

JAN 17 2020

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 section 6E-42,
2 Hawaii Revised Statutes, plays an essential role in the
3 protection and management of the State's historic places, burial
4 sites, and aviation artifacts. Section 6E-42 requires agencies
5 and officers of the State and its subdivisions, prior to project
6 approval, to submit for review by the department of land and
7 natural resources' state historic preservation division all
8 projects that may affect historic properties. However, due to
9 the current demand for construction of housing and critical
10 infrastructure, the state historic preservation division has an
11 unacceptably large backlog of projects needing review.

12 The purpose of this Act is to allow the state historic
13 preservation division to delegate to the impacted counties the
14 responsibility for historic preservation project reviews,
15 provided that certain requirements are met.

16 SECTION 2. Section 6E-42, Hawaii Revised Statutes, is
17 amended to read as follows:



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1 "**§6E-42 Review of proposed projects.** (a) Except as
2 provided in section 6E-42.2, before any agency or officer of the
3 State or its political subdivisions approves any project
4 involving a permit, license, certificate, land use change,
5 subdivision, or other entitlement for use, which may affect
6 historic property, aviation artifacts, or a burial site, the
7 agency or office shall advise the department and prior to any
8 approval allow the department an opportunity for review and
9 comment on the effect of the proposed project on historic
10 properties, aviation artifacts, or burial sites, consistent with
11 section 6E-43, including those listed in the Hawaii register of
12 historic places. If:

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

15 (2) Access to properties is restricted; or

16 (3) Circumstances dictate that construction be done in
17 stages,

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



1 applicant that identifies each phase and the estimated timelines
2 for each phase.

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

7 (c) The department may delegate responsibility for review
8 of projects pursuant to this section, and pursuant to any
9 administrative rules adopted thereunder, to the respective
10 counties, provided that the department has certified that the
11 county has:

12 (1) Adopted an ordinance to govern the county's review
13 process that is consistent with the requirements of
14 this section and with any administrative rules adopted
15 pursuant thereto;

16 (2) Hired qualified professional staff who meet standards
17 established by the department to conduct the reviews;

18 (3) Established sufficient internal organizational
19 controls to ensure that the qualified professional
20 staff can make independent determinations regarding
21 the effects of projects on historic properties;



1 (4) Ensured that the qualified professional staff can
2 function in a manner that does not create an
3 appearance of a conflict of interest;
4 (5) Provided for appropriate public notification in a
5 manner consistent with standards established by the
6 department; and
7 (6) Entered into a written agreement with the department
8 memorializing the delegation to the county;
9 provided that the delegation of authority shall automatically be
10 suspended or terminated if the county fails to retain its
11 qualified professional staff or if it becomes apparent that the
12 county does not have sufficient staffing capacity to complete
13 the delegated reviews in a timely manner.

14 (d) The department shall not delegate reviews to the
15 county for projects affecting properties listed in the Hawaii
16 register of historic places or the national register of historic
17 places, or for projects subject to review under section 6E-43.

18 (e) The department may establish a program to certify
19 third-party individuals and organizations to review documents
20 prior to submission of the documents to the department for
21 review. A review by a third party shall ensure that the



1 information submitted is complete and complies with the
2 department's documentation requirements, and that any
3 accompanying data and analysis supports recommendations made in
4 the submission. All third-party reviews shall be conducted in
5 accordance with the following requirements:

6 (1) Staff who conduct the reviews shall meet professional
7 qualifications and standards established by the
8 department;

9 (2) Individuals and organizations that apply for
10 certification shall demonstrate that they have
11 established sufficient internal organizational
12 controls to ensure that the qualified professional
13 staff can make independent determinations regarding
14 the effects of projects on historic properties and can
15 function in a manner that does not create an
16 appearance of a conflict of interest; and

17 (3) Individuals or organizations certified to conduct
18 third-party document reviews that precede the
19 department's review shall be independent from the
20 individual or organization that drafted or generated
21 the documents.



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

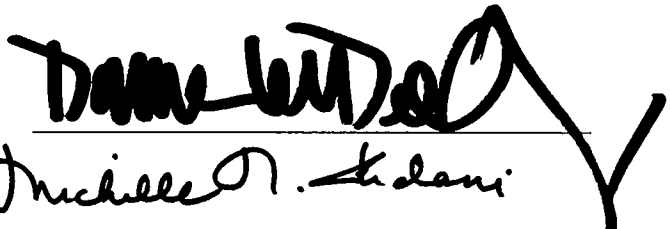

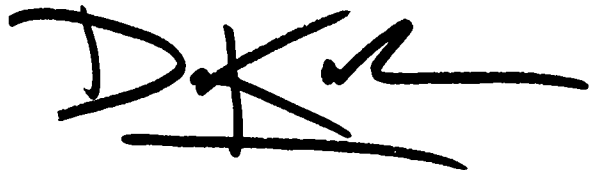
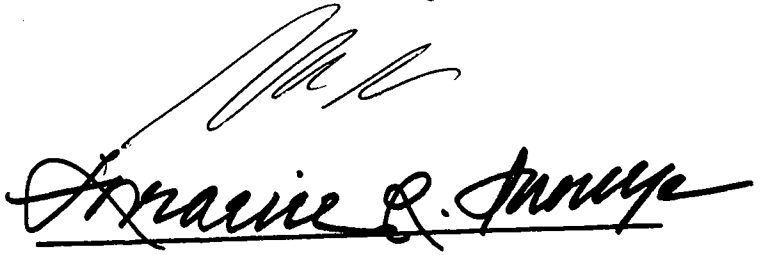
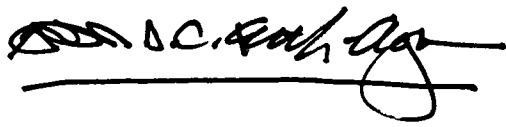

3 SECTION 3. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

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

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

9

INTRODUCED BY:



S.B. NO. 2076

Report Title:

DLNR; State Historic Preservation Division; Project Reviews

Description:

Allows the Department of Land and Natural Resources' State Historic Preservation Division to delegate to the impacted counties the responsibility for historic preservation project reviews, provided that certain requirements are met.

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

