
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:



- 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. Section 39A-222, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~§~~39A-222~~§~~ Department powers as to early childhood
10 education and care facilities. In addition to powers which it
11 may now have, the department shall have all powers necessary or
12 convenient to accomplish the purposes of this part. The powers
13 of the department include, but are not limited to, the
14 following:

15 (1) Notwithstanding and without compliance with section
16 103-7~~7~~ and chapter 103D, but with the approval of
17 the governor, to enter into and carry out a project
18 agreement, or an amendment or supplement to an
19 existing project agreement, with a project party, and
20 to enter into and carry out any agreement whereby the
21 obligation of a project party under a project



1 agreement will be unconditionally guaranteed by a
2 person other than a project party.

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

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

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

1 indebtedness received by the department with respect
2 to such project; or any combination of the foregoing.

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

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

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

19 SECTION 8. Section 39A-252, Hawaii Revised Statutes, is
20 amended to read as follows:

21 " ~~§39A-252~~ Department powers as to private
22 nonsectarian and sectarian elementary schools, secondary

1 **schools, colleges, and universities.** In addition to powers that
2 it may now have, the department shall have all powers necessary
3 or convenient to accomplish the purposes of this part. The
4 powers of the department include but are not limited to the
5 following:

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

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

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

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

18 (3) To lend the proceeds of the special purpose revenue
19 bonds issued for a project to the project party for
20 use and application by the project party for the
21 acquisition, purchase, construction, reconstruction,



- 1 improvement, betterment, extension, or refinancing of
2 outstanding obligations related to a project;
- 3 (4) As security for the payment of the principal, premium,
4 if any, and interest of the special purpose revenue
5 bonds issued for this project, to pledge, assign,
6 hypothecate, or otherwise encumber all or any part of
7 the revenues and receipts derived or to be derived by
8 the department under the project agreement for the
9 project for which such bonds are issued; to pledge and
10 assign the interest and rights of the department under
11 the project agreement or other agreement with respect
12 to the project or the special purpose revenue bonds;
13 and to pledge and assign any bond, debenture, note, or
14 other evidence of indebtedness received by the
15 department with respect to the project; or any
16 combination of the foregoing;
- 17 (5) To extend or renew any project agreement or any other
18 agreement related to the project agreement; provided
19 that any such renewal or extension shall be subject to
20 the approval of the governor unless made in accordance
21 with provisions for such 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 When the department finances or refines a project by the
7 issuance of special purpose revenue bonds as contemplated by
8 this part, the State shall not exercise the power of eminent
9 domain to acquire a project or any part of the project for lease
10 or transfer to a project party, nor shall the State operate a
11 project on behalf of a project party."

12 SECTION 9. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 10. This Act shall take effect upon its approval.



Report Title:

Procurement Code

Description:

Restores exemptions for SPRBs from procurement code. (SD1)

