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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
WATER AND LAND
Tuesday, February 11, 2025
10:00 AM

State Capitol Conference Room 411 & Videoconference

In consideration of
HOUSE BILL 830, HOUSE DRAFT 1
RELATING TO HISTORIC PRESERVATION REVIEWS

House Bill 830 HD1 would amend Section 6E-8, 6E-10, and 6E-42 Hawaii Revised Statutes (HRS) to require the Department of Land and Natural Resources 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 Department is unable to complete its review within sixty days. **The Department of Land and Natural Resources (Department) acknowledges the intent of this measure and offers comments.**

Chapter 6E, HRS, sets forth the framework for a comprehensive statewide historic preservation program in Hawai'i. A key part of that program is the review of projects, as required by sections 6E-8, 6E-10, 6E-42, and 6E-43, HRS; and the Department believes these sections of Chapter 6E, HRS, reflect the Legislature's intent to require project proponents to consider the impact of their projects on 'iwi kūpuna, as well as historic and cultural resources. The Department recognizes the need to streamline the historic preservation review process to improve the timeliness of historic preservation reviews. This bill requires that the State Historic Preservation Division (Division) contract a third-party consultant if, after its initial review, the Division determines that it will not be able to provide its written determination or written concurrence or non-concurrence within sixty days.

The Department is not opposed to the use of third-party reviewers who meet the appropriate professional qualifications. Projects that take longer than sixty days to review are typically complicated, submitted incompletely, and require additional assistance outside of the normal project review that the Division provides. It is difficult to predict whether there are sufficient third-parties to conduct such reviews. Additionally, the Division would be required to assign a staff person to manage a third-party reviewer contract and overseeing the work of a third-party reviewer. Thus, managing a third-party reviewer would

adversely offset the amount and level of work the Division staff-person would produce in lieu of the third-party reviewer. Furthermore, it is unclear whether contracting a third-party reviewer will result in a successful remedy for projects that take longer than sixty days to review. The process for contracting a third-party reviewer will likely take time and likely will result in additional delays.

Mahalo for the opportunity to provide testimony on this measure.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON WATER & LAND
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 411
Tuesday, February 11, 2025 AT 10:00 A.M.

To The Honorable Mark J. Hashem, Chair
The Honorable Rachele F. Lamosao, Vice Chair
Members of the Committee on Water & Land

COMMENTS ON HB830 HD1 RELATING TO RELATING TO AFFORDABLE HOUSING

The Maui Chamber of Commerce would like offer **COMMENTS on HB830 HD1** which requires the Department of Land and Natural Resources State Historic Preservation Division (SHPD) to contract its review of proposed state projects, and projects affecting private historic properties to third party consultants if it determines it will not be able to complete its review within sixty days and authorizes the Department to assess the cost of the third-party consultant to the project proponent.

The Chamber has consistently seen significant delays in housing projects—especially affordable housing projects—due to backlogs at SHPD. The office is overwhelmed with a large volume of projects, both large and small, and is operating with limited staff. Allowing qualified third parties to assist with the workload would expedite the permit review process, helping affordable housing projects move forward faster and ultimately lowering development costs.

However, we are concerned with the section requiring the applicant to bear the costs of the third-party review. It is not the applicant's responsibility that the department is either understaffed or that its procedures need to be improved to ensure timely reviews. Additional costs are ultimately passed down to the home buyer and may impact affordability.

We respectfully request that this provision requiring applicants to pay for third-party reviews be removed.

Mahalo for the opportunity to offer **COMMENTS on HB830 HD1**.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.



HISTORIC HAWAII FOUNDATION

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TO: Representative Mark J. Hashem, Chair
Representative Rachele F. Lamosao, Vice Chair
Committee on Water and Land (WAL)

Representative Nicole E. Lowen, Chair
Representative Amy A. Perruso, Vice Chair
Committee on Energy & Environmental Protection (EEP)

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

Committee: Tuesday, February 11, 2025
10:00 a.m.
Via Video Conference and Conference Room 411

RE: **HB 830 HD 1, Relating to Historic Preservation Reviews**

On behalf of Historic Hawai'i Foundation (HHF), I am writing in **opposition for HB 830 HD 1**. The bill requires the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources to contract its review of proposed state projects, and projects affecting historic properties to third-party consultants if the projects involve the development of affordable housing and the division, after an initial evaluation, determines it will not be able to complete its review within sixty days.

