reviewers. As described in the measure, the third-party review program is designed to ensure that project submittals are complete, and compliant with the requirements of rule prior to submission to the Department. The Department supports this provision as drafted.

Thank you for the opportunity to comment on this measure.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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RICK BLANGIARDI  
MAYOR



DEAN UCHIDA  
DIRECTOR

DAWN TAKEUCHI APUNA  
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI  
DEPUTY DIRECTOR

February 8, 2022

The Honorable David A. Tarnas, Chair  
and Members of the Committee on Water & Land  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Tarnas and Committee Members:

**Subject: House Bill No. 2167  
Relating to Historic Preservation Reviews**

The Department of Planning and Permitting, along with the directors of the three other County Planning Departments, offers **comments and recommendations** on House Bill No. 2167. Please see the attached.

Thank you for this opportunity to testify.

Very truly yours,

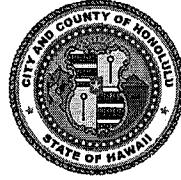
A handwritten signature in black ink, appearing to read "Dean Uchida".

Dean Uchida  
Director

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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RICK BLANGIARDI  
MAYOR



DEAN UCHIDA  
DIRECTOR  
DAWN TAKEUCHI APUNA  
DEPUTY DIRECTOR  
EUGENE H. TAKAHASHI  
DEPUTY DIRECTOR

January 28, 2022

The Honorable Lorraine R. Inouye, Chair  
Senate Committee on Water and Land  
Hawaii State Capitol  
415 South Beretania Street, Room 210  
Honolulu, Hawaii 96813

Dear Senator Inouye:

Subject: Senate Bill No. S.B. 3135 and H.B. 2167, Relating to Historic Preservation Reviews

The Planning Directors of all four Counties in Hawaii would like to thank you for the informational briefing your Committee held on the subject bill on January 10, 2022. As suggested at the meeting, the County Planning Directors have reviewed the bill and collectively provide the following comments and suggestions for your consideration.

We understand that the purpose of this Administration bill is to assign the responsibility for certain historic preservation project reviews under section 6E-42, Hawaii Revised Statutes, to the respective counties.

Pursuant to Section 6E-3, the Department of Land and Natural Resources (DLNR), State Historic Preservation Division (SHPD), is responsible for regulation of archaeological activities throughout the State. Section 6E-42 states that prior to any approval by the County of any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office shall advise the DLNR-SHPD and allow DLNR-SHPD an opportunity for review and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places.

SHPD indicates that in every other state in the union, many of these reviews would be subject to review at the county or municipal level--only Hawaii requires reviews and evaluations at the state level. In order to improve protection of Hawaii's historic properties by ensuring more decisions are made at the local level, and promote more timely reviews, DLNR believes that it is reasonable and appropriate to authorize the Counties to assume responsibilities for such reviews.

Discussion:

At the Senate Water and Land Committee meeting of January 10, 2022, SHPD Administrator Alan Downer testified on the challenges SHPD has in recruiting and retaining qualified archaeologists and architects to conduct the required Section 6E-42 reviews.

This has resulted in delays in SHPD's review of projects which has been further complicated by SHPD's internal procedures to prioritize certain projects over others.

The Counties (County of Kauai, City and County of Honolulu, County of Maui and County of Hawaii) have the following comments/concerns:

1. Decentralizing the review to have each County conduct a Section 6E-42 review for projects in their respective counties, may create problems of consistency, as once certified, each County's designated preservation officer will be acting independently. The bill does not address what happens if SHPD disagrees with a County's designated preservation officer's findings and recommendations, nor how disagreements would be settled.
2. Requiring the Counties to be responsible for Section 6E-42 reviews does not address the current challenges that SHPD is experiencing of hiring and retaining qualified archaeologists and architects to conduct the required Section 6E-42 reviews. It merely shifts the responsibility over to the Counties, who would likely face the same challenges. SHPD Administrator Alan Downer identified improvements in SHPD's recruiting, hiring and retention practices, which should be supported and funded. Furthermore, time should be given for these improvements to be implemented, to determine if they have been successful, before shifting significant new responsibilities to the Counties.
3. The Bill provides a one-time appropriation of \$750,000 in FY 2022-2023 (SHPD retaining 10 per cent for administrative expense), to the Counties for each to do the following:
  - i) Adopt an ordinance to govern the County's review process that is consistent with the new law and with any administrative rules adopted pursuant to this section;
  - ii) Designate a County preservation officer who meets the professional qualification standards established by DLNR;
  - iii) Hire qualified professional staff who meet standards established by DLNR to conduct the reviews;
  - iv) Establish sufficient internal organizational controls to ensure that the qualified professional staff can make independent determinations regarding the effects of projects on historic properties;
  - v) Ensure that the qualified professional staff can function in a manner that does not create a conflict of interest or the appearance of a conflict of interest;
  - vi) Provide for appropriate public notification in a manner consistent with standards established by DLNR;
  - vii) Ensure that copies of all reports, maps, and documents, including those reflecting the County preservation official's comments, recommendations, and decisions, are provided to DLNR to be incorporated into the historic preservation digital document management system and library; and
  - viii) Enter into a written agreement with DLNR in which DLNR certifies that the County has met the requirements of the Bill and is assuming responsibility for review of projects under section 6E-42; provided further that the delegation of authority shall automatically be suspended or terminated if the County is unable to retain sufficient qualified professional staff or if it becomes apparent that the County does not have sufficient staffing capacity to complete the delegated reviews in a timely manner.

We do not believe that the \$750,000 appropriation shared by the four Counties is adequate to fulfill the obligations placed on each County to take over the Section 6E-42 review from the State. Also, as a one-time appropriation, it will be difficult for each of the Counties to take on the financial burden of providing the additional services that are currently being provided the State.

4. Proposed new Section 6E-42(e) of the Bill allows DLNR-SHPD to establish a program to certified third party individuals and organizations to review documents before submission of the documents to DLNR or designated County preservation officer for review.

We would strongly suggest that the Legislature refine this third party program to allow SHPD to augment their staff by having certified third party individuals and/or organizations assist SHPD with their Section 6E-42 reviews. By allowing SHPD to bring in certified third party reviewers to supplement the existing SHPD staff, SHPD can insure consistency in their review because the third party reviewers will be under direct supervision by the SHPD staff. The certified third party reviewers can be used to address any backlog of Section 6E-42 permits. They can also be used to address an increase in the volume of permits being sent to SHPD for Section 6E-42 reviews (i.e. surge pricing). The certified third party reviewers can be released once the volume of permits reaches a manageable level for the existing SHPD staff to review.

In closing, we strongly support full funding and personnel flexibility for SHPD so that it can hire and retain the staff it needs to perform its important historic preservation duties. We strongly oppose delegating certain duties to the Counties in the manner proposed by the bill. And we strongly support proposed new Section 6E-42E to allow SHPD to create a third party review process.

Thank you for the opportunity to provide our comments on the bill. Should you have any questions or require any additional information, please feel free to contact us directly.



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Dean Uchida, Director  
City and County of Honolulu, Department of Planning and Permitting

**Kaaina Hull**

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Ka'aina Hull, Director  
County of Kauai, Planning Department

**Michele  
McLean**

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Michele McLean, Director  
County of Maui, Planning Department

**Zendo Kern**

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Zendo Kern (Jan 27, 2022 08:59 HST)

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Zendo Kern, Director  
County of Hawaii, Planning Department

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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January 28, 2022

The Honorable Lorraine R. Inouye, Chair  
Senate Committee on Water and Land  
Hawaii State Capitol  
415 South Beretania Street, Room 210  
Honolulu, Hawaii 96813

Dear Senator Inouye:

Subject: Senate Bill No. S.B. 3135 and H.B. 2167, Relating to Historic Preservation Reviews

The Planning Directors of all four Counties in Hawaii would like to thank you for the informational briefing your Committee held on the subject bill on January 10, 2022. As suggested at the meeting, the County Planning Directors have reviewed the bill and collectively provide the following comments and suggestions for your consideration.

We understand that the purpose of this Administration bill is to assign the responsibility for certain historic preservation project reviews under section 6E-42, Hawaii Revised Statutes, to the respective counties.

