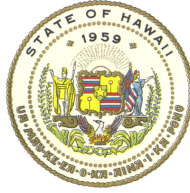
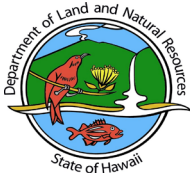


DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
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SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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M. KALEO MANUEL
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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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 Senate Committees on
WATER AND LAND
and
HAWAIIAN AFFAIRS**

**Tuesday, February 15, 2022
1:00PM**

State Capitol, Conference Room 016, Via Videoconference

**In consideration of
SENATE BILL 2912
RELATING TO AFFORDABLE HOUSING**

Senate Bill 2912 proposes to amend Sections 6E-8(b), 6E-10, and 6E-42, Hawaii Revised Statutes (HRS), to require the Department of Land and Natural Resources (Department) to contract with a qualified third-party consultant when necessary to expedite review of affordable housing developments providing that at least 80% of the units will be affordable. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure and offers the following comments.**

The Department recognizes Hawaii's housing crisis and the need to expedite the development and delivery of additional housing units, especially low income and affordable units. The Department also recognizes that expediting the various review processes established by Chapter 6E, HRS, may be helpful in accelerating development of affordable housing. The Department is actively working on a number of improvements that will expedite these reviews, some of which are included in draft legislation already included in proposed measures before the Legislature in this session. The Department will continue to explore other changes and improvements to expedite review procedures while still ensuring proper protection of Hawaii's significant historic properties.

Senate Bill 2912 SECTION 2 amends Section 6E-8, HRS, to direct the Department to retain a qualified third-party consultant to conduct the required review of housing projects provided that at least 80% of the units will be affordable; if the Department determines that it cannot provide written concurrence or non-concurrence within 60-days, and the qualified third-party consultant will provide a recommendation to the Department within 30-days. The measure would require

the Department to obtain the approval the appropriate island burial council approval prior to contracting for the services of a third-part consultant.

The Department believes that obtaining the “approval of the appropriate island burial council prior to contracting to retain the services of the third party consultant” is inappropriate and contrary to the intent of this measure. The Department believes that once the Department has determined that a third-part consultant is needed, and identified qualified third-party consultants, selection and entering into a contract is entirely an internal departmental procurement matter. Furthermore, the various island burial councils meet no more than once a month. Requiring island burial council approval prior to executing a contract with a third-party consultant will at best delay entering into such contracts by 30 days. The delay could potentially much longer as the procurement process would have to be restarted if an island burial council defers approval or declines to approve a third-party consultant. The Department recommends that the requirement for island burial council approval of the third-party consultant be deleted here, as well as in the relevant portions of Senate Bill 2912 SECTIONs 3 and 4.

Senate Bill 2912 SECTION 3 amends Section 6E-10, HRS, which pertains to department review of project affecting privately owned properties that are listed in the Hawaii or national registers of historic places or are contributing elements to a designated historic district, with identical provisions, and additional conforming changes to ensure that the Department or a third-party consultant can access the private property to conduct necessary reviews.

The Department believes that the amendments in Senate Bill 2912 SECTION 3 are unnecessary as it seems likely that there will be few, if any, projects intending to deliver 80% affordable housing units proposed in historic properties that would be subject to review under Section 6E-10, HRS. Furthermore, any project that would be reviewed under Section 6E-10, HRS, would require a building permit from the county, and thus would be subject to review under the provisions of Section 6E-42, HRS, and would therefore be subject to the provisions of the amendments proposed in Senate Bill 2912 SECTION 4. The Department recommends that the amendments in Senate Bill 2912 SECTION 3 be deleted from this measure.

Senate Bill 2912 SECTION 4 amends Section 6E-42, HRS, which pertains to department review of projects requiring state or county permits, licenses, or other entitlements, with identical provisions. The Department reiterates its recommendation regarding deletion of the requirement for island burial council approval of third-party consultants in this section of the measure.

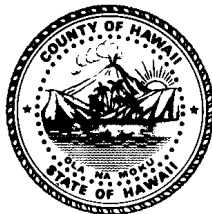
The Department is deeply concerned that this measure does not appropriate funds for these third-party consultant contracts. Neither the Department nor its State Historic Preservation Division have funds to enter into such contracts. Funding for such contracts is not included in the Governor’s budget request for the coming fiscal year. Accordingly, if Senate Bill 2912 is enacted without an appropriation, the Department would be directed to enter into contracts that it can not fund. As a final observation on this, the Department cannot provide the Committee with an estimate of what level of funding would be required to implement these provisions.

The Department notes that Senate Bill 3135 provides a route to use of third-party consultants, who would be paid by the project sponsor, rather than the Department avoiding the absence of funding and the difficulty with estimating the level of funding needed. Senate Bill 3135 would allow project sponsors to engage qualified third-party consultants to review their affordable housing projects expediting Chapter 6E, HRS, review by the Department. Senate Bill 3135 is

not limited to affordable housing projects but offers an avenue to address the issue Senate Bill 2912 is intended to address without the issues noted by the Department in this testimony. The Department strongly prefers Senate Bill 3135 and urges the Committee to defer this measure.

Thank you for the opportunity to comment on this measure

REBECCA VILLEGAS
Council Member
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HAWAI'I COUNTY COUNCIL

West Hawai'i Civic Center, Bldg. A
74-5044 Ane Keohokalole Hwy. Kailua-Kona, Hawai'i 96740

February 14, 2022

TESTIMONY OF REBECCA VILLEGAS COUNCIL MEMBER, HAWAI'I COUNTY COUNCIL ON SB 2912, RELATING TO AFFORDABLE HOUSING

Committee on Water and Land

Committee on Hawaiian Affairs

Tuesday, February 15, 2022 at 1:00pm

House Conference Room 016 Via Videoconference

Aloha Chair Inouye, Chair Shimabukuro, and Members of the Committees:

My testimony is submitted in my individual capacity as a member of the Hawai'i County Council and Chair of the Hawai'i County Council Climate Resilience and Natural Resource Management Committee.

We support SB 2912 which requires the department of land and natural resources, through the state historic preservation division and subject to approval from the appropriate island burial council, 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 department will not be able to complete its review within sixty days.

The State faced an unprecedented economic crisis which led to a drastic decline in economic activity and disproportionately affected the State's most vulnerable populations. Our unemployment rate jumped from 2.4% in March 2020 to 22.3% in April 2020, an astonishing 20% increase in just 31 days. Hawai'i still has one of the highest unemployment rates in the nation and it is estimated that we will continue to feel the economic impacts of the pandemic for years to come. With this pandemic extending now into our third year, the need for affordable housing is of paramount importance.

For the reasons stated above I urge the Committee on Water and Land, and the Committee on Hawaiian Affairs to support this measure as well. Should you have any questions, please feel free to contact me at (808) 323-4267.

Mahalo for your consideration.

A handwritten signature in black ink, appearing to read "Rebecca Villegas".

Rebecca Villegas
Council Member, Hawai'i County Council

Hawai'i County is an Equal Opportunity Provider and Employer.