
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

PART I

SECTION 1. The purpose of this part is to raise the small purchases ceiling from \$25,000 to \$50,000, to correspond to the reality of the costs of goods, services, and construction.

SECTION 2. Section 103D-305, Hawaii Revised Statutes, is amended to read as follows:

"§103D-305 Small purchases; prohibition against parceling.

(a) Procurements of less than [~~\$25,000~~] \$50,000 for goods, services, or construction shall be made in accordance with procedures set forth in rules adopted by the policy board that are designed to ensure administrative simplicity and as much competition as is practicable; provided that multiple expenditures shall not be created at the inception of a transaction or project so as to evade the requirements of this chapter; and provided further that procurement requirements shall not be artificially divided or parceled so as to constitute a small purchase under this section.

(b) Procurements under this section shall:



- 1 (1) Be solicited and transacted electronically over the
- 2 Internet; and
- 3 (2) Be made using pre-qualified lists of vendors from whom
- 4 bids or offers are solicited randomly."

PART II

6 SECTION 3. The purpose of this part is to restore or add
7 the exemption from the State's procurement code for special
8 purpose revenue bonds for health care facilities, manufacturing
9 enterprises, processing enterprises, industrial enterprises,
10 energy projects, early childhood education and care facilities
11 serving the general public and private nonsectarian and
12 sectarian elementary schools, secondary schools, colleges, and
13 universities serving the general public, on the basis that no
14 public moneys are involved in issuing special purpose revenue
15 bonds.

16 SECTION 4. Section 39A-32, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§39A-32 Department powers as to health care facilities.**

19 In addition to powers [~~which~~] that it may now have, the
20 department shall have all powers necessary or convenient to
21 accomplish the purposes of this part. The powers of the
22 department include but are not limited to the following:



- 1 (1) Notwithstanding and without compliance with section
2 103-7[7] and chapter 103D, but with the approval of
3 the governor, to:
- 4 (A) Enter into and carry out a project agreement, or
5 an amendment or supplement to an existing project
6 agreement, with a project party; and
- 7 (B) Enter into and carry out any agreement, whereby
8 the obligation of a project party under a project
9 agreement will be unconditionally guaranteed by a
10 person other than a project party;
- 11 (2) To issue special purpose revenue bonds pursuant to and
12 in accordance with this part;
- 13 (3) To lend the proceeds of the special purpose revenue
14 bonds issued for a project to the project party for
15 use and application by the project party for the
16 acquisition, purchase, construction, reconstruction,
17 improvement, betterment, extension, or refinancing of
18 outstanding obligations related to a project;
- 19 (4) As security for the payment of the principal of,
20 premium, if any, and interest of the special purpose
21 revenue bonds issued for this project, to:



- 1 (A) Pledge, assign, hypothecate, or otherwise
2 encumber all or any part of the revenues and
3 receipts derived or to be derived by the
4 department under the project agreement for the
5 project for which [~~such~~] the special purpose
6 revenue bonds are issued;
- 7 (B) Pledge and assign the interest and rights of the
8 department under the project agreement or other
9 agreement with respect to [~~such~~] the project or
10 [~~such~~] the special purpose revenue bonds;
- 11 (C) Pledge and assign any bond, debenture, note, or
12 other evidence of indebtedness received by the
13 department with respect to [~~such~~] the project; or
- 14 (D) Any combination of the foregoing;
- 15 (5) To extend or renew any project agreement or any other
16 agreement related thereto; provided that any [~~such~~]
17 renewal or extension shall be subject to the approval
18 of the governor unless made in accordance with
19 provisions for [~~such~~] the extension or renewal
20 contained in a project agreement or related agreement
21 theretofore approved by the governor; and



1 (6) To do any and all things necessary or convenient to
2 carry out its purposes and exercise the powers given
3 and granted in this part.

4 When the department finances or refines a project by the
5 issuance of special purpose revenue bonds as contemplated by
6 this part, the State shall not exercise the power of eminent
7 domain to acquire a project or any part thereof for lease or
8 transfer to a project party, nor shall the State operate a
9 project on behalf of a project party."

