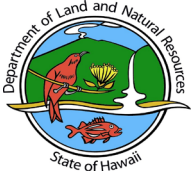


DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
JUDICIARY & HAWAIIAN AFFAIRS**

**Monday, March 21, 2022
2:00PM**

State Capitol, Conference Room 325, Via Videoconference

**In consideration of
SENATE BILL 570, SENATE DRAFT 1, HOUSE DRAFT 1
RELATING TO HISTORIC PRESERVATION**

Senate Bill 570 Senate Draft 1, House Draft 1 proposes to amend the definition of “historic property” in Section 6E-2, Hawaii Revised Statutes (HRS), by changing the age standard in the definition from 50 to 100 years, and 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) regrettably must strongly oppose this measure in part and support this it in part.**

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, Senate Draft 1, House Draft 1 proposes to amend this definition by changing the age requirement from 50 to 100 years old, and requiring that the property also be eligible for inclusion in the Hawaii register of historic places. The Department strongly opposes the change in the age standard from 50 to 100 years. Using the 100-year standard would exclude properties associated of great historical significance to the State of Hawaii and the Nation, such as places attacked on December 7, 1941, as well as all other places in Hawaii associated with the Second World War. Also excluded by a 100-year standard are places associated with the statehood movement, including the State Capitol building itself.

The time standard for listing in the National Register of Historic Places is 50 years. Changing the time standard to 100 years would create situations in which a project affecting a federally listed historic property, such as the Honolulu YWCA or Honolulu Hale, which are less than 100-years old would not be subject to review under Sections 6E-8 or 6E-42, HRS. The Department opposes the change to a 100-year time standard and strongly urges the Committee to return the draft measure to the 50-year time standard currently in Section 6E-2, HRS.

Under current law, 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,

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

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 Department’s Historic Preservation Program more rational and effective. This amendment will allow state and county agencies, including agencies issuing permits, and the Department to focus efforts on places that are demonstrably historic rather than attempting to attend to all places that are 50-years old. The incorporation of the Hawaii Register eligibility requirement in Section 6E-2, HRS, would mean that to be subject to review under the requirements of Sections 6E-8 or 6E-42, HRS, reviews, properties would need to be the work of a master or architecturally distinguished or be associated with events or individuals important in the history of Hawaii or the Nation. Inclusion of the eligibility requirement would eliminate 50-year-old buildings that do not meet Hawaii Register eligibility requirements while still providing protection for those places that are more or less recent that have characteristics making them historic.

The Department fully supports amending definition of historic property in Section 6E-2, HRS, to include the requirement that places be eligible for the Hawaii Register of Historic Places.

Thank you for the opportunity to comment on this measure.

HISTORIC HAWAII FOUNDATION

TO: Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair
Committee on Judiciary and Hawaiian Affairs (JHA)

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

Committee: Monday, March 21, 2022
2:00 p.m.
Via Video Conference and Conference Room 325

RE: SB570 SD1 HD1, Relating to Historic Preservation

On behalf of Historic Hawaii Foundation (HHF), I am writing in **strong opposition to SB570 SD1 HD1 as currently written**. The bill would amend Hawai'i Revised Statutes §6E-2 to revise the definition of "historic property" to include only those properties that are over 100 years of age, and provide conditional acknowledgement of properties that are over 50 years old provided that they meet the criteria for being entered into the Hawai'i register of historic places.

Currently, HRS §6E-2 defines historic properties as any building, structure, object, district, area, or site, including heiau and underwater site, which is over 50 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.

Previous iterations of SB570 attempted to address this issue by adding 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 include these additional aspects. HHF was supportive of that approach and provided comments on additional considerations to clarify intent and applicability.

However, the HD1 draft of the bill has muddled the issues in a way that is problematic by having two different age thresholds and three different criteria thresholds.

Under the HD1 draft language, the applied definition of historic property would result in three categories of property:

- Properties aged 0-49 years old would never be historic, regardless of whether they meet criteria for listing on the state or national registers of historic places;

- Properties aged 50-99 years old would be conditionally historic, only if they meet the criteria for listing on state register of historic places;
- Properties aged 100 years and older would always be historic, regardless of whether they meet the criteria for listing on state register or not.