Pursuant to Section 6E-3, the Department of Land and Natural Resources (DLNR), State Historic Preservation Division (SHPD), is responsible for regulation of archaeological activities throughout the State. Section 6E-42 states that prior to any approval by the County of any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office shall advise the DLNR-SHPD and allow DLNR-SHPD an opportunity for review and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places.

SHPD indicates that in every other state in the union, many of these reviews would be subject to review at the county or municipal level--only Hawaii requires reviews and evaluations at the state level. In order to improve protection of Hawaii's historic properties by ensuring more decisions are made at the local level, and promote more timely reviews, DLNR believes that it is reasonable and appropriate to authorize the Counties to assume responsibilities for such reviews.

Discussion:

At the Senate Water and Land Committee meeting of January 10, 2022, SHPD Administrator Alan Downer testified on the challenges SHPD has in recruiting and retaining qualified archaeologists and architects to conduct the required Section 6E-42 reviews. This has resulted in delays in SHPD's review of projects which has been further complicated by SHPD's internal procedures to prioritize certain projects over others.

The Counties (County of Kauai, City and County of Honolulu, County of Maui and County of Hawaii) have the following comments/concerns:

1. Decentralizing the review to have each County conduct a Section 6E-42 review for projects in their respective counties, may create problems of consistency, as once certified, each County's designated preservation officer will be acting independently. The bill does not address what happens if SHPD disagrees with a County's designated preservation officer's findings and recommendations, nor how disagreements would be settled.
2. Requiring the Counties to be responsible for Section 6E-42 reviews does not address the current challenges that SHPD is experiencing of hiring and retaining qualified archaeologists and architects to conduct the required Section 6E-42 reviews. It merely shifts the responsibility over to the Counties, who would likely face the same challenges. SHPD Administrator Alan Downer identified improvements in SHPD's recruiting, hiring and retention practices, which should be supported and funded. Furthermore, time should be given for these improvements to be implemented, to determine if they have been successful, before shifting significant new responsibilities to the Counties.
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  - i) Adopt an ordinance to govern the County's review process that is consistent with the new law and with any administrative rules adopted pursuant to this section;
  - ii) Designate a County preservation officer who meets the professional qualification standards established by DLNR;
  - iii) Hire qualified professional staff who meet standards established by DLNR to conduct the reviews;
  - iv) Establish sufficient internal organizational controls to ensure that the qualified professional staff can make independent determinations regarding the effects of projects on historic properties;
  - v) Ensure that the qualified professional staff can function in a manner that does not create a conflict of interest or the appearance of a conflict of interest;
  - vi) Provide for appropriate public notification in a manner consistent with standards established by DLNR;
  - vii) Ensure that copies of all reports, maps, and documents, including those reflecting the County preservation official's comments, recommendations, and decisions, are provided to DLNR to be incorporated into the historic preservation digital document management system and library; and
  - viii) Enter into a written agreement with DLNR in which DLNR certifies that the County has met the requirements of the Bill and is assuming responsibility for review of projects under section 6E-42; provided further that the delegation of authority shall automatically be suspended or terminated if the County is unable to retain sufficient qualified professional staff or if it becomes apparent that the County does not have sufficient staffing capacity to complete the delegated reviews in a timely manner.

We do not believe that the \$750,000 appropriation shared by the four Counties is adequate to fulfill the obligations placed on each County to take over the Section 6E-42 review from the State. Also, as a one-time appropriation, it will be difficult for each of the Counties to take on the financial burden of providing the additional services that are currently being provided the State.



4. Proposed new Section 6E-42(e) of the Bill allows DLNR-SHPD to establish a program to certified third party individuals and organizations to review documents before submission of the documents to DLNR or designated County preservation officer for review.

We would strongly suggest that the Legislature refine this third party program to allow SHPD to augment their staff by having certified third party individuals and/or organizations assist SHPD with their Section 6E-42 reviews. By allowing SHPD to bring in certified third party reviewers to supplement the existing SHPD staff, SHPD can insure consistency in their review because the third party reviewers will be under direct supervision by the SHPD staff. The certified third party reviewers can be used to address any backlog of Section 6E-42 permits. They can also be used to address an increase in the volume of permits being sent to SHPD for Section 6E-42 reviews (i.e. surge pricing). The certified third party reviewers can be released once the volume of permits reaches a manageable level for the existing SHPD staff to review.

In closing, we strongly support full funding and personnel flexibility for SHPD so that it can hire and retain the staff it needs to perform its important historic preservation duties. We strongly oppose delegating certain duties to the Counties in the manner proposed by the bill. And we strongly support proposed new Section 6E-42E to allow SHPD to create a third party review process.

Thank you for the opportunity to provide our comments on the bill. Should you have any questions or require any additional information, please feel free to contact us directly.



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Dean Uchida, Director  
City and County of Honolulu, Department of Planning and Permitting



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Ka'aina Hull, Director  
County of Kauai, Planning Department



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Michele McLean  
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Michele McLean, Director  
County of Maui, Planning Department



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[Zendo Kern \(Jan 27, 2022 08:59 HST\)](#)

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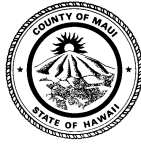
Zendo Kern, Director  
County of Hawaii, Planning Department

Council Chair  
Alice L. Lee

Vice-Chair  
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Shane M. Sinenci  
Yuki Lei K. Sugimura



Director of Council Services  
Traci N. T. Fujita, Esq.

Deputy Director of Council Services  
David M. Raatz, Jr., Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

February 6, 2022

TO: Honorable David A. Tarnas, Chair  
House Committee on Water and Land

FROM: Alice L. Lee  
Council Chair

DATE: February 6, 2022

SUBJECT: **HB 2167, RELATING TO HISTORIC PRESERVATION REVIEWS**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The purpose of this measure is to transfer authority and appropriate funds for certain reviews of projects in conjunction with Section 6E-42, Hawaii Revised Statutes, from the Department of Land and Natural Resources to counties.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I **SUPPORT** this measure for the following reasons:

1. The County of Maui recently hired an archeologist to improve management and oversight of historic preservation reviews with the intent to protect environmental resources and our cultural history.
2. Hawaii is the only state that does not require historic preservation reviews at the county or municipal level.
3. This measure appropriates funding for administrative staffing to assist with historic preservation reviews, which is needed to ensure success.

For the foregoing reasons, I **SUPPORT** this measure.

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# HISTORIC HAWAII FOUNDATION

**TO:** Representative David A. Tarnas, Chair  
Representative Patrick Pihana Branco, Vice Chair  
Committee on Water & Land (WAL)

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

**Committee:** Tuesday, February 8, 2022  
9:00 a.m.  
Via Video Conference/Conference Room 430

**RE:** **HB 2167, Relating to Historic Preservation Reviews**

On behalf of Historic Hawai'i Foundation (HHF), I am writing **with comments on HB 2167**. The bill relates to the duties of the Department of Land and Natural Resources for historic preservation reviews prior to any approvals being issued for development projects.

HB 2167 would provide a means to delegate the State Historic Preservation Division (SHPD) responsibilities to the Counties for actions conducted in accordance with HRS 6E-42 (Review of Proposed Projects). The bill establishes specific criteria and conditions under which such a delegation of authority could occur and continue. These conditions include SHPD certifying that the County has:

- Adopted an ordinance to govern the review process, consistent with State statute and administrative rules;
- Hired qualified professional staff who meet standards to conduct the reviews;
- Established internal controls to ensure independent determinations regarding effects of projects on historic properties;
- Ensured measures are taken against conflicts of interest and appearance of conflicts of interest;
- Provided for public notification;
- Provide that an administrative record is kept; and
- Entered into a written agreement to memorialize the delegation of authority.

In addition, the delegation of authority would not apply to projects affecting properties listed in the Hawai'i or National Registers of Historic Places, nor would it apply to projects reviewed pursuant to HRS 6E-43 (prehistoric and historic burial sites).

The bill also would allow SHPD to certify third-party individuals and organizations to review documents prior to submitting the documents to SHPD for review. Such a pre-review step would be for

a check on completeness and compliance with document standards. The bill states that such third-party reviews would require:

- Staff who meet professional qualifications and standards;
- Sufficient internal controls to ensure qualified professional staff can make independent determinations and function in a manner that does not create a conflict or appearance of a conflict of interest; and
- The third-party reviewers must be independent from the party that drafted or generated the documents.

## **HISTORIC HAWAII FOUNDATION COMMENTS**

HHF does not have a concern with the proposed conditions and criteria under which a County could assume primary responsibility for conducting historic preservation reviews. The conditions are reasonable and establish checks and balances to ensure that such a county-level program would be conducted by qualified professionals and in accordance with clear standards and guidelines.

However, we note that the State already has a mechanism to accomplish a partnership between the State and its subdivisions for the purposes of historic preservation: the Certified Local Government (CLG) program. This partnership between federal, state and local jurisdictions was authorized by the National Historic Preservation Act and enabled by HRS 6E-14 and -15. Three counties (Hawai'i, Kaua'i and Maui) are established CLGs.

The criteria to qualify and remain a CLG include:

- Enforce appropriate state or local legislation for the designation and protection of historic properties;
- Establish an adequate and qualified historic preservation review commission by state or local legislation;
- Maintain a system for the survey and inventory of properties that furthers the purposes of the act;
- Provide for adequate public participation in the local historic preservation program;
- Satisfactorily perform the responsibilities delegated to it under the act; and
- Provide statistics for annual reporting requirements.

It appears that the only changes between the status quo and the proposed bill is whether or not a County's enabling ordinance explicitly includes the authority to conduct project reviews for compliance with HRS 6E-42, and whether the County commits to hiring, training and retaining qualified staff members to implement such a program.

We also note that while the bill would shift the responsibility for some historic preservation reviews from the State to the Counties, SHPD would still need to oversee and ensure that the Counties comply with

the conditions, including promulgating rules for the delegation of authority and enforcement of its terms. It is unlikely that standing up a new program at the State and for all of the Counties could be achieved within six months by the proposed deadline of January 2023. To achieve the bill's terms, SHPD and all four Counties would need to complete rule-making; establish administrative procedures; establish new professional positions; recruit, hire and train new staff; and take other actions to effectuate the program.

The section of the bill related to third-party reviews is ambiguous. HHF does not object to establishing a process and procedure by which the quality and completeness of submittals is improved. But it is unclear why specific legislative action is needed in order for a state agency to establish a screening process to check if a submittal follows formatting and content requirements, including whether the analysis supports the recommendations.

Would such a third-party review be part of SHPD's program, a County program or an Applicant's responsibility? The bill implies that SHPD would have a certified list of individuals or organizations who are qualified to screen submittals and note if they are complete. Certainly, complete and accurate submittals are necessary for reviewers to be able to assess a project and its effects. It is unclear why legislative authority is needed to require complete information for an agency to conduct its statutory responsibilities. This appears to be a function that should be integrated into standard operating procedures, submittal requirements and guidelines, and rules or regulations.

In short, HHF does not object to the sections of the bill related to historic preservation reviews, but is confused about why the issues are not addressed by means of existing programs and authorities, and by means of providing adequate professional staffing and resources at both the State and County levels.

Thank you for the opportunity to comment.



February 7, 2022

Representative David Tarnas, Chair  
Representative Patrick Branco, Vice Chair  
Committee on Water and Land

RE: **HB 2167 - Relating to Historic Preservation Reviews**  
**Hearing date: February 8, 2022 at 9:00AM**

Aloha Chair Tarnas, Vice Chair Branco and members of the committee,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **SUPPORT WITH COMMENTS** on HB 2167. NAIOP Hawaii is the local 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 2167 allows for the transfer of authority for reviews of projects in conjunction with section 6E-42, Hawaii Revised Statutes (HRS), from the Department of Land and Natural Resources (DLNR) to the counties. The bill authorizes counties to assume responsibilities for such historic review to improve protection of Hawaii's historic properties by ensuring more decisions are made at the regional level and promote more timely reviews. HB 2167 also appropriates funding to the counties to enable the hiring of qualified staff to conduct reviews.