10 SECTION 5. Section 39A-72, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§39A-72 Department powers as to manufacturing**
13 **enterprises.** In addition to powers [~~which~~] that it may now
14 have, the department shall have all powers necessary or
15 convenient to accomplish the purposes of this part. The powers
16 of the department include but are not limited to the following:

17 (1) Notwithstanding and without compliance with section
18 103-7[7] and chapter 103D, but with the approval of
19 the governor, to:

20 (A) Enter into and carry out a project agreement, or
21 an amendment or supplement to an existing project
22 agreement, with a project party; and



- 1 (B) Enter into and carry out any agreement, whereby
2 the obligation of a project party under a project
3 agreement will be unconditionally guaranteed by a
4 person other than a project party;
- 5 (2) To issue special purpose revenue bonds pursuant to and
6 in accordance with this part;
- 7 (3) To lend the proceeds of the special purpose revenue
8 bonds issued for a project to the project party for
9 use and application by the project party for the
10 acquisition, purchase, construction, reconstruction,
11 improvement, betterment, extension, or maintenance of
12 a project;
- 13 (4) As security for the payment of the principal of,
14 premium, if any, and interest of the special purpose
15 revenue bonds issued for a project, to:
- 16 (A) Pledge, assign, hypothecate, or otherwise
17 encumber all or any part of the revenues and
18 receipts derived or to be derived by the
19 department under the project agreement for the
20 project for which ~~such~~ the special purpose
21 revenue bonds are issued;

1 (B) Pledge and assign the interest and rights of the
2 department under the project agreement or other
3 agreement with respect to [~~such~~] the project or
4 [~~such~~] the special purpose revenue bonds;

5 (C) Pledge and assign any bond, debenture, note, or
6 other evidence of indebtedness received by the
7 department with respect to [~~such~~] the project; or

8 (D) Any combination of the foregoing;

9 (5) To extend or renew any project agreement or any other
10 agreement related thereto; provided that any [~~such~~]
11 renewal or extension shall be subject to the approval
12 of the governor unless made in accordance with
13 provisions for [~~such~~] the extension or renewal
14 contained in a project agreement or related agreement
15 theretofore approved by the governor; and

16 (6) To do any and all things necessary or convenient to
17 carry out its purposes and exercise the powers given
18 and granted in this part."

19 SECTION 6. Section 39A-112, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§39A-112 Department powers as to processing enterprises.**

22 In addition to powers [~~which~~] that it may now have, the



1 department shall have all powers necessary or convenient to
2 accomplish the purposes of this part. The powers of the
3 department include but are not limited to the following:

4 (1) Notwithstanding and without compliance with section
5 103-7[~~7~~] and chapter 103D, but with the approval of
6 the governor, to:

7 (A) Enter into and carry out a project agreement, or
8 an amendment or supplement to an existing project
9 agreement, with a project party; and

10 (B) Enter into and carry out any agreement, whereby
11 the obligation of a project party under a project
12 agreement will be unconditionally guaranteed by a
13 person other than a project party;

14 (2) To issue special purpose revenue bonds pursuant to and
15 in accordance with this part;

16 (3) To lend the proceeds of the special purpose revenue
17 bonds issued for a project to the project party for
18 use and application by the project party for the
19 acquisition, purchase, construction, reconstruction,
20 improvement, betterment, extension, or maintenance of
21 a project;



- 1 (4) As security for the payment of the principal of,
2 premium, if any, and interest of the special purpose
3 revenue bonds issued for a project, to:
- 4 (A) Pledge, assign, hypothecate, or otherwise
5 encumber all or any part of the revenues and
6 receipts derived or to be derived by the
7 department under the project agreement for the
8 project for which [~~such~~] the special purpose
9 revenue bonds are issued;
- 10 (B) Pledge and assign the interest and rights of the
11 department under the project agreement or other
12 agreement with respect to [~~such~~] the project or
13 [~~such~~] the special purpose revenue bonds;
- 14 (C) Pledge and assign any bond, debenture, note, or
15 other evidence of indebtedness received by the
16 department with respect to [~~such~~] the project; or
- 17 (D) Any combination of the foregoing;
- 18 (5) To extend or renew any project agreement or any other
19 agreement related thereto; provided that any [~~such~~]
20 renewal or extension shall be subject to the approval
21 of the governor unless made in accordance with
22 provisions for [~~such~~] the extension or renewal



1 contained in a project agreement or related agreement
2 theretofore approved by the governor; and

3 (6) To do any and all things necessary or convenient to
4 carry out its purposes and exercise the powers given
5 and granted in this part."

6 SECTION 7. Section 39A-152, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§39A-152 Department powers as to industrial enterprises.**

9 In addition to powers [~~which~~] that it may now have, the
10 department shall have all powers necessary or convenient to
11 accomplish the purposes of this part. The powers of the
12 department include but are not limited to the following:

13 (1) Notwithstanding and without compliance with section
14 103-7[~~7~~] and chapter 103D, but with the approval of
15 the governor, to:

16 (A) Enter into and carry out a project agreement, or
17 an amendment or supplement to an existing project
18 agreement, with a project party; and

19 (B) Enter into and carry out any agreement, whereby
20 the obligation of a project party under a project
21 agreement will be unconditionally guaranteed by a
22 person other than a project party;