The Constitution recognizes the value of conserving historic and cultural property for the public good; the purpose of HRS 6E is to implement “the public policy of this State to provide leadership in preserving, restoring and maintaining historic and cultural property...and to conduct activities, plans and programs in a manner consistent with the preservation and enhancement of historic and cultural property” (HRS §6E-1).

State law (HRS §6E-8), currently requires that prior to any state, county or public project commencing, that the proposed project shall be referred to SHPD for its review of the proposed project’s potential effect on historic properties, aviation artifacts, or burial sites, especially those listed on the state register of historic places. The proposed project shall not commence until the department gives its written concurrence. SHPD review and comment is also required for privately-owned projects (see §6E-10, §6E-42 and §6E-43).

SHPD’s review of proposed projects is an important safeguard to ensure that historic properties and cultural resources are identified and appropriate treatment measures are in place during planning and design work, which also then limits surprises or delays during construction.

SUMMARY OF HHF CONCERNS and RECOMMENDATIONS

The bill does not demonstrate how the proposed third-party consultant would achieve either the aims of appropriate treatment and preservation of Hawaii's historic and cultural resources, nor how the third-party consultant would achieve the aims of expediting development proposals and project reviews.

The measure would allow SHPD to retain a third-party consultant to conduct the historic preservation reviews on behalf of the department in the event that SHPD is unable to complete its review within 60 days. The bill implies that SHPD would develop and maintain a list of individuals or organizations who are qualified as third-party consultants who can be activated on demand.

Rather than establish a new program and divert SHPD's resources and professional staff to overseeing and managing third-party reviewers, HHF recommends that SHPD be provided with adequate professional staffing and resources to execute its statutory responsibilities.

In addition to issues of effectiveness, HHF is also concerned with several practical issues, including: professional qualifications that would be required; selection and contracting procedures; how conflicts of interest would be addressed; how the third-party consultant decisions would be reviewed and incorporated into the administrative record; what resources the Division would need to manage the third-party consultants and review processes; and how the decisions reached by the third-party reviewers would be institutionalized, communicated and tracked.

Rather than introduce an entirely new bureaucracy to the process, Historic Hawai'i Foundation recommends that SHPD be provided with the resources for personnel, technology, equipment and training to do the job for which it has been entrusted. If the Division is fully staffed and supported, the issues of timeliness and quality of reviews would be addressed at the source, and the proposed work-around is moot.

ISSUE #1: Qualifications and Logistics for Third-Party Consultants

Although the reliance on third-party reviewers could be a viable approach for matters such as building or zoning codes, most architects and engineers do not possess the specialized technical training to allow them to make determinations of effect on historic properties and provide meaningful review comments to ensure appropriate treatment of historic properties. We are concerned with the issue of ensuring that the reviewers have knowledge, understanding and expertise in native Hawaiian cultural resources or values, especially if the third-party consultants are selected from out-of-state.

HHF appreciates that the measure makes reference to education and experience standards and qualifications for preservation professionals as determined by SHPD rules. HHF recommends that the administrative rules also include a quality control and audit procedure that ensures the appropriateness and quality of the reviews, data tracking, implementation of review comments, and reporting.

HHF recommends that additional criteria and standards be established for any such third-party consultants. At minimum, the criteria should include:

- Professional qualifications and standards that each consultant shall demonstrate;
- Sufficient internal controls to ensure qualified third-party consultant 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 consultants must be independent from the project proponent or party that drafted or generated the project or program submittal that is the subject of the review.

It is unclear what action is required of SHPD once it receives the third-party consultant's recommendation. What action is the department expected to take? Do state personnel then review the third-party consultant's recommendations? If there are discrepancies or conflicts, how will they be resolved? Is SHPD responding to the original applicant or to the third-party reviewer? How will appropriate quality control and checks and balances be sustained? These issues will need to be addressed either in the bill or in the implementing rules and regulation.

