

UNIVERSITY OF HAWAI‘I SYSTEM LEGISLATIVE TESTIMONY



SB 2161 – RELATING TO THE BOARD OF REGENTS OF THE
UNIVERSITY OF HAWAII

Testimony Presented Before the
Senate Committee on Education
Committee on Tourism & Government Operations

February 08, 2008 at 1:15pm

by

Howard Todo
Vice President for Budget & Finance/CFO
University of Hawaii System

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Senate Committee on Education
And
Committee on Tourism & Government Operations

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Vice President for Budget & Finance/CFO, University of Hawai'i

SB 2161 – RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII

Chairs Sakamoto and Nishihara, Vice Chairs Tokuda and Kim, and Members of the Committees:

This Bill restores the University's ability to establish its own procurement policies in support of the widely accepted public policy of greater administrative flexibility for the University. The University was granted this flexibility by the Legislature in 1998 and had used it responsibly and to great benefit until its revocation as of January 1, 2005.

The first point we would like to make is that providing the University of Hawaii with administrative flexibility has been accepted public policy embraced by all branches of government and the general public.

In 1997, the Governor, Senate President and Speaker of the House created an unprecedented blue ribbon Economic Revitalization Task Force composed of Hawaii's business, community and government leaders. Their objective was to develop recommendations on how to strengthen Hawaii's economy. Recognizing the importance of the University of Hawaii as a major economic engine for the State, one of the clear conclusions of the task force, accepted by all, was that autonomy for the university would materially enhance the university's performance of its constitutional responsibilities and allow it to contribute more meaningfully to the economic revitalization of the State of Hawaii. In 1998 the Legislature passed and the Governor signed Act 115 granting the University of Hawaii greater flexibility in managing its own affairs and, most notably, exempting the University of Hawaii from the State Procurement Code. This flexibility allowed the Board of Regents to adopt University procurement procedures consistent with State procurement law, but not dependent on the State governmental processes, procedures and resources. Taking this flexibility even further, in the 2000 legislative session a constitutional amendment was approved to provide the University of Hawaii with even greater autonomy. This constitutional amendment was overwhelmingly ratified by Hawaii's voters in the 2000 election.

The second point we would like to make is that the University used this flexibility responsibly and effectively.

As required by Act 115, the University developed and implemented its own internal procedures and policies for procurement. The University used its flexibility to create the most advanced and open electronic public sector procurement system in the State of Hawaii. An electronic sourcing system called "SuperQuote" was established at no cost to

the University, through which requests for quotation are solicited online. By making use of the Internet, quotes are received faster, the process is more open, competition is increased resulting in lower prices, and there is automatically an audit trail. The University also implemented the first purchasing card (PCard) program in the State. Accountability is maintained through various restrictions on the type and amount of allowable spending. The PCard program reduces time, costs and effort in purchasing, including by enabling purchases over the Internet. Both SuperQuote and the PCard system have direct electronic interfaces to the University's financial management information system. This eliminates duplicate data entry in purchasing, which further reduces administrative costs and decreases a potential source of errors. The University developed comprehensive and thorough written policies and procedures appropriate for these modern practices. The University's Administrative Procedures on Procurement have been available online for many years and can be found at the following website: <http://www.hawaii.edu/apis/apm/a8200.html>. While the current versions of these procedures reflect the 2005 revocation of the University's Act 115 flexibility, the previous procedures that took advantage of the flexibility are also available in the online archives at <http://www.hawaii.edu/svpa/apm/archives/a8200.html>.

Our third point is that the University remains fully committed to openness, appropriate public oversight and accountability.

In improving its internal procurement system, the University of Hawaii fully honored the statutory requirement to comply with the intent of the State procurement code. While dramatically increasing open competition and improving operational efficiency, the University has also embraced applicable federal procurement guidelines in its new processes and systems. The University procedures developed to implement the flexibility granted by Act 115, as described above, were all reviewed, discussed and approved by the Board of Regents at duly noticed open public meetings conducted under the State "Sunshine" laws. In addition to a bevy of internal control processes, the University's procurement practices are independently audited each year to ensure fair and equitable treatment of vendors, to foster effective broad-based competition in order to secure best value in purchases, and to maintain the integrity of the procurement process.

The public interest is best served by restoring the University's flexibility to establish its own procurement policies.