While prior testimony and discussion have focused on the definition of historic property as a trigger for project review, it is important to remember that a robust and inclusive preservation program is much more than permit review actions. The changed definition would also affect affirmative efforts to identify, interpret and share Hawai'i's history for the education, inspiration and enjoyment of both residents and visitors.

HHF is concerned that changing the age threshold to 100 years will disadvantage numerous sites that are important to the history and culture of Hawai'i. While some of the locations that are between 50 and 100 years old may meet the criteria for listing on the Hawai'i Register of Historic Places, many have never been nominated or even evaluated. The changed definition would leave them without an opportunity or trigger for assessment and potential protections.

Under the current system, properties must be at least 50 years old even to be considered for listing on the Hawai'i Register of Historic Places and for the Hawai'i Historic Places Review Board to determine if the nominations demonstrate eligibility. It is unclear whether the State would be able to accept and approve new nominations to list properties to the state register if such property was built after 1922, or if it would affect those that are already listed but not yet 100 years old. The changed definition could throw the entire Hawai'i Register of Historic Places into chaos.

Just of few of the many historic properties that are already listed on the Hawai'i Register that could be illegitimated by this bill include:

- Alexander & Baldwin Building (1929)
- Aloha Tower (1926)
- Arizona Memorial (1962) and other sites associated with the December 7, 1941 attack and all of World War II (1941-1945)
- Civilian Conservation Corps Camp at Kōke'e State Park (1934-1941)
- Dillingham Transportation Building (1929)
- East West Center Complex (1962)
- 'Ewa Sugar Plantation Villages (1890 – 1957)
- Hawai'i State Capitol (1969)
- Honolulu Museum of Art (1927)

- ʻĪao Theater, Wailuku (1928)
- ILWU Jack Wayne Hall, Honokaʻa (1954)
- Kalaupapa Historic District (1866-1969)
- Kunia Camp Historic District (1928-1963)
- Līhuʻe Post Office (1939)
- National Memorial Cemetery of the Pacific (1948)
- Palace Theater, Hilo (1925)
- Sueoka Store, Kōloa (1933)

The proposed change would have a disproportionate outcome and adverse effect on properties associated with women, people of color and less affluent groups. In recent decades, there have been deliberate and methodical attempts to diversify the National and the Hawaiʻi Registers of Historic Places to include underrepresented groups and untold stories in order to include the full history of both the state and the nation.

As many of those individuals and communities did not have the opportunities available to them in earlier eras, it is only now that their stories and sites are becoming known. The proposed age threshold of 100 years places an unnecessary barrier and penalizes historically marginalized communities from recognition of their historic significance and contributions to Hawaiʻi and the nation.

HHF offers a few examples to illustrate this concern:

- In 2012, the Legislature established a working group through the Department of Land and Natural Resources to develop recommendations to preserve and protect Honouliuli, a major site on Oʻahu where Japanese-Americans were interned during World War II from 1943-1946. At that time, the Honouliuli Confinement Camp site was 70 years old. It was unknown if it retained enough integrity to be listed on the Hawaiʻi or National Register of Historic Places.

If the proposed definition of historic property had been in place at that time, Honouliuli would not be considered a historic property until 2043. The State would have foregone that research and designation effort, and the now-designated **Honouliuli National Historic Site** would still be a forgotten gulch rather than a place remembering this era of history to serve as an illustration of the dangers of civil rights violations.

- In 1944 (78 years ago), 163 naval personnel were killed and 396 were injured at West Loch at the Pearl Harbor Naval Base when the 29th Decontamination Unit were loading ammunition and fuel on landing ship tanks in preparation for the U.S. invasion of the Japanese-held Mariana Islands. The victims were primarily African American sailors; in the aftermath of the disaster, the

Navy made drastic changes to both its ordnance handling procedures and social changes that eventually lead to integration within the services.

The **West Loch Disaster** was classified until the 1960s. It became better known with annual commemorative events beginning in 2009 through the efforts of the African American Diversity Cultural Center of Hawai'i, but this historic event is still not widely known. The site itself has not been evaluated to determine if it meets the criteria for being listed individually on the Hawai'i Register of Historic Places, although it is contained within the boundaries of the Pearl Harbor National Historic Landmark, which is listed for its World War II significance generally.