HHF recommends that the bill include a deadline by which DLNR is to develop the draft rules for public input and comment, as well as a deadline for the final version of the rules be presented to the Board of Land and Natural Resources for action.

ISSUE #2: Integration with Federal Historic Preservation Reviews

The review and compliance process currently outlined in State statute and rules is substantially parallel to a similar process in Federal regulations, which provides for the identification, review and agreement on treatment of historic properties in cases where federal funding, land, permits or other approvals apply. However, there are key differences that need to be accommodated.

In the case of many public projects, including transportation and other infrastructure, as well as affordable housing projects, federal funds are frequently used for land acquisition and/or project financing. In those cases, Section 106 of the National Historic Preservation Act applies. The Code of Federal Regulations (36 CFR Part 800) governs issues related to historic preservation and includes specific roles and responsibilities for the State Historic Preservation Officer (SHPO). While the technical reviews may be delegated to qualified preservation professionals in the fields of architecture, architectural history or archaeology, the SHPO is ultimately responsible for the authorization and approval of the Section 106 process and resolution of potential effects on historic properties.

In the cases where federal funds, lands, permitting, licenses or approvals are required, the proposed use of third-party consultants would result in a double review process: one by the third-party reviewer for purposes of HRS §6E and one by the SHPD personnel for compliance with 36 CFR 800.

There are key differences between State and Federal historic preservation regulations, including:

- Federal law requires the agency or department to consult with other parties, including preservation organizations; other individuals or organizations with an interest in the historic resource or the proposed project; and Native Hawaiian Organizations that attach religious or

cultural significance to the historic property. Hawai'i Administrative Rules include only a limited duty to consult with other interested parties. Third-party consultants would be ill-equipped to manage or participate in the consultation process and could not represent the SHPD views.

- Federal law requires that review of projects include not only direct effects within the footprint of the project, but also indirect and cumulative effects, in which the entirety of the effect is identified and evaluated, and appropriate measures are taken. State law is primarily concerned only with direct effects and seldom looks beyond the immediate consequences to a larger picture. Third-party consultants would be ill-equipped to understand the cumulative effects or how to address them.
- Another significant difference between State and Federal regulations as they apply to historic resources is that State law is explicitly concerned with protection of Native Hawaiian burials and cultural resources, whereas Federal law is much less direct. Early identification of other types of historic properties—buildings, structures, archaeological sites—is relatively simple in that they can almost always be seen. However, subsurface or submerged historic properties are usually not previously identified. Third-party consultants would likely be unaware of unseen historic properties or have information on how to identify and resolve effects to them.

SHPD professional staff are versed in these and other differences and are able to ensure that review and compliance procedures address them. If a double-review with third-party consultants were introduced, the review processes would be segregated, adding conflict, confusion and contradiction.

Besides being inefficient and ineffective, the use of third-party consultants has the potential to remove an important safety net for the preservation and protection of the historic and cultural resources of Hawai'i and would introduce more uncertainty in the development process.

Given the ambiguities of the policy and proposed direction, and the availability of simpler and more direct solutions, HHF recommends that HB 830 HD 1 be held in committee and not passed.

Thank you for the opportunity to comment.

February 11, 2025

The Honorable Mark J. Hashem, Chair

House Committee on Water & Land
State Capitol, Conference Room 411 & Videoconference

RE: House Bill 830, HD1, Relating to Historic Preservation Reviews

HEARING: Tuesday, February 11, 2025, at 10:00 a.m.

Aloha Chair Hashem, Vice Chair Lamosao, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 10,000 members. HAR **supports** House Bill 830, HD1, which requires the Department of Land and Natural Resources 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 Department is unable to complete its review within sixty days. Authorizes the Department to assess the cost of the third-party consultant to the project proponent. Effective 7/1/3000.

Currently, Hawai'i Revised Statutes Chapter 6E, 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." With the current definition, the number of homes and buildings that qualify has continued to increase. This can be challenging for homeowners that must comply with the historic preservation review process for permits, even when their properties have no historical significance. For example, homes in Mililani were built in 1968, and homes there can be over 57 years old.