Currently, there is a significant backlog of historic reviews that are encumbering permits throughout the state. Consequently, much needed housing, economic development, and critical infrastructure projects often face significant delays in permit approvals and project implementation. NAIOP understands the great importance that these reviews hold in preservation of Hawaii's historic cultural sites, however, a balance needs to be found that both increases efficiency while maintaining the quality of reviews.

NAIOP greatly supports the intent of the measure to identify a solution to the significant backlog of much needed projects awaiting SHPD review. While we appreciate authorizing the counties to conduct these reviews under HB 2167, NAIOP recommends the adoption of the preferred language in HB 821 which establishes a program for third-party individuals and organizations to conduct document reviews on proposed projects. This amendment offers another avenue for historic preservation reviews by qualified individuals.

Enabling 3rd party reviews to be conducted will assist DLNR and the counties by significantly reducing the current caseload and backlog. Moreover, 3rd party reviews will

Representative David Tarnas, Chair  
Representative Patrick Branco, Vice Chair  
Committee on Water and Land  
February 7, 2022  
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expedite future reviews and allow for the development of much needed housing and critical infrastructure.

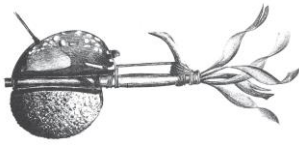
Further, amending the bill to include 3rd party reviews offers the benefit of having market demand drive the number of reviewers entering the space. The more demand, the more qualified reviewers will take on the liability and responsibility of these historic preservation project reviews. This will allow market forces to help solve this issue.

Ultimately, HB 2167 addresses a critical issue in the development of more affordable housing and critical infrastructure for Hawaii residents. NAIOP appreciates the Legislature's commitment to collaborating on this issue and look forward to working together.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "J Camp", with a stylized flourish at the end.

Jennifer Camp, President  
NAIOP Hawaii



## SOCIETY FOR HAWAIIAN ARCHAEOLOGY

P.O. BOX 22458 HONOLULU, HAWAII 96823

TO: Senator Aaron Ling Johanson (Chair)  
Senator Lisa Kitagawa (Vice Chair)  
Committee on Consumer Protection & Commerce (CPC)

Senator David A Tarnas (Chair)  
Senator Patrick Pihana Branco (Vice Chair)  
Committee on Water & Land (WAL)

Senator Sylvia Luke, Chair  
Senator Ty Cullen, Vice Chair  
Committee on Finance (FIN)

FROM: Mara Mulrooney, Ph.D.  
President, Society for Hawaiian Archaeology  
membership@hawaiianarchaeology.org

HEARING: February 8, 2022, 9:00AM, Conference Room 430 & Videoconference

SUBJECT: Testimony regarding HB 2167, Relating to Historic Preservation Reviews

I am Mara Mulrooney, President of the Society for Hawaiian Archaeology (SHA). We have over 150 members including professional archaeologists and advocates of historic preservation. On behalf of SHA, **we oppose HB 2167.**

The intent of HB 2167 is to transfer 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. It provides financial assistance to the Counties to hire qualified staff to conduct the reviews.

The State Historic Preservation Division has not been able to retain sufficient qualified staff members to conduct historic preservation reviews of projects. HB 2167 is intended to assist with remedying this by delegating reviews to qualified staff at the county level. While we agree that the SHPD needs assistance, we oppose HB 2167 for the following reasons:

- 1) Decentralizing the review process under chapter 6E has the potential to result in inconsistencies and could lead to a lack of consensus between different reviewing bodies (the State and the Counties).
- 2) The suggested one-time monetary appropriation is not sufficient to set up the structure to make this arrangement feasible, and funds would need to be allocated on an annual basis to maintain such a program.
- 3) In order to be effective, HB 2167 would require the hiring and retention of qualified archaeologists and architects. SHPD has been unable to recruit and retain qualified staff, and this challenge would likely be experienced at the county level as well.

We suggest that additional support be provided to SHPD to address their current challenges prior to any consideration of the delegation of historic preservation reviews.

Should HB 2167 pass out of this committee, we request to be consulted as a stakeholder in future deliberations on an amended bill. Should you have any questions, please feel free to contact me at the above email.

Mahalo for the opportunity to comment.

<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.