



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

GOV. MSG. NO. 836

July 11, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

I am transmitting herewith SB2997 SD1 HD1 CD1, without my approval, and with the statement of objections relating to the measure.

SB2997 SD1 HD1 CD1

A BILL FOR AN ACT RELATING TO
PROCUREMENT.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

VETO

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 2997
S.D. 1
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that, while the Hawaii
2 public procurement code promotes fair and equitable treatment,
3 fosters broad-based competition, and increases public
4 confidence, in a few very limited instances, it restricts
5 compliance with legislative intent. The legislature notes that
6 legislative agencies that are preparing studies and reports for
7 submission to the legislature typically have only six to seven
8 months to prepare and print the studies and reports to submit
9 the studies and reports in a timely manner. If an agency finds
10 it necessary to hire a contractor to complete the report, the
11 requirements of the Hawaii public procurement code can delay the
12 start of work on the project, which, in turn, impinges upon the
13 agency's ability to comply timely with the legislature's
14 reporting requirement. A procurement code exemption for these
15 contracts would benefit all legislative agencies that need to
16 submit studies or reports to the legislature. Most of all,
17 however, the legislature recognizes that this exemption is
18 beneficial to the legislature itself. The legislature wants and



1 (7) Agree with the other party to the special facility
2 lease whereby any acquisition, construction,
3 improvement, installation, equipping, or development
4 of the special facility and the expenditure of moneys
5 therefor shall be undertaken or supervised by another
6 person. Any agreement under this paragraph shall not
7 be subject to chapter 103D."

8 SECTION 6. Section 227D-7, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) The authority shall not be subject to [the
11 ~~requirements of chapter~~] chapters 103 and 103D for project
12 agreements, construction contracts, retail concession or tour-
13 related contracts, or other contracts, unless a project
14 agreement with respect to a project or research and technology
15 park shall require otherwise."

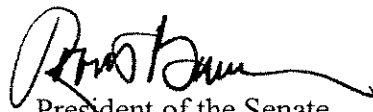
16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

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


THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.



President of the Senate



Clerk of the Senate


**THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII**

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.



Speaker, House of Representatives



Clerk, House of Representatives

P R O C L A M A T I O N

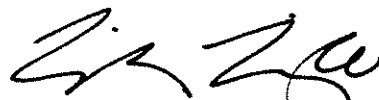
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2997, entitled "A Bill for an Act Relating to Procurement," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2997 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2997 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 26th
day of June, 2006.



LINDA LINGLE
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2006

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2997

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2997, entitled "A Bill for an Act Relating to Procurement."

This bill would provide exemptions from the Hawaii Public Procurement Code for the High Technology Development Corporation, the Hawaii Strategic Development Corporation, and the Natural Energy Laboratory of Hawaii Authority. This bill also exempts from the Procurement Code contracts for services by a legislative agency for the purpose of preparing a study or report for submission to the Legislature.

This bill is objectionable because the Procurement Code promotes transparency, fair treatment, competition, and public confidence in the government's procurement of goods, services, and construction. It is intended to protect against waste, fraud, and abuse. Absent compelling reasons, any governmental agency with the authority to expend public funds should be in compliance with the Procurement Code.

The ostensible reason for exempting the above-mentioned agencies from the Procurement Code is that they are involved in cutting-edge technology in a time-sensitive, market-driven, volatile investment environment, thus requiring the agencies to have the flexibility to make procurements in an expeditious manner. The reason for exempting contracts for legislative reports is that the procurement process impinges on the agencies' ability to timely comply with their reporting requirements to the Legislature.

The Procurement Code, however, already allows various

source selection methods. In addition to invitations for bids and requests for proposals, the Procurement Code allows an informal process for small purchases, sole source selections, emergency purchases, and exemptions from the Procurement Code by law, by rules, or by written determinations of the Chief Procurement Officer. Given the existing flexibility, there is no basis for exempting these agencies from the Procurement Code. Moreover, the purposes of the Procurement Code -- the promotion of transparency, fairness, competition, and public-confidence and the protection against waste, fraud, and abuse -- should not be sacrificed absent compelling reasons or for the convenience of the agencies.

For the foregoing reasons, I am returning Senate Bill No. 2997 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii