H.B. NO. ⁸³⁰ H.D. 2 S.D. 2 C.D. 1

A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION REVIEWS.

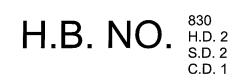
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that 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

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

6 The legislature additionally finds that due to the current demand for the construction of housing and other critical 7 8 infrastructure, the state historic preservation division 9 consistently receives more reports than they have time to review. According to the department of land and natural 10 resources report to the legislature in October 2022, project 11 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.

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

Accordingly, the purpose of this Act is to authorize the
department of land and natural resources, through the state
historic preservation division, to contract its review of
proposed state projects and projects affecting historic
properties to third-party consultants, under certain conditions.
SECTION 2. Section 6E-8, Hawaii Revised Statutes, is
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,

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1	continued	l, until the department has given its written
2	concurren	ce. 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 depar	tment may give its written concurrence based on a
9	phased re	view of the project; provided that there shall be a
10	programma	tic 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	concurren	ce within ninety days after the filing of a request
15	with the	department. The agency or officer seeking to proceed
16	with the p	project, or any person, may appeal the department's
17	concurren	ce or non-concurrence to the Hawaii historic places
18	review boa	ard. An agency, officer, or other person who is
19	dissatisf	ied with the decision of the review board may apply to
20	the govern	nor, who may take action as the governor deems best in
21	overruling	g or sustaining the department.

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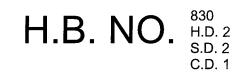
(b) The department of Hawaiian home lands, [prior to]
 <u>before commencing</u> any proposed project relating to lands under
 its jurisdiction, shall consult with the department regarding
 the effect of the project upon historic property or a burial
 site.

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 The department will not be able to provide its written (1) 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:



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1	<u>(A)</u>	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		<u>rules; or</u>
12		(ii) Has not completed assigned historic
13		preservation reviews accurately,
14	then the depar	tment may retain a third-party consultant to
15	conduct the re	view described under subsection (a) no later than
16	sixty days aft	er the filing of a request with the department;
17	provided that	this subsection shall not apply to projects that
18	trigger section	n 106 of the National Historic Preservation Act of
19	1966, as amend	ed.
20	(e) When	ever the department retains any third-party
21	consultant, in	cluding an architect, engineer, archaeologist,

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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)] <u>(g)</u> 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

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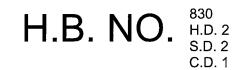
1	State or	its political subdivisions approves any project
2	involving	a permit, license, certificate, land use change,
3	subdivisi	on, or other entitlement for use[, which] <u>that</u> may
4	affect hi	storic property, aviation artifacts, or a burial site,
5	the agenc	y or office shall advise the department and [prior to]
6	<u>before</u> an	y approval allow the department an opportunity for
7	review an	d comment on the effect of the proposed project on
8	historic	properties, aviation artifacts, or burial sites,
9	consisten	t with section 6E-43, including those listed in the
10	Hawaii re	gister 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 depar	tment's review and comment may be based on a phased
17	review of	the project; provided that there shall be a

19 applicant that identifies each phase and the estimated timelines 20 for each phase.

programmatic agreement between the department and the project

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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 pub	lic notification.
5	(C)	Whenever the project involves the development of
6	residenti	al units or mixed-use development, as long as a
7	majority	of the mixed-use development is residential, and after
8	<u>an initia</u>	l 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



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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

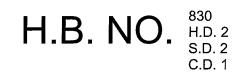
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1		pursuant to rules adopted by the state historic	
2		preservation division;	
3	(2)	Follow state ethics rules; and	
4	(3)	Not review any project that the third-party consultant	
5		or the consultant's employer has previously worked on.	
6	(e)	The project proponent shall pay the reasonable fee	
7	requireme	nts of the third-party consultant; provided that the	
8	project p	roponent may contract with or sponsor any county,	
9	housing authority, non-profit organization, or person to meet		
10	the fee requirements.		
11	[(c)] <u>(f)</u> The department shall adopt rules in accordance		
12	with chap	ter 91 to implement this section."	
13	SECT	ION 4. The department of land and natural resources	
14	shall pub	lish on its website proposed rules implementing	
15	sections	2 and 3 of this Act within one year from the effective	
16	date of t	his Act. Thereafter, the department of land and	
17	natural r	esources, within one year, shall present its proposed	
18	final rul	es to the board of land and natural resources.	
19	SECT	ION 5. This Act does not affect rights and duties that	
20	matured,	penalties that were incurred, and proceedings that were	
21	begun bef	ore its effective date.	

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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.



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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.