- 1 (2) To issue special purpose revenue bonds pursuant to and
2 in accordance with this part;
- 3 (3) To lend the proceeds of the special purpose revenue
4 bonds issued for a project to the project party for
5 use and application by the project party for the
6 acquisition, purchase, construction, reconstruction,
7 improvement, betterment, extension, or maintenance of
8 a project;
- 9 (4) As security for the payment of the principal of,
10 premium, if any, and interest of the special purpose
11 revenue bonds issued for a project, to:
- 12 (A) Pledge, assign, hypothecate, or otherwise
13 encumber all or any part of the revenues and
14 receipts derived or to be derived by the
15 department under the project agreement for the
16 project for which [~~such~~] the special purpose
17 revenue bonds are issued;
- 18 (B) Pledge and assign the interest and rights of the
19 department under the project agreement or other
20 agreement with respect to [~~such~~] the project or
21 [~~such~~] the special purpose revenue bonds;



1 (C) Pledge and assign any bond, debenture, note, or
2 other evidence of indebtedness received by the
3 department with respect to [~~such~~] the project; or

4 (D) Any combination of the foregoing;

5 (5) To extend or renew any project agreement or any other
6 agreement related thereto; provided that any [~~such~~]
7 renewal or extension shall be subject to the approval
8 of the governor unless made in accordance with
9 provisions for [~~such~~] the extension or renewal
10 contained in a project agreement or related agreement
11 theretofore approved by the governor; and

12 (6) To do any and all things necessary or convenient to
13 carry out its purposes and exercise the powers given
14 and granted in this part."

15 SECTION 8. Section 39A-192, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§39A-192 Department powers as to energy projects.** In
18 addition to powers [~~which~~] that it may now have, the department
19 shall have all powers necessary or convenient to accomplish the
20 purposes of this part. The powers of the department include but
21 are not limited to the following:



- 1 (1) Notwithstanding and without compliance with section
2 103-7[7] and chapter 103D, but with the approval of
3 the governor, to:
- 4 (A) Enter into and carry out a project agreement, or
5 an amendment or supplement to an existing project
6 agreement, with a project party; and
- 7 (B) Enter into and carry out any agreement, whereby
8 the obligation of a project party under a project
9 agreement will be unconditionally guaranteed by a
10 person other than a project party;
- 11 (2) To issue special purpose revenue bonds pursuant to and
12 in accordance with this part;
- 13 (3) To lend the proceeds of the special purpose revenue
14 bonds issued for an energy project to the project
15 party for use and application by the project party for
16 the acquisition, purchase, construction,
17 reconstruction, improvement, betterment, or extension
18 of an energy project;
- 19 (4) As security for the payment of the principal of and
20 interest on the special purpose revenue bonds issued
21 for an energy project, to:



- 1 (A) Pledge, assign, hypothecate, or otherwise
- 2 encumber all or any part of the revenues and
- 3 receipts derived or to be derived by the
- 4 department under the project agreement for the
- 5 energy project for which [~~such~~] the special
- 6 purpose revenue bonds are issued;
- 7 (B) Pledge and assign the interest and rights of the
- 8 department under the project agreement or other
- 9 agreement with respect to [~~such~~] the project or
- 10 [~~such~~] the special purpose revenue bonds;
- 11 (C) Pledge and assign any bond, debenture, note, or
- 12 other evidence of indebtedness received by the
- 13 department with respect to [~~such~~] the energy
- 14 project; or
- 15 (D) Any combination of the foregoing;
- 16 (5) To extend or renew any project agreement or any other
- 17 agreement related thereto; provided that any [~~such~~]
- 18 renewal or extension shall be subject to the approval
- 19 of the governor unless made in accordance with
- 20 provisions for [~~such~~] the extension or renewal
- 21 contained in a project agreement or related agreement
- 22 theretofore approved by the governor; and

1 (6) To do any and all things necessary or convenient to
2 carry out its purposes and exercise the powers given
3 and granted in this part.

4 When the department finances an energy project by the issuance
5 of special purpose revenue bonds as contemplated by this part,
6 the State shall not exercise the power of eminent domain to
7 acquire an energy project or any part thereof for lease or
8 transfer to a project party, nor shall the State operate a
9 project on behalf of a project party."

10 SECTION 9. Section 39A-222, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~§~~39A-222~~§~~ Department powers as to early childhood
13 education and care facilities. In addition to powers ~~[which]~~
14 that it may now have, the department shall have all powers
15 necessary or convenient to accomplish the purposes of this part.
16 The powers of the department include, but are not limited to,
17 the following:

18 (1) Notwithstanding and without compliance with section
19 103-7~~§~~ and chapter 103D, but with the approval of
20 the governor, to enter into and carry out a project
21 agreement, or an amendment or supplement to an
22 existing project agreement, with a project party, and



1 to enter into and carry out any agreement, whereby the
2 obligation of a project party under a project
3 agreement will be unconditionally guaranteed by a
4 person other than a project party.