Under the bill's proposed definition of historic property, the site of the West Loch Disaster might not be considered a historic property for association with this catastrophic event and SHPD would not have a nexus to participate in efforts to preserve and interpret this part of history.

- Many of Hawai'i's most **notable architects, artists and designers** did outstanding work between 100 and 50 years ago. Many of the buildings, structures and artworks from this period have only recently become recognized and valued. A few of those who are only now coming into wider public awareness are listed below.

Many of their works still need to be added to the Hawai'i Inventory of Historic Properties and evaluated for eligibility for the state register for design, engineering and construction significance. Under the proposed definition of historic property, many of them would remain obscure or ignored by the official historic preservation program of the State.

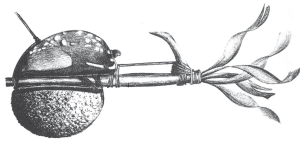
- **Ray Akagi** was a draftsman in the 1930s with C.W. Dickey, Hart Wood and Guy Rothwell. He became a licensed architect in 1947 and operated his office until 1971. He designed the Buck Toy Society Hall on Vineyard Avenue, Niu Valley Elementary School, and a number of churches for the Roman Catholic Church, including Holy Family on Hickam Air Force Base, St. Peter and Paul in Honolulu, and St. Anthony's in Kailua;
- **Juliette May Fraser** was a talented painter, muralist and printmaker who received a WPA commission in 1934 to prepare murals for the Hawai'i State Library. Her other works can be seen at the Board of Water Supply and Ben Parker School in Kāne'ohe.
- **Hego Fuchino** opened his engineering office in Honolulu in 1919. Shortly after the bombing of Pearl Harbor, Fuchino was arrested and sent to an internment camp in Wisconsin where he was held for five years. With his release he returned to Hawai'i and reopened his office. Major works prior to the war include the Makiki Christian Church and the Izumo Taishakyo Mission. In 1947 he entered into partnership with Robert Katsuyoshi, which lasted until Fujino's death. The Soto Zen Mission on Nu'uuanu Avenue and the Waipahu Hongwanji are among his noteworthy post-war designs.

- **Ernest Hideo Hara** opened his architectural firm in 1945. He designed a number of apartments and hotels, including the Queen Kapi‘olani (1968), Waikīkī Grand (1962), Hilo Hawaiian (1976), and the Waikīkī Shopping Plaza (1975). He was a founding member of Central Pacific Bank and served on its board from 1954-1980. In 1969 he was the first person of Asian descent appointed to Punahou School’s Board of Trustees.
- **Erica Karawina** was a renowned stained-glass artist whose works adorn many churches, businesses and public buildings. She came to Honolulu in 1949 and created dozens of stained-glass murals. Her works include the windows in the Kalanimoku Building, St. Anthony’s in Kailua, Mānoa Valley Church, Wesley Methodist Church, and St. John’s Episcopal Church in Kula, Maui.
- **Stephen Oyakawa** was born in Hawai‘i and worked for Frank Lloyd Wright from 1944 until 1959. His works include the ‘Aiea Library, Liliha Library, Līhu‘e Library, the Hale Aloha complex of four round dormitories at the University of Hawai‘i.
- **Kenneth Sato** was born on the North Shore of O‘ahu, graduated from McKinley High School, and received a degree in civil engineering from the University of Hawai‘i in 1930. He owned the Kewalo Steel Company and designed a number of churches, apartments, and low-rise commercial buildings. He also worked on a number of public schools and bridges for the Territory of Hawai‘i.

These are only a few of the events, people and design achievements that are important to the history of Hawai‘i that have occurred less than 100 years ago but that nevertheless need to be included in Hawai‘i’s historic preservation program.

HHF believes that the revised definition of “historic property” as proposed in **SB570 SD1 HD1** would introduce a great deal of confusion, conflict and delay. It would negate and marginalize the many contributions, lessons and achievements of prior generations and deny those sites the recognition that they deserve, as well as access to programs to help preserve and share them.

Therefore, HHF opposes the bill as currently written.



