
A BILL FOR AN ACT

RELATING TO INTERNATIONAL TRADE AGREEMENT.

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

1 SECTION 1. The legislature finds that a number of today's
2 international free trade agreements contain policy obligations
3 and restrictions that would take precedence over state and local
4 government provisions relating to state purchasing laws and
5 preferences. These trade agreements may undermine state and
6 local laws relating to requirements that a product contain a
7 certain minimum amount of recycled material. They may also
8 undermine state laws that would discourage the off-shoring of
9 jobs or encourage the purchase of locally-produced goods and
10 services.

11 However, because the expenditure of state tax dollars is an
12 intrinsic function of state government, the federal government
13 has refrained from unilaterally binding states to the
14 procurement provisions in international trade agreements.
15 Instead, the United States Trade Representative has sent out
16 correspondences to all the states' governors asking that the
17 governors voluntary bind their states to comply with procurement
18 rules to be included in various new international trade



1 agreements now being negotiated. The legislature is informed
 2 that Hawaii governors, in this manner, have bound the State to
 3 procurement provisions contained in the World Trade
 4 Organization, the United States-Chile Free Trade Agreement, the
 5 United States-Singapore Free Trade Agreement, the Moroccan Free
 6 Trade Agreement, and the United States-Australia Free Trade
 7 Agreement. The provisions contained in these agreements may
 8 again undermine provisions of the State's public procurement
 9 code and other state preference and set-aside policies set up to
 10 promote and protect various sectors and groups of our local
 11 economy. However, questions relating to the State's public
 12 procurement code or decisions relating to state preference and
 13 set-aside policies are within the legislative domain and should
 14 require legislative action.

15 The purpose of this Act is to prohibit the binding of the
 16 State to government procurement rules contained in an
 17 international trade agreement without legislative action.

18 SECTION 2. The Hawaii Revised Statutes is amended by
 19 adding a new chapter to be appropriately designated and to read
 20 as follows:

21 "CHAPTER

22 INTERNATIONAL TRADE AGREEMENTS



1 **§ -A Definitions.** As used in this chapter:

2 "International trade agreement" means a trade agreement or
3 memorandum of agreement between the United States government and
4 a foreign country, whether bilateral, multilateral, global, or
5 regional, to which the State, at the request of the United
6 States government, is a covered procuring entity; but the term
7 does not include a trade agreement or memoranda of agreement:

- 8 (1) Between the State and a foreign country to which the
- 9 United States government is not a party; or
- 10 (2) Between countries to which the United States
- 11 government is not a party.

12 "Procurement" means any provision of chapter 103D.

13 **§ -B International procurement rules, legislative**

14 **action.** (a) Any international trade agreement entered into by
15 the President of the United States, that contains provisions
16 relating in any manner to procurement by the states and to which
17 the governor has signaled agreement to those procurement
18 provisions, shall not be valid as to those procurement
19 provisions as it applies to this State unless the legislature by
20 a simple majority vote on a concurrent resolution approves of
21 those procurement provisions.

1 (b) If the legislature is not in session for purposes of
2 subsection (a), the presiding officer of each house may, jointly
3 and in writing, exercise their power under section 22-1, for the
4 purpose of signifying legislative approval under this section.

5 § -C **Prior agreements before Act.** Any new or ongoing
6 procurement provisions contained in an international trade
7 agreement entered into by the United States government and
8 approved by the governor under section -A prior to the
9 effective date of this Act shall be submitted to the legislature
10 for approval as a prerequisite for application of international
11 trade agreement procurement provisions to this State."

12 SECTION 3. In codifying this Act, the Revisor of Statutes
13 shall substitute the appropriate section numbers for the section
14 designations used in section 2 of this Act.

15 SECTION 4. This Act shall take effect upon its approval.

HB2199, SD1

Report Title:

Hawaii Public Procurement Code; International Trade Agreements

Description:

Prohibits state officials from binding the State to government procurement rules of an international trade agreement without legislative action. (SD1)