5 (2) To issue special purpose revenue bonds pursuant to and
6 in accordance with this part.

7 (3) To lend the proceeds of the special purpose revenue
8 bonds issued for a project to the project party for
9 use and application by the project party for the
10 acquisition, purchase, construction, reconstruction,
11 improvement, betterment, extension, or refinancing of
12 outstanding obligations related to a project.

13 (4) As security for the payment of the principal of,
14 premium, if any, and interest of the special purpose
15 revenue bonds issued for this project, to pledge,
16 assign, hypothecate, or otherwise encumber all or any
17 part of the revenues and receipts derived or to be
18 derived by the department under the project agreement
19 for the project for which ~~such~~ the special purpose
20 revenue bonds are issued; to pledge and assign the
21 interest and rights of the department under the
22 project agreement or other agreement with respect to



1 ~~[such]~~ the project or ~~[such]~~ the special purpose
2 revenue bonds; and to pledge and assign any bond,
3 debenture, note, or other evidence of indebtedness
4 received by the department with respect to ~~[such]~~ the
5 project; or any combination of the foregoing.

6 (5) To extend or renew any project agreement or any other
7 agreement related thereto; provided that any ~~[such]~~
8 renewal or extension shall be subject to the approval
9 of the governor unless made in accordance with
10 provisions for ~~[such]~~ the extension or renewal
11 contained in a project agreement or related agreement
12 theretofore approved by the governor.

13 (6) To do any and all things necessary or convenient to
14 carry out its purposes and exercise the powers given
15 and granted in this part.

16 When the department finances or refinances a project by the
17 issuance of special purpose revenue bonds as contemplated by
18 this part, the State shall not exercise the power of eminent
19 domain to acquire a project or any part thereof for lease or
20 transfer to a project party, nor shall the State operate a
21 project on behalf of a project party."

1 SECTION 10. Section 39A-252, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]~~§39A-252 ~~[+]~~ Department powers as to private
4 nonsectarian and sectarian elementary schools, secondary
5 schools, colleges, and universities. In addition to powers that
6 it may now have, the department shall have all powers necessary
7 or convenient to accomplish the purposes of this part. The
8 powers of the department include but are not limited to the
9 following:

10 (1) Notwithstanding and without compliance with section
11 103-7~~[7]~~ and chapter 103D, but with the approval of
12 the governor, to:

13 (A) Enter into and carry out a project agreement or
14 an amendment or supplement to an existing project
15 agreement with a project party; and

16 (B) Enter into and carry out any agreement, whereby
17 the obligation of a project party under a project
18 agreement will be unconditionally guaranteed by a
19 person other than a project party;

20 (2) To issue special purpose revenue bonds pursuant to and
21 in accordance with this part;



- 1 (3) To lend the proceeds of the special purpose revenue
2 bonds issued for a project to the project party for
3 use and application by the project party for the
4 acquisition, purchase, construction, reconstruction,
5 improvement, betterment, extension, or refinancing of
6 outstanding obligations related to a project;
- 7 (4) As security for the payment of the principal, premium,
8 if any, and interest of the special purpose revenue
9 bonds issued for this project, to pledge, assign,
10 hypothecate, or otherwise encumber all or any part of
11 the revenues and receipts derived or to be derived by
12 the department under the project agreement for the
13 project for which [~~such~~] the special purpose revenue
14 bonds are issued; to pledge and assign the interest
15 and rights of the department under the project
16 agreement or other agreement with respect to the
17 project or the special purpose revenue bonds; and to
18 pledge and assign any bond, debenture, note, or other
19 evidence of indebtedness received by the department
20 with respect to the project; or any combination of the
21 foregoing;



- 1 (5) To extend or renew any project agreement or any other
2 agreement related to the project agreement; provided
3 that any [~~such~~] renewal or extension shall be subject
4 to the approval of the governor unless made in
5 accordance with provisions for [~~such~~] the extension or
6 renewal contained in a project agreement or related
7 agreement theretofore approved by the governor; and
8 (6) To do any and all things necessary or convenient to
9 carry out its purposes and exercise the powers given
10 and granted in this part.

11 When the department finances or refines a project by the
12 issuance of special purpose revenue bonds as contemplated by
13 this part, the State shall not exercise the power of eminent
14 domain to acquire a project or any part of the project for lease
15 or transfer to a project party, nor shall the State operate a
16 project on behalf of a project party."

17 SECTION 11. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 12. This Act shall take effect upon its approval.



SB2097, SD2

Report Title:

Procurement Code

Description:

Raises small purchases limit from \$25,000 to \$50,000; requires small purchases to be transacted over the Internet; requires selection of bidders from pre-qualified lists of vendors. Restores exemptions for special purpose revenue bonds from procurement code. (SD2)

