

HOUSE BILL No. 2118

By Committee on Local Government

1-28

1 AN ACT concerning historic preservation; relating to environs review;  
2 amending K.S.A. 2012 Supp. 75-2724 and repealing the existing  
3 section.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 75-2724 is hereby amended to read as  
7 follows: 75-2724. (a) The state or any political subdivision of the state, or  
8 any instrumentality thereof, shall not undertake any project which will  
9 ~~encroach upon~~, damage or destroy any historic property included in the  
10 national register of historic places or the state register of historic places ~~or~~  
11 ~~the environs of such property~~ until the state historic preservation officer  
12 has been given notice, as provided herein, and an opportunity to  
13 investigate and comment upon the proposed project. Notice to the state  
14 historic preservation officer shall be given by the state or any political  
15 subdivision of the state when the proposed project, or any portion thereof,  
16 ~~is located within 500 feet of the boundaries of~~ *directly involves* a historic  
17 ~~property located within the corporate limits of a city, or within 1,000 feet~~  
18 ~~of the boundaries of a historic property located in the unincorporated~~  
19 ~~portion of a county.~~ Notwithstanding the notice herein required, nothing in  
20 this section shall be interpreted as limiting the authority of the state  
21 historic preservation officer to investigate, comment and make the  
22 determinations otherwise permitted by this section ~~regardless of the~~  
23 ~~proximity of any proposed project to the boundaries of~~ *on a project*  
24 *directly involving a* ~~an~~ *a* historic property. The state historic preservation  
25 officer may solicit the advice and recommendations of the historic sites  
26 board of review with respect to such project and may direct that a public  
27 hearing or hearings be held thereon. Any ~~such~~ public hearing or hearings  
28 held pursuant to this subsection or held pursuant to authority delegated by  
29 the state historical preservation officer under subsection (e) or (f) shall be  
30 held within 60 days from the date of receipt of notice by the state historical  
31 preservation officer from the state or any political subdivision of the state  
32 as provided herein. If the state historic preservation officer determines,  
33 with or without having been given notice of the proposed project, ~~that such~~  
34 *the* proposed project will ~~encroach upon~~, damage or destroy any historic  
35 property included in the national register of historic places or the state  
36 register of historic places ~~or the environs of such property, such~~ *the* project

1 shall not proceed until:

2 (1) The governor, in the case of a project of the state or an  
3 instrumentality thereof, or the governing body of the political subdivision,  
4 in the case of a project of a political subdivision or an instrumentality  
5 thereof, has made a determination, based on a consideration of all relevant  
6 factors, that there is no feasible and prudent alternative to the proposal and  
7 that the program includes all possible planning to minimize harm to such  
8 historic property resulting from such use; and

9 (2) five days notice of such determination has been given, by certified  
10 mail, to the state historic preservation officer.

11 (b) Any person aggrieved by the determination of the governor  
12 pursuant to this section may seek review of such determination in  
13 accordance with the Kansas judicial review act. Any person aggrieved by  
14 the determination of a governing body pursuant to this section may seek  
15 review of such determination in accordance with K.S.A. 60-2101, and  
16 amendments thereto.

17 (c) The failure of the state historic preservation officer to initiate an  
18 investigation of any proposed project within 30 days from the date of  
19 receipt of notice thereof shall constitute such officer's approval of such  
20 project.

21 (d) Failure of any person or entity to apply for and obtain the proper  
22 or required building or demolition permit before undertaking a project that  
23 will ~~encroach upon~~, damage or destroy any historic property included in  
24 the national register of historic places or the state register of historic  
25 places, ~~or the environs of such property~~, shall be subject to a civil penalty  
26 not to exceed \$25,000 for each violation. The attorney general may seek  
27 such penalties and other relief through actions filed in district court.

28 (e) (1) The state historic preservation officer may enter into an  
29 agreement authorizing a city or county to make recommendations or to  
30 perform any or all responsibilities of the state historic preservation officer  
31 under subsections (a), (b) and (c) if the state historic preservation officer  
32 determines that the city or county has enacted a comprehensive local  
33 historic preservation ordinance, established a local historic preservation  
34 board or commission and is actively engaged in a local historic  
35 preservation program. The agreement shall specify the authority delegated  
36 to the city or county by the state historic preservation officer, the manner  
37 in which the city or county shall report its decisions to the state historic  
38 preservation officer, the conditions under which the city or county can  
39 request assistance from the state historic preservation officer in performing  
40 certain project reviews, the length of time the agreement is to be valid and  
41 provisions for termination of the agreement. Such agreement shall provide  
42 that the state historic preservation officer shall retain final authority to  
43 implement the provisions of this act. The state historic preservation officer

1 shall adopt any rules and regulations necessary to implement the  
2 provisions of this subsection.

3 (2) An agreement with a city or county authorized by this subsection  
4 shall not be construed as limiting the authority of the state historic  
5 preservation officer to investigate, comment and make determinations  
6 otherwise permitted by this section.

7 (f) The state historic preservation officer may enter into agreements  
8 with the state board of regents or any state educational institution under  
9 the control and supervision of the state board of regents to perform any or  
10 all responsibilities of the state historic preservation officer under  
11 subsections (a), (b) and (c).

12 Sec. 2. K.S.A. 2012 Supp. 75-2724 is hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after its  
14 publication in the statute book.