The widely accepted movement to increase University flexibility has been widely supported by the Legislature over the last decade, by the last two Governors, by the business community and by the voting public. One of the most visible outcomes of this movement was the law passed by the 1998 Legislature granting the University an exemption from the state procurement processes. The University's own procurement system and processes streamlined purchasing to reduce administrative costs, increased competition, reduced the costs of goods and services procured, increased openness and auditability, and reduced the costs for vendors to do business with the University. Our faculty and staff used this direct responsibility and accountability to help the University of Hawaii respond to changing conditions, new opportunities and Hawaii's needs in a more timely and effective manner. In addition, the University's flexibility reduced cost to State Government by relieving DAGS and other agencies of any responsibility for University procurement.

This will allow the University to get repairs and renovations done more quickly and reduce costs while maintaining appropriate controls.

We appreciate the Legislature's desire to assist the University in addressing its deferred maintenance needs and the deteriorating condition of its facilities. Restoring the flexibility in procurement will allow the University to be more efficient and timely in the use of funds provided by the Legislature to deal with the backlog of repairs and renovations needed at all of our ten campuses. It will allow us to get projects started and completed more quickly and reduce costs for the University and its vendors while providing for open competition and auditability.

We ask your support for the passage of this bill, which is important in helping the University of Hawaii have the facilities and processes to compete in the national marketplace of Colleges and Universities and to be the major engine for the economic diversification of Hawaii.

Thank you for this opportunity to testify in support of this measure.

**Testimony Presented Before the
Senate Committee on Tourism and Government Operations and
Senate Committee on Education**

February 8, 2008 at 1:15 p.m.

by
Virginia S. Hinshaw, Chancellor
University of Hawai'i at Mānoa

SB 2161 Relating to the Board of Regents of the University of Hawai'i

Chair Nishihara, Chair Sakamoto, and Members of the Committees:

The University strongly supports having the procurement exemption so that we can address our many issues, particularly our deferred maintenance, quickly and efficiently. The need for Manoa to move more nimbly and flexibly in this way is critically important in renewing the University of Hawai'i at Mānoa - now.

This is definitely related to my testimonies on repairs and maintenance issues, and I am very grateful for the growing interest in this problem—and in particular for recent efforts by the Legislature and others to help find creative solutions to the critical state of our campus infrastructure. Having this flexibility would help us respond to those needs more quickly and economically, and it is critically important in reducing the backlog.

It is no secret that restoring the Mānoa campus and making it a destination of choice is my top priority. Since arriving in July, I quickly recognized that facilities deterioration on campus represents our major challenge, and led me to describe our campus as a jewel in many ways—particularly intellectually—but also to note that it is badly tarnished physically. Such deterioration didn't happen overnight, but rather is the result of decades of neglected repairs and maintenance.

In this our Centennial year, we have much to celebrate. We were able to bring Hawai'i to New Orleans for the experience of a lifetime watching our very own Warriors compete in the Sugar Bowl. It was thrilling, and I am so proud of our entire institution, particularly our athletics program, for being able to accomplish that experience and to our community for their unbelievable support.

This experience generated great pride in being affiliated with UH—it was palpable and visible in New Orleans. Through athletics, folks learned a lot about Hawai'i and UH Mānoa; such recognition benefits the State and our sister UH campuses.

Along with pride, however, competition at the national level brought with it the recognition that many of our campus facilities are in need of a major overhaul. This is the case in athletics and across the campus. It will take a tremendous effort by all of our supporters to have facilities that can support our mission.

I appreciate that your job is difficult because the University is not the only institution in the state with deferred maintenance issues—and the needs are great. I'm not looking to you all to

solve all of our problems, but rather to join us in leveraging the state's investment in the University and supporting projects where we do not have other revenue or private opportunities for support.

Facilities do clearly play a significant role in making UH Mānoa a destination of choice for students, faculty, staff, and community members. Thankfully our new Assistant VC for Facilities, Dave Hafner, has the expertise to analyze our facilities needs—here are a few facts:

- Our deferred maintenance backlog has been chronically underestimated, our new estimate using business standard analyses indicates upwards of \$400,000,000;
- Our current facilities workforce is only able to react to breakdowns on campus, about 950 work orders a month, with a backlog of 4,607 work orders;
- Less than 5% of our efforts are expended on preventive maintenance, making the future full of more of the same experiences. Twenty-five buildings currently have major system breakdowns, 37 have significant leaks—and that's not surprising since 36 of our buildings are over 60 years old; a top priority is to repairs the roofs to protect the programs from continual water damage;
- Costs are increasing—sewage up 82% in 6 months; construction costs at a 10% inflation rate, which makes delays vastly expensive.