Furthermore, current law can also be challenging for the State Historic Preservation Division, as they will have to review properties simply because the property is over 50 years old, even without historical significance. By providing for a process and review by third-party consultants for properties that are not approved within 60 days may help to address these challenges.

For the foregoing reasons, the Hawai'i Association of REALTORS® supports this measure. Mahalo for the opportunity to testify.

Feb. 11, 2025, 10 a.m.
Hawaii State Capitol
Conference Room 411 and Videoconference

To: House Committee on Water and Land
Rep. Mark Hashem, Chair
Rep. Rachele Lamosao, Vice Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: HB830 — RELATING TO HISTORIC PRESERVATION REVIEWS

Aloha Chair Hashem, Vice-Chair Lamosao and other members of the Committee,

The Grassroot Institute of Hawaii **supports** [HB830](#), which would require the Hawaii Department of Land and Natural Resources to contract with third parties for the review of state projects and private projects that affect historic properties if the State Historic Preservation Division cannot complete the review within 60 days.

Grassroot has advocated contracting with third parties to conduct certain government work when practical.

As we pointed out in our report "[Seven low cost ways to speed up permitting in Hawaii](#)," Maui County has seen success in contracting with the private firm 4Leaf to expedite the rebuilding of structures in Lahaina that were destroyed or heavily damaged by the August 2023 wildfires.¹ Maui County often takes 200 days to approve permits, but 4Leaf has issued permits in just over 73 days, on average.²

According to The Economic Research Organization at the University of Hawai'i, Hawaii's housing regulations are the strictest in the country and "approval delays" for housing developments are three times longer than the

¹ Jonathan Helton, "[Seven low cost ways to speed up permitting in Hawaii](#)," Grassroot Institute of Hawaii, Oct. 2024, p. 11.

² Ibid, p. 11. See also [Maui's Automated Planning and Permitting System](#). Permit type: Building Permit - Disaster Recovery for Single-Family Dwellings, Accessory Dwellings and Accessory Structures. Status: Issued. Date range: April 29, 2025 to Dec. 30, 2024. Then download the results.

national average among communities surveyed.³ Likewise, UHERO researchers estimated that regulations comprise 58% of the cost of new condominium construction.⁴

The state's land-use rules are a key driver of Hawaii's housing crisis. As measured by the state's Honolulu Construction Cost Index, the cost for building single-family homes in 2024 was 2.6 times higher than the cost in 2020. For highrises, the cost was 2.5 times higher.⁵

Historic preservation reviews certainly play a role in these delays and their associated costs. While SHPD's average review times for projects are not readily available, the agency noted in its report to the 2023 Legislature that its archaeology reviews were taking between six months and one year, on average.⁶

Allowing third parties to conduct historic reviews could streamline the system for everyone.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

³ Rachel Inafuku, Justin Tyndall and Carl Bonham, "[Measuring the Burden of Housing Regulation in Hawaii](#)," The Economic Research Organization at the University of Hawai'i, April 14, 2022, p. 6.

⁴ Justin Tyndall and Emi Kim, "[Why are Condominiums so Expensive in Hawai'i?](#)" The Economic Research Organization at the University of Hawai'i, May 2024, p. 11.

⁵ "[Quarterly Statistical and Economic Report, 4th Quarter 2024](#)," Hawaii Department of Business, Economic Development & Tourism, pp. 107-108.

⁶ "[Report to the Thirty-Second Legislature 2023 Regular Session on the State Historic Preservation Program For Fiscal Year 2021-2022](#)," Hawaii Department of Land and Natural Resources, October 2022, p. 1.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Thirty-Third Legislature, State of Hawaii
House of Representatives
Committee on Water and Land

Testimony by
Hawaii Government Employees Association

February 11, 2025

H.B.830, H.D. 1 – RELATING TO HISTORIC PRESERVATION REVIEWS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO provides comments on H.B.830, H.D. 1, which amends sections 6E-8, Hawaii Revised Statutes, to allow the Department of Land and Natural Resources (DLNR) to retain a third-party consultant to conduct a review of any project that may affect historic property, aviation artifact, or burial site, prior to the commencement of the project.