SOCIETY FOR HAWAIIAN ARCHAEOLOGY

P.O. BOX 22458 HONOLULU, HAWAII 96823

LATE

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

Senator Mark Nakashima, Chair
Senator Scot Marayoshi, Vice Chair
Committee on Judiciary & Hawaiian Affairs (JHA)

Senator Sylvia Luke, Chair
Senator Kyle Yamashita, Vice Chair
Committee on Finance (FIN)

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

HEARING: March 21, 2022, 2:00 PM, Conference Room 325 & Videoconference

SUBJECT: Testimony in **support** of SB 570, Relating to Historic Preservation

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 **support** and offer comments on SB 570 (Relating to Historic Preservation).

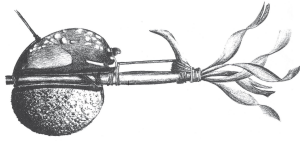
The intent of SB 570 is to ensure better protection of vulnerable historic properties, and to provide more accountability and transparency in historic preservation compliance, as managed by the State Historic Preservation Division (SHPD). SB 570 will provide a clear framework outlining the regulations and standards that will categorize which properties meet the state's historic preservation program. Hawai'i State Legislature Chapter 6E Section 2 Historic Preservation, defines "'Historic property' as any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old."

The Constitution of the State of Hawai'i acknowledges the values of conserving historic and cultural properties throughout the state. Legislature recognizes that the conservation of historic properties is in the interest of the public. Comprehensive programs lead to engagement in historic preservation at all levels of education, inspiration, as well as cultural and historic enrichment of its citizens.

Currently, §6E-2 provides a simplistic and broad definition that relies on the property(ies) age of construction. There have been too many instances of archaeology firms and developers taking

<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.



SOCIETY FOR HAWAIIAN ARCHAEOLOGY

P.O. BOX 22458 HONOLULU, HAWAII 96823

advantage of the lack of oversight and inability to enact consequences by the SHPD. This has allowed, in some cases, the destruction of sites with important research data and the state's treasured heritage. We further believe that the SHPD should be provided with the support necessary to adequately enforce protections to our State's heritage.

Should SB 570 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 your consideration of our testimony.

Mara Mulrooney, Ph.D.
President, Society for Hawaiian Archaeology

<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.

SB-570-HD-1

Submitted on: 3/20/2022 1:57:18 PM

Testimony for JHA on 3/21/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lorraine Minatoishi, PhD	Individual	Oppose	In Person

Comments:

I am writing in opposition to Bill SB 570-SD-1-HD-1. This Bill is seeking to amend the definition of “Historic Property” under the Historic Preservation Law.

This amendment would be in direct conflict with the National Historic Preservation Act of 1966. The National Historic Preservation Act (NHPA) of 1966 was passed primarily to acknowledge the importance of protecting our nation’s heritage from rampant federal development. It was the triumph of more than a century of struggle by a grassroots movement of committed preservationists. Under this federal legislation, the definition of a historic property is one that is 50 years old and is eligible under several other criteria.

By changing the definition for the State of Hawaii, from 50 years old to 100 years old, many laws and levels of protection of historic properties becomes invalid, and difficult for the State Historic Preservation Division to administer. Under the NHPA, several resources and policies have been enacted, including: Section 106, National Register of Historic Places, Historic Tax Credits, Reports and Studies, Tools for Preservation, Disaster Response, Heritage Travel Itineraries. Many of these bring direct funding into our State to preserve buildings and modernize them, providing disaster relief for our communities.

It would be a tragic move to initiate Bill SB 570-SD-1-HD-1. It would not only make it difficult to discern what buildings fall under the federal guidelines, and what would fall under the state guidelines for owners and agencies, but would also stop moneys from flowing in to our communities via this important Federal resource. For example, my firm is renovating the Kalakaua Post Office downtown that is 95 years old- it is a building used by both State and Federal agencies. If Bill SB 570-SD-1-HD-1 were enacted, under the Hawaii Law, this building (were it not listed on the Historic Register) would not be considered historic yet under the federal law, it would be. The confusion would be mind boggling. And Federal historic tax credits administered by the Hawaii SHPD, would be difficult to apply for.

I hope that you will vote in opposition Bill SB 570-SD-1-HD-1, that would change the definition of what a “Historic Property” is in Hawaii. I would be happy to discuss this further at your convenience.

Sincerely,

Lorraine Minatoishi