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# A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1           SECTION 1. The purpose of this act is to restore the  
2 exemption for special purpose revenue bonds for health care  
3 facilities, manufacturing enterprises, processing enterprises,  
4 industrial enterprises, and energy projects, on the basis that  
5 no public moneys are involved in issuing special purpose revenue  
6 bonds.

7           SECTION 2. Section 39A-32, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§39A-32 Department powers as to health care facilities.**

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

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



# S.B. NO.

1           (A) Enter into and carry out a project agreement, or  
2                    an amendment or supplement to an existing project  
3                    agreement, with a project party; and

4           (B) Enter into and carry out any agreement whereby  
5                    the obligation of a project party under a project  
6                    agreement will be unconditionally guaranteed by a  
7                    person other than a project party;

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

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

16          (4) As security for the payment of the principal of,  
17                premium, if any, and interest of the special purpose  
18                revenue bonds issued for this project, to:

19            (A) Pledge, assign, hypothecate, or otherwise  
20                    encumber all or any part of the revenues and  
21                    receipts derived or to be derived by the



1 department under the project agreement for the  
2 project for which such bonds are issued;

3 (B) Pledge and assign the interest and rights of the  
4 department under the project agreement or other  
5 agreement with respect to such project or such  
6 special purpose revenue bonds;

7 (C) Pledge and assign any bond, debenture, note, or  
8 other evidence of indebtedness received by the  
9 department with respect to such project; or

10 (D) Any combination of the foregoing;

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

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

21 When the department finances or refinances a project by the  
22 issuance of special purpose revenue bonds as contemplated by



1 this part, the State shall not exercise the power of eminent  
2 domain to acquire a project or any part thereof for lease or  
3 transfer to a project party, nor shall the State operate a  
4 project on behalf of a project party."

5 SECTION 3. Section 39A-72, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 **"§39A-72 Department powers as to manufacturing**  
8 **enterprises.** In addition to powers which it may now have, the  
9 department shall have all powers necessary or convenient to  
10 accomplish the purposes of this part. The powers of the  
11 department include but are not limited to the following:

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

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

18 (B) Enter into and carry out any agreement whereby  
19 the obligation of a project party under a project  
20 agreement will be unconditionally guaranteed by a  
21 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 bonds are issued;
- 17          (B) Pledge and assign the interest and rights of the  
18          department under the project agreement or other  
19          agreement with respect to such project or such  
20          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 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 extension or renewal contained in
- 10 a project agreement or related agreement theretofore
- 11 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 4. Section 39A-112, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§39A-112 Department powers as to processing enterprises.**

18 In addition to powers which 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 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 maintenance of  
18                   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 a 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 bonds are issued;
- 6           (B) Pledge and assign the interest and rights of the
- 7                   department under the project agreement or other
- 8                   agreement with respect to such project or such
- 9                   special purpose revenue bonds;
- 10          (C) Pledge and assign any bond, debenture, note, or
- 11                   other evidence of indebtedness received by the
- 12                   department with respect to such project; or
- 13          (D) Any combination of the foregoing;
- 14          (5) To extend or renew any project agreement or any other
- 15                   agreement related thereto; provided that any such
- 16                   renewal or extension shall be subject to the approval
- 17                   of the governor unless made in accordance with
- 18                   provisions for such extension or renewal contained in
- 19                   a project agreement or related agreement theretofore
- 20                   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           SECTION 5. Section 39A-152, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "**§39A-152 Department powers as to industrial enterprises.**

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

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

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

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

21           (2) To issue special purpose revenue bonds pursuant to and  
22           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 maintenance of  
6           a project;
- 7           (4) As security for the payment of the principal of,  
8           premium, if any, and interest of the special purpose  
9           revenue bonds issued for a project, to:
- 10           (A) Pledge, assign, hypothecate, or otherwise  
11           encumber all or any part of the revenues and  
12           receipts derived or to be derived by the  
13           department under the project agreement for the  
14           project for which such bonds are issued;
- 15           (B) Pledge and assign the interest and rights of the  
16           department under the project agreement or other  
17           agreement with respect to such project or such  
18           special purpose revenue bonds;
- 19           (C) Pledge and assign any bond, debenture, note, or  
20           other evidence of indebtedness received by the  
21           department with respect to such project; or
- 22           (D) Any combination of the foregoing;



1           (5) To extend or renew any project agreement or any other  
2           agreement related thereto; provided that any such  
3           renewal or extension shall be subject to the approval  
4           of the governor unless made in accordance with  
5           provisions for such extension or renewal contained in  
6           a project agreement or related agreement theretofore  
7           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          SECTION 6. Section 39A-192, Hawaii Revised Statutes, is  
12          amended to read as follows:

13          "**§39A-192 Department powers as to energy projects.** In  
14          addition to powers which it may now have, the department shall  
15          have all powers necessary or convenient to accomplish the  
16          purposes of this part. The powers of the department include but  
17          are not limited to the following:

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



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

- 1                   department under the project agreement for the  
2                   energy project for which such bonds are issued;
- 3                   (B) Pledge and assign the interest and rights of the  
4                   department under the project agreement or other  
5                   agreement with respect to such project or such  
6                   special purpose revenue bonds;
- 7                   (C) Pledge and assign any bond, debenture, note, or  
8                   other evidence of indebtedness received by the  
9                   department with respect to such energy project;  
10                  or
- 11                  (D) Any combination of the foregoing;
- 12                  (5) To extend or renew any project agreement or any other  
13                  agreement related thereto; provided that any such  
14                  renewal or extension shall be subject to the approval  
15                  of the governor unless made in accordance with  
16                  provisions for such extension or renewal contained in  
17                  a project agreement or related agreement theretofore  
18                  approved by the governor; and
- 19                  (6) To do any and all things necessary or convenient to  
20                  carry out its purposes and exercise the powers given  
21                  and granted in this part.

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

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

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

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INTRODUCED BY: *Ignacio R. Jarama*  
*Rosely de Paz*  
*Norman Sakonju*

*Per [Signature]*

**Report Title:**  
Procurement Code

**Description:**  
Restores exemptions for SPRBs from procurement code.

