
HOUSE CONCURRENT RESOLUTION

REQUESTING THE PROCUREMENT POLICY BOARD TO REMOVE OR CLARIFY THE EXEMPTION OF FRESH MEAT AND PRODUCE AND ANIMALS AND PLANTS FROM THE PUBLIC PROCUREMENT CODE AND TO ADOPT A POLICY TO FACILITATE IMPLEMENTING THE PUBLIC PROCUREMENT CODE PREFERENCE FOR HAWAII PRODUCTS.

1 WHEREAS, in 1993, the Hawaii public procurement code,
2 codified as chapter 103D, Hawaii Revised Statutes, was adopted
3 to increase public confidence in the procedures followed in
4 public procurement, the process through which taxpayer's dollars
5 are spent to purchase goods and services; and

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7 WHEREAS, the Hawaii public procurement code establishes a
8 number of preferences in the purchase of goods and services,
9 including a preference for recycled products and the use of
10 Hawaii software development businesses; and

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12 WHEREAS, the public procurement code provides for a
13 preference for Hawaii products and the establishment of a Hawaii
14 products list; and

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16 WHEREAS, when considering a bid or proposal that contains
17 both Hawaii and non-Hawaii products for public procurement
18 purposes, a fixed percentage price adjustment is applied to bids
19 or offers of products on the Hawaii products list; and

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21 WHEREAS, the preference for Hawaii products is not intended
22 to result in automatic purchases of Hawaii products, but to give
23 a preference for a Hawaii product where the Hawaii product meets
24 the minimum specifications and other factors are equal; and

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26 WHEREAS, in recent years, legislation has been introduced,
27 but not passed, that sought to require the food operations of
28 state correctional, hospitals, healthcare facilities, and public
29 schools to apply a procurement preference to purchases of



1 agricultural products that include floricultural, horticultural,
2 viticultural, forestry, nut, coffee, dairy, livestock, poultry,
3 bee, and farm or plantation products that are raised or grown in
4 Hawaii, and other legislation sought unsuccessfully to require
5 state purchasing agents to apply a procurement preference for
6 purchases of lei made in Hawaii; and

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8 WHEREAS, certain goods and services are exempt from the
9 public procurement code if procurement by competitive means is
10 not practicable or advantageous to the State; and

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12 WHEREAS, the exemptions established pursuant to section
13 103D-102(b)(4), Hawaii Revised Statutes, generally relate to
14 specific or small purchases, including:

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16 (1) Expert witness services;
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18 (2) Art works for museum or public display;
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20 (3) Research and reference material;
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22 (4) Meats and food for Kaulapapa settlement;
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24 (5) Opponents for athletic contests;
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26 (6) Regulated utility services;
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28 (7) Performances;
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30 (8) Goods and services for commercial resale by the State;
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32 (9) Services relating to the issuance and sale of State or
33 county bonds;
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35 (10) Legal services performed out of State for the State or
36 its agencies;
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38 (11) Financing agreements; and
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40 (12) Other goods or services where procurement by
41 competitive means is not practicable or advantageous
42 to the State; and
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1 WHEREAS, under Exhibit A to section 3-120-4, Hawaii
2 Administrative Rules, as approved by the Procurement Policy
3 Board, state purchases of fresh meat and produce and animals and
4 plants also are exempt from the public procurement code; and
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6 WHEREAS, the public procurement code currently provides an
7 exemption for small purchases in amounts less than \$50,000; and
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9 WHEREAS, exemptions of goods and services from the public
10 procurement code deprive Hawaii producers and vendors of any
11 advantage that Hawaii goods or services in the category exempted
12 would otherwise receive from the statutorily established
13 preference for Hawaii products; for example, any Hawaii fresh
14 meat or produce included on the Hawaii product list and subject
15 to preference, would lose the Hawaii product preference because
16 purchases of fresh meat or produce are exempt from the public
17 procurement code; and
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19 WHEREAS, to nurture, encourage, and facilitate the intent
20 of the Hawaii product preference in public procurement, a
21 determination of whether the exemption for fresh meat and
22 produce and animals and plants is necessary; now, therefore,
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24 BE IT RESOLVED by the House of Representatives of the
25 Twenty-fourth Legislature of the State of Hawaii, Regular
26 Session of 2008, the Senate concurring, that the Procurement
27 Policy Board is requested to review the public procurement code
28 exemption for fresh meat and produce and animals and plants
29 under Exhibit A to section 3-120-4, Hawaii Administrative Rules,
30 to determine whether the current exemption for fresh meat and
31 produce and animals and plants is appropriate and consistent
32 with the public procurement code's expressly stated preference
33 for Hawaii products and to determine whether the exemption for
34 fresh meat and produce and animals and plants thwarts the
35 intended public procurement preference for Hawaii products; and
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37 BE IT FURTHER RESOLVED that the Procurement Policy Board is
38 also requested to consider and implement a policy that
39 facilitates implementing the public procurement code preference
40 for Hawaii products by directing state agencies to include
41 specific reference to Hawaii product preference in their public
42 procurement solicitation and by granting offerors who abide by
43 the Hawaii preference provision, preferential or "plus" scoring
44 in their evaluation; and



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BE IT FURTHER RESOLVED that the Procurement Policy Board is requested to submit to the Legislature no later than twenty days prior to the convening of the Regular Session of 2009 a report of its findings and recommendations, including the status of the implementation of a policy that indicates a Hawaii product preference in public procurement purchases and preferential scoring for participating offerors; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Chairperson of the Procurement Policy Board, the Comptroller, and the Administrator of the State Procurement Office, who in turn is requested to transmit copies to all chief procurement officers of state entities and each of the several counties.

OFFERED BY: *[Signature]*

[Handwritten signatures]

J. Phil. Karaman

MAR 12 2008