We represent over 600 employees within the State Department of Land and Natural Resources, including many professional, administrative, and technical employees within the State Historic Preservation Division. These employees meet the existing qualifications and standards established by the department and can make independent determinations in reviewing projects in a timely manner. Permanently allowing third party reviewers to review projects contradicts what has customarily and historically been provided by government employees.

Our records indicate that the State Historic Division is hovering at a 30% vacancy rate. This is likely due to uncompetitive pay relative to the private sector and federal government, and lethargic hiring times. This proposed measure goes to the larger issue, which is that the department and the state must become more flexible, competitive, and adaptive to the current job market and public demands. The department and state needs to invest in its current and future workforce – increasing the position pay for hard to fill positions, offering modern and attractive recruitment and retention incentives, and reforming the Department of Human Resource and Development's administrative rules on hiring is paramount. In the long run, the answer to ensure that the timely review of historic properties is not to outsource government work, but to ensure that our state's workforce is adequately staffed to meet the needs of the public.

Thank you for the opportunity to provide comments for H.B.830, H.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director



February 11, 2025

Representative Mark Hashem, Chair
Representative Rachele Lamosao, Vice Chair
Committee on Water and Land

RE: **HB 830 - Relating to Historic Preservation Reviews**
Hearing date: February 11, 2025 at 10:00 AM

Aloha Chair Hashem, Vice Chair Lamosao and members of the committee,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **STRONG SUPPORT** on HB 830. 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 830 is intended to promote more timely reviews of projects by requiring the Department of Land and Natural Resources (DLNR) State Historic Preservation Division (SHPD) to contract its review of the proposed state projects, projects on privately owned historic property, and projects affecting historic properties to third-party consultants if the department will not be able to complete its review within sixty days.

Primarily, HB 830 seeks to address the significant delays that permit applicants face in obtaining county permits that require review under section 6E-42, Hawaii Revised Statutes. Currently, the backlog of historic reviews is 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 and cultural sites, however, a balance needs to be found to increase efficiency while maintaining the quality of reviews.

Accordingly, we strongly support the utilization of qualified third-party consultants to review projects in order to meet the intended statutorily required 90-day review timeline. Currently, SHPD is facing challenges in completing the overwhelming number of reviews due to capacity issues in the department. Allowing for third party consultants to conduct reviews will

Representative Mark Hashem, Chair
Representative Rachele Lamosao, Vice Chair
Committee on Water and Land
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significantly reduce the current caseload while expediting future reviews that allow for the development of much needed housing and critical infrastructure.

Moreover, permitting third-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

Additionally, the language of HB 830 requires third party consultants to meet qualifications for preservation professionals pursuant to rules adopted by SHPD. This ensures that reviews will be conducted by qualified consultants to meet the high standards of review. NAIOP Hawaii supports this provision of the measure which seeks to balance the interests of all stakeholders by expediting quality reviews.

Furthermore, NAIOP Hawaii recommends that SHPD be required to assign the reviews to a third-party consultant no later than 60 days after submission of the an application to SHPD if the department determines it will be unable to complete its review within 60 days. Specifically, language in the newly amended Sections 6E-8(d), 6E-10(e), and 6E-42(c) to state the following:

“The department shall retain a third-party consultant to conduct the review described under subsection (a) no later than sixty days after application submittal if, after an initial evaluation, the department determines that:”

This amendment is consistent with the intent of the bill to expedite reviews and alleviate the overwhelming volume of work SHPD currently faces.

NAIOP greatly supports the intent of the measure to identify a solution to the significant backlog of much needed projects awaiting SHPD review. Ultimately, HB 830 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,



Reyn Tanaka, President
NAIOP Hawaii

HB-830-HD-1

Submitted on: 2/7/2025 9:14:59 PM

Testimony for WAL on 2/11/2025 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Members,

I am glad to see this bill continue to make progress in our legislative process. Reducing permitting delays and backlogs is critical to tackling and solving our affordability crisis in Hawaii. I urge this Committee to keep SUPPORTING this bill!