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# A BILL FOR AN ACT

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RELATING TO HISTORIC PRESERVATION REVIEWS.

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

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

9       The legislature further finds that regulatory costs are a  
10      major contributor to the high cost of housing in Hawaii, despite  
11      the State facing an unprecedented housing crisis. According to  
12      a 2024 report released by the university of Hawaii economic  
13      research organization, the median sale price of a new two-  
14      bedroom condominium in Hawaii was about \$670,000, more than  
15      double the national average price, and regulatory costs comprise  
16      \$387,000. Permit applicants face significant delays in  
17      obtaining county permits that require historic preservation



1 review because of the overwhelming volume of submittals for  
2 review. Consequently, much needed housing, economic  
3 development, and critical infrastructure projects often face  
4 significant delays in permit approvals and project  
5 implementation.

6 The legislature additionally finds that due to the current  
7 demand for the construction of housing and other critical  
8 infrastructure, the state historic preservation division  
9 consistently receives more reports than they have time to  
10 review. According to the department of land and natural  
11 resources report to the legislature in October 2022, project  
12 reviews in the state historic preservation division's  
13 archaeology branch face "a 6-month to 1-year backlog as the  
14 volume of permit and project submissions have risen . . .".

15 The legislature also finds that allowing the state historic  
16 preservation division to engage with third-party consultants  
17 could help expedite the review process so that more housing  
18 units can be produced in a timely manner. Delegating review  
19 responsibilities will reduce the state historic preservation  
20 division's intake load and allow the division to focus on core  
21 historical review properties.



1       Therefore, legislature believes that it must take immediate  
2       action to mitigate the overwhelming volume of submissions to the  
3       state historic preservation division and the impacts on permit  
4       applicants.

5       Accordingly, the purpose of this Act is to authorize the  
6       department of land and natural resources, through the state  
7       historic preservation division, to contract its review of  
8       proposed state projects and projects affecting historic  
9       properties to third-party consultants, under certain conditions.

10       SECTION 2. Section 6E-8, Hawaii Revised Statutes, is  
11       amended to read as follows:

12       **"§6E-8 Review of effect of proposed state projects. (a)**  
13       Before any agency or officer of the State or its political  
14       subdivisions commences any project [~~which~~] that may affect  
15       historic property, aviation artifact, or a burial site, the  
16       agency or officer shall advise the department and allow the  
17       department an opportunity for review of the effect of the  
18       proposed project on historic properties, aviation artifacts, or  
19       burial sites, consistent with section 6E-43, especially those  
20       listed on the Hawaii register of historic places. The proposed  
21       project shall not be commenced, or if it has already begun,



1 continued, until the department has given its written  
2 concurrence. If:

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

5 (2) Access to properties is restricted; or

6 (3) Circumstances dictate that construction be done in  
7 stages,

8 the department may give its written concurrence based on a  
9 phased review of the project; provided that there shall be a  
10 programmatic agreement between the department and the project  
11 applicant that identifies each phase and the estimated timelines  
12 for each phase.

13 The department shall provide written concurrence or non-  
14 concurrence within ninety days after the filing of a request  
15 with the department. The agency or officer seeking to proceed  
16 with the project, or any person, may appeal the department's  
17 concurrence or non-concurrence to the Hawaii historic places  
18 review board. An agency, officer, or other person who is  
19 dissatisfied with the decision of the review board may apply to  
20 the governor, who may take action as the governor deems best in  
21 overruling or sustaining the department.



1 (b) The department of Hawaiian home lands, [~~prior to~~]  
2 before commencing any proposed project relating to lands under  
3 its jurisdiction, shall consult with the department regarding  
4 the effect of the project upon historic property or a burial  
5 site.

6 (c) The State, its political subdivisions, agencies, and  
7 officers shall report to the department the finding of any  
8 historic property during any project and shall cooperate with  
9 the department in the investigation, recording, preservation,  
10 and salvage of the property.

11 (d) Whenever a proposed state project involves the  
12 development of residential units or mixed-use development, as  
13 long as a majority of the mixed-use development is residential,  
14 and after an initial evaluation, the department determines that:

15 (1) The department will not be able to provide its written  
16 concurrence or non-concurrence within sixty days of  
17 the filing of the request with the department;

18 (2) The third-party consultant has the qualifications and  
19 experience pursuant to subsection (e) to conduct the  
20 review; and

21 (3) The contract with the third-party consultant:



1           (A) Requires the third-party consultant to provide a  
2           recommendation to the department within thirty  
3           days of the date that the consultant is retained  
4           to conduct the review and comment; and

5           (B) Allows the department to reserve the right to  
6           determine whether use of a third-party consultant  
7           was appropriate and terminate the contract if the  
8           third-party consultant:

9           (i) Has evidenced insufficient compliance with  
10           the state historic preservation laws and  
11           rules; or

12           (ii) Has not completed assigned historic  
13           preservation reviews accurately,

14           then the department may retain a third-party consultant to  
15           conduct the review described under subsection (a) no later than  
16           sixty days after the filing of a request with the department;  
17           provided that this subsection shall not apply to projects that  
18           trigger section 106 of the National Historic Preservation Act of  
19           1966, as amended.

20           (e) Whenever the department retains any third-party  
21           consultant, including an architect, engineer, archaeologist,



1 planner, or other professional, to review an application for a  
2 permit, license, or approval pursuant to subsection (d), the  
3 third-party consultant shall:

4 (1) Meet the educational and experience standards as well  
5 as the qualifications for preservation professionals  
6 pursuant to rules adopted by the state historic  
7 preservation division;

8 (2) Follow state ethics rules; and

9 (3) Not review any project that the third-party consultant  
10 or the consultant's employer has previously worked on.