So how do we address these challenges? Certainly resources play a key role but so does having nimbleness and flexibility. My goal is for us to move more rapidly and efficiently to realize the full value of investments you make. To accomplish that, we need to change the way we do business—such as pursuing public/private partnerships, restoration of our state procurement exemption, using debt, assertive licensing and more.

The Mānoa Facilities team is changing to improve and meet our needs—for example, they are participating for the first time in a process which serves as a nation-wide benchmark for campus facilities performance. Due to R&M upgrades on their part, our electricity usage is down by 6 and ½ % from last year—a potential savings of \$1.3 million annually.

We're certainly seeing positive changes due to your investments—our new dormitory Frear Hall is on time, on budget and will open this fall and is sorely needed. Our next target is renovation of the four residential towers. Campus Center is being renovated to meet student needs.

Private investments are moving us ahead as well and are critical to our future—clearly the Shidler gift to the Business School has been transformational, both intellectually and physically—and our entering MBA students are the most highly qualified to date—there is a connection.

Since Mānoa is a large enterprise, there are a number of requests within the budget important to our future and our Mānoa team members and I will seek to answer any questions you may have about those.

In closing, my hope for the future is that we can work together to realize the full potential of UH Mānoa as a beautiful, intellectually stimulating center of activity – in that way, UH Mānoa can best serve the State of Hawai'i and also be a strong partner for our sister UH campuses. I know your investment in the university generates great returns because our alumni,

public service, and research advances all contribute positively to the lives of our citizens and I believe we should all be quite proud of those activities. Mahalo.

**Testimony Presented Before the
Senate Committee on Tourism and Government Operations and
Senate Committee on Education**

February 8, 2008 at 1:15 p.m.

by
Kathy Cutshaw, Vice Chancellor for Administration
University of Hawai'i at Mānoa

SB 2161 Relating to the Board of Regents of the University of Hawai'i

Chair Nishihara, Chair Sakamoto, and Members of the Committees:

The University strongly supports SB 2161 which would restore the University's ability to establish its own procurement policies consistent with the goals of public accountability and public procurement practices.

In 1997 the Governor, Senate President and Speaker of the House created a blue ribbon Economic Revitalization Task Force composed of Hawaii's business, community and governmental leaders. Recognizing the importance of the University of Hawaii as a major economic engine for the State, the task force recognized that autonomy for the university would enhance the university's performance of its constitutional responsibilities and allow it to contribute more meaningfully to the economic revitalization of the State of Hawaii. In 1998 the Legislature passed and the Governor signed Act 115 granting the University of Hawaii greater flexibility in managing its own affairs and exempting the University from the State Procurement Code. In the 2000 legislative session a constitutional amendment was approved to provide the University with even greater autonomy. This constitutional amendment was overwhelmingly ratified by Hawaii voters in the 2000 election. This flexibility allowed the Board of Regents to adopt University procurement procedures consistent with State procurement law, but not dependent on the State governmental processes and procedures.

The University used this flexibility responsibly and effectively in developing and implementing its own internal procedures and policies for procurement. The University created the most advanced and open electronic procurement system in the State of Hawaii called SuperQuote. By making use of the Internet, this system allowed quotes to be received faster, ensured that the process was more open, increased competition resulting in lower prices, and provided an automatic audit trail. The University also implemented the first purchasing card (PCard) program in the State. Both SuperQuote and the PCard system have direct electronic interfaces to the University's financial management system eliminating duplicate data entry and further reducing administrative costs and decreasing the potential for error.

Most importantly the University developed comprehensive and thorough written policies and procedures appropriate for these modern practices. As the University is the recipient of significant federal funding, the administrative procedures that were developed were based on the

Federal Acquisition Regulations (FAR) and meet federal procurement regulations as defined in OMB Circular A-110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education).

The University remains fully committed to openness, appropriate public oversight and accountability as evidenced by the systems and procedures that were implemented. All of the systems and procedures developed honored the statutory requirement to comply with the intent of the State procurement code, increased open competition and improved operational efficiency.

In addition, as a condition of the University's ability to accept federal funds for student financial aid and research