H.B. NO. <sup>30</sup> H.D. 2 S.D. 1

# A BILL FOR AN ACT

RELATING TO INTERNATIONAL TRADE AGREEMENTS.

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

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

However, because the expenditure of state tax dollars is an 11 intrinsic function of state government, the federal government 12 has refrained from unilaterally binding states to the 13 procurement provisions in international trade agreements. 14 Instead, the United States Trade Representative has sent out 15 correspondences to all the states' governors asking that the 16 governors voluntarily bind their states to comply with 17 procurement rules to be included in various new international 18 HB30 SD1 LRB 07-4104.doc

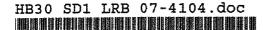
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trade agreements now being negotiated. The legislature is 1 informed that Hawaii governors, in this manner, have bound the 2 State to procurement provisions contained in the World Trade 3 Organization, the United States-Chile Free Trade Agreement,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

15 The legislature finds that the governor vetoed H.B. No.
16 2199, C.D. 1, 2006, relating to international trade agreements.
17 The basis of the veto concerns were the:

- 18 (1) Timely response to the federal government deadlines to
  19 consent to an international trade agreement;
- 20 (2) Why the legislature heretofore did not seek to bind
  21 previous governors of Hawaii; and



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1	(3) The adverse effects to conducting business in the										
2	State if the legislature is involved in approving										
3	international trade agreements.										
4	The legislature finds that previous governors did not seek										
5	to bind the State to international trade agreements to the same										
6	extent as the current governor did in 2003 to an array of										
7	pending trade agreements. Furthermore, any adverse effect upon										
8	the procurement code is a consideration for the legislature in										
9	approving any trade agreement.										
10	The purpose of this Act is to prohibit the future binding										
11	of the State to government procurement rules contained in an										
12	international trade agreement without legislative action.										
13	SECTION 2. The Hawaii Revised Statutes is amended by										
14	adding a new chapter to be appropriately designated and to read										
15	as follows:										
16	"CHAPTER										
17	INTERNATIONAL TRADE AGREEMENTS										
18	<b>§ -1 Definitions.</b> As used in this chapter:										
19	"International trade agreement" means a trade agreement or										
20	memorandum of agreement between the United States government and										
21	a foreign nation, whether bilateral, multilateral, global, or										
22	regional, to which the State, at the request of the United										
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1	States government, is a covered procuring entity; provided the								
2	term shall not include a trade agreement or memoranda of								
3	agreement:								
4	(1) Between the State and a foreign nation or its sub-								
5	national entity to which the United States government								
6	is not a party; or								
7	(2) Between a county and a foreign nation or its sub-								
8	national entity to which the United States government								
9	is not a party.								
10	"Procurement" means any provision of chapter 103D.								
11	§ -2 International procurement rules, legislative								
12	action. (a) Any international trade agreement entered into by								
13	the President of the United States that contains provisions								
14	relating in any manner to procurement by the states shall not be								
15	valid as to those procurement provisions as it applies to this								
16	State, unless the legislature by a simple majority vote on a								
17	concurrent resolution approves of those procurement provisions.								
18	The legislature shall consider, among other things, the effect								
19	of an international trade agreement upon procurement preferences								
20	and upon the possibility of foreign governments ceasing to do								
21	business with the State.								

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(b) When the federal government notifies the State of an 1 impending international trade agreement and seeks the State's 2 approval when the legislature is not in session, the governor 3 shall notify the president of the senate and the speaker of the 4 house of representatives for consideration of approval of the 5 procurement provisions by the members of each house by 6 requesting a special session as provided in article III, section 7 10, of the Hawaii state constitution. 8 -3 Federal law; conferral of authority. This chapter 9 S is not intended to preclude state officials from entering into 10 international trade agreements when federal law confers the 11 authority on state officials to do so, subject to section -2. 12 -4 Prior agreements before Act. Any international 13 5 trade agreement entered into by the President of the United 14 15 States, which contains provisions relating in any manner to procurement by the states, and to which the governor has 16 signaled agreement to those procurement provisions prior to the 17 effective date of this Act shall remain valid." 18 SECTION 3. The governor shall notify the revisor of 19 statutes of the obligations of the State specified in 20 international trade agreements to which the State is a 21 consenting party. The revisor of statutes shall annotate the 22

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1 1	Hawaii	Revised	Statutes	in	regards	to	these	obligations,	as	
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2 deemed necessary.

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

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**Report Title:** International Trade Agreements; State Approval

#### Description:

Prohibits state officials from binding the State to government procurement rules of an international trade agreement without legislative action. (HB30 SD1)

