

ACT 85

S.B. NO. 1171

A Bill for an Act Relating to the Review of Historic Preservation Projects.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 6E-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Programmatic agreement” means a document that sets forth the terms of a formal, legally binding agreement and establishes a process for consultation, review, and compliance with federal laws.”

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

“§6E-8 Review of effect of proposed state projects. (a) Before any agency or officer of the State or its political subdivisions commences any project which may affect historic property, aviation artifact, or a burial site, the agency or officer shall advise the department and allow the department an opportunity for review of the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, especially those listed on the Hawaii register of historic places. The proposed project shall not be commenced, or ~~[in the event]~~ if it has already begun, continued, until the department ~~[shall have]~~ has given its written concurrence. If:

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

(2) Access to properties is restricted; or

(3) Circumstances dictate that construction be done in stages.

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

The department ~~[is to]~~ shall provide written concurrence or non-concurrence within ninety days after the filing of a request with the department. The agency or officer seeking to proceed with the project, or any person, may appeal the department's concurrence or non-concurrence to the Hawaii historic places review board. An agency, officer, or other person who is dissatisfied with the decision of the review board may apply to the governor, ~~[who may request the Hawaii advisory council on historic preservation to report or]~~ who may take action as the governor deems best in overruling or sustaining the department.

(b) The department of Hawaiian home lands, prior to 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.

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

(d) The department shall adopt rules in accordance with chapter 91 to implement this section.”

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

“§6E-42 Review of proposed projects. (a) Before any agency or officer of the State or its political subdivisions approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office shall advise the department and prior to any approval allow the department an opportunity for review and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places. If:

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

(2) Access to properties is restricted; or

(3) Circumstances dictate that construction be done in stages.

the department's review and comment may be based on a phased review of the project; provided that there shall be a programmatic agreement between the de-

ACT 85

partment and the project applicant that identifies each phase and the estimated timelines for each phase.

(b) The department shall inform the public of any project proposals submitted to it under this section [~~which~~] that are not otherwise subject to the requirement of a public hearing or other public notification.

(c) The department shall adopt rules in accordance with chapter 91 to implement this section."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 21, 2013.)