

## SENATE BILL No. 155

By Senator Schodorf

1-23

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9 AN ACT concerning historic preservation; relating to environs review;  
10 amending K.S.A. 2006 Supp. 75-2724 and repealing the existing  
11 section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2006 Supp. 75-2724 is hereby amended to read as  
15 follows: 75-2724. (a) The state or any political subdivision of the state, or  
16 any instrumentality thereof, shall not undertake any project which will  
17 encroach upon, damage or destroy any historic property included in the  
18 national register of historic places or the state register of historic places  
19 or the environs of such property until the state historic preservation of-  
20 ficer has been given notice, as provided herein, and an opportunity to  
21 investigate and comment upon the proposed project. ~~Notice~~ *Written no-*  
22 *tice* to the state historic preservation officer *and the owner of record of a*  
23 *historic property* shall be given by the state or any political subdivision  
24 of the state when the proposed project, or any portion thereof, is located  
25 within ~~500~~ 250 feet of the boundaries of a historic property located within  
26 the corporate limits of a city, or within 1,000 feet of the boundaries of a  
27 historic property located in the unincorporated portion of a county. Not-  
28 withstanding the notice herein required, nothing in this section shall be  
29 interpreted as limiting the authority of the state historic preservation of-  
30 ficer to investigate, comment and make the determinations otherwise  
31 permitted by this section regardless of the proximity of any proposed  
32 project to the boundaries of a historic property. The state historic pres-  
33 ervation officer may solicit the advice and recommendations of the his-  
34 toric sites board of review with respect to such project and may direct  
35 that a public hearing or hearings be held thereon. Any such public hearing  
36 or hearings held pursuant to this subsection or held pursuant to authority  
37 delegated by the state historical preservation officer under subsection (e)  
38 or (f) shall be held within 60 days from the date of receipt of notice by  
39 the state historical preservation officer from the state or any political  
40 subdivision of the state as provided herein. If the state historic preser-  
41 vation officer determines, with or without having been given notice of the  
42 proposed project, that such proposed project will encroach upon, damage  
43 or destroy any historic property included in the national register of his-

1 toric places or the state register of historic places or the environs of such  
2 property, such project shall not proceed until:

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

10 (2) five days notice of such determination has been given, by certified  
11 mail, to the state historic preservation officer *and the owner of record of*  
12 *the historic property.*

13 (b) Any person aggrieved by the determination of the governor pur-  
14 suant to this section may seek review of such determination in accordance  
15 with the act for judicial review and civil enforcement of agency actions.  
16 Any person aggrieved by the determination of a governing body pursuant  
17 to this section may seek review of such determination in accordance with  
18 K.S.A. 60-2101 and amendments thereto.

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

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

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

1 provide that the state historic preservation officer shall retain final au-  
2 thority to implement the provisions of this act. The state historic pres-  
3 ervation officer shall adopt any rules and regulations necessary to imple-  
4 ment the provisions of this subsection.

5 (2) An agreement with a city or county authorized by this subsection  
6 shall not be construed as limiting the authority of the state historic pres-  
7 ervation officer to investigate, comment and make determinations oth-  
8 erwise permitted by this section.

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

14 Sec. 2. K.S.A. 2006 Supp. 75-2724 is hereby repealed.

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