

LINDA LINGLE
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TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS
ON
February 4, 2008

H.B. 2890

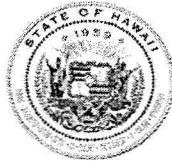
RELATING TO ARCHAEOLOGISTS

Chair Ito and members of the Committee, thank you for the opportunity to testify on H.B. 2890.

The Department of Accounting and General Services (DAGS) opposes this bill. DAGS understands that there are times when exemptions to the procurement code are appropriate. Chapter 103D-102(a)(4), HRS allows for exemptions from the code when goods or services are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State. That determination is generally made by the agency with the need to procure the good or service. H.B. 2890 seeks to exempt contracts between the Department of Land and Natural Resources and archaeologists. However, the director of the department does not see a need for the exemption. Therefore, this bill is unnecessary and should be held.

Thank you for the opportunity to testify on this matter.

LINDA LINGLE
GOVERNOR



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TESTIMONY
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TO THE
HOUSE COMMITTEE
ON
WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS

February 4, 2008

HB 2890

RELATING TO ARCHAEOLOGISTS.

Chair Ito, Vice Chair Karamatsu and committee members, thank you for the opportunity to testify on HB 2890 which provides for "non-bid" contracts with archaeologists.

The State Procurement Office (SPO) does not support the language to exempt from HRS chapter 103D, contracts for archaeological services.

Statutory exemptions are contrary to the Hawaii Public Procurement Code (Code), section 103D-102, HRS, on the applicability of the chapter that states in part ". . . shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, . . ." Any governmental agency with the authority to expend funds should be in compliance with chapter 103D, which promotes the policy of fair and equitable treatment of all persons who deal with the procurement system; fosters effective broad-based competition; and increases public confidence in public procurement.

The SPO is against statutorily exempting specific purchases from the Code, as it is not in the best interest of government, the business community, and the general public. The Code establishes a time-tested, fair, and reliable set of rules and processes for award of contracts. The competitive procurement processes of the Code are to insure that all potential providers are afforded the opportunity to compete for the required services. To the extent agencies may need specific purchases to be exempted from Code requirements, the Code provides an exemption process.

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The Code should not be viewed as an obstacle to a purchasing agency's mission, but rather as the single source of public procurement policy to be applied equally and uniformly to obtain its requirements. It was the legislature's intent for the Code to be a single source of public procurement policy. If individual agencies are exempted and allowed to develop their own individual processes, it becomes problematic for the administration and vendors/contractors that must comply with a variety of processes. Agencies agree that fairness, open competition, a level playing field, and government disclosure and transparency in the procurement and contracting process are vital to good government. We believe that for this to be accomplished, we must participate in the process with one set of statutes and rules.

In conclusion, there is no compelling reason to statutorily exempt contracts for service of an archaeologist from chapter 103D for a specific agency. The SPO recommends this bill be held.

Thank you.



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Hawaii Government Employees Association
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The Twenty-Fourth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Water, Land Ocean Resources and Hawaiian Affairs

Testimony by
Hawaii Government Employees Association
February 4, 2008

H.B. 2890 – RELATING TO ARCHAEOLOGISTS

The Hawaii Government Employees Association opposes this bill. As drafted, H.B. 2890 will allow the Department of Land and Natural Resources to contract with archaeologists and bypass the procurement code. Essentially, such action could permit privatization of the State Historic Preservation Division (SHPD).

Poor management practices and the exemption from civil service (Chapter 76, HRS) of its employees have created longstanding problems within the division. Exempting employees from civil service creates a second class of employees who have no recourse in the event of unfair or abusive management practices. We have witnessed employees in the SHPD and elsewhere who are dismissed or disciplined without proper cause and then unable to appeal the action.

This exemption from civil service is unjustified and we were successful in changing the language contained in Section 6E-3, HRS from a mandatory to a permissive exemption. Unfortunately, the DLNR is unwilling to change these exempt positions to civil service. If such opposition continues, we will seek legislation mandating that these positions become civil service.

The long-term answer to problems within the division is to secure better management by tightening the requirements for the state historic preservation officer and creating civil service positions with the SHPD. Thank you for the opportunity to express our opposition to H.B. 2890.

Respectfully submitted,

for Nora A. Nomura
Deputy Executive Director