11 (f) The project proponent shall pay the reasonable fee  
12 requirements of the third-party consultant; provided that the  
13 project proponent may contract with or sponsor any county,  
14 housing authority, non-profit organization, or person to meet  
15 the fee requirements.

16 ~~[(d)]~~ (g) The department shall adopt rules in accordance  
17 with chapter 91 to implement this section."

18 SECTION 3. Section 6E-42, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§6E-42 Review of proposed projects.** (a) Except as  
21 provided in section 6E-42.2, before any agency or officer of the



1 State or its political subdivisions approves any project  
2 involving a permit, license, certificate, land use change,  
3 subdivision, or other entitlement for use~~[, which]~~ that may  
4 affect historic property, aviation artifacts, or a burial site,  
5 the agency or office shall advise the department and ~~[prior to]~~  
6 before any approval allow the department an opportunity for  
7 review and comment on the effect of the proposed project on  
8 historic properties, aviation artifacts, or burial sites,  
9 consistent with section 6E-43, including those listed in the  
10 Hawaii register of historic places. If:

- 11 (1) The proposed project consists of corridors or large
- 12 land areas;
- 13 (2) Access to properties is restricted; or
- 14 (3) Circumstances dictate that construction be done in
- 15 stages,

16 the department's review and comment may be based on a phased  
17 review of the project; provided that there shall be a  
18 programmatic agreement between the department and the project  
19 applicant that identifies each phase and the estimated timelines  
20 for each phase.





1 (b) The department shall inform the public of any project  
2 proposals submitted to it under this section that are not  
3 otherwise subject to the requirement of a public hearing or  
4 other public notification.

5 (c) Whenever the project involves the development of  
6 residential units or mixed-use development, as long as a  
7 majority of the mixed-use development is residential, and after  
8 an initial evaluation, the department determines that:

9 (1) The department will not be able to provide its review  
10 and comment within sixty days of being advised  
11 pursuant to subsection (a);

12 (2) The third-party consultant has the qualifications and  
13 experience required by subsection (d) to conduct the  
14 review; and

15 (3) The contract with the third-party consultant:

16 (A) Requires the third-party consultant to provide a  
17 recommendation to the department within thirty  
18 days of the date that the consultant is retained  
19 to conduct the review and comment; and

20 (B) Allows the department to reserve the right to  
21 determine whether use of a third-party consultant



1           was appropriate and terminate the contract if the  
2           third-party consultant:

3           (i) Has evidenced insufficient compliance with  
4           the state historic preservation laws and  
5           rules; or

6           (ii) Has not completed assigned historic  
7           preservation reviews accurately,

8   then the department may retain a third-party consultant to  
9   conduct the review and comment described under subsection (a) no  
10 later than sixty days after being advised pursuant to subsection  
11 (a); provided that this subsection shall not apply to projects  
12 that trigger section 106 of the National Historic Preservation  
13 Act of 1966, as amended.

14       (d) Whenever the department retains any third-party  
15 consultant, including any architect, engineer, archaeologist,  
16 planner, or other professional, to review an application for a  
17 permit, license, or approval under subsection (c), the third-  
18 party consultant shall:

19       (1) Meet the educational and experience standards as well  
20       as the qualifications for preservation professionals



1           pursuant to rules adopted by the state historic  
2           preservation division;

3           (2) Follow state ethics rules; and

4           (3) Not review any project that the third-party consultant  
5           or the consultant's employer has previously worked on.

6           (e) The project proponent shall pay the reasonable fee  
7           requirements of the third-party consultant; provided that the  
8           project proponent may contract with or sponsor any county,  
9           housing authority, non-profit organization, or person to meet  
10          the fee requirements.

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

13          SECTION 4. The department of land and natural resources  
14 shall publish on its website proposed rules implementing  
15 sections 2 and 3 of this Act within one year from the effective  
16 date of this Act. Thereafter, the department of land and  
17 natural resources, within one year, shall present its proposed  
18 final rules to the board of land and natural resources.

19          SECTION 5. This Act does not affect rights and duties that  
20 matured, penalties that were incurred, and proceedings that were  
21 begun before its effective date.



1       SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3       SECTION 7. This Act shall take effect on July 1, 2025;  
4 provided that:

5       (1) Sections 2 and 3 of this Act shall take effect on  
6       July 1, 2026; and

7       (2) This Act shall be repealed on June 30, 2030, and  
8       sections 6E-8 and 6E-42, Hawaii Revised Statutes,  
9       shall be reenacted in the form in which they read on  
10       the day prior to the effective date of this Act.



**Report Title:**

DLNR; SHPD; Review and Comment; Historic Preservation Review;  
Residential Units; Mixed-Use Development; Third-Party  
Consultants

**Description:**

Beginning 7/1/2026, authorizes the State Historic Preservation Division to contract its review of proposed state projects and projects affecting historic properties to third-party consultants under certain circumstances. Establishes requirements for qualified third-party consultants providing review services. Requires the project proponent to pay the reasonable fee requirements of the third-party consultant. Requires the Department of Land and Natural Resources to publish a draft of its proposed rules and later present its proposed final rules to the Board of Land and Natural Resources. Sunsets 6/30/2030. (CD1)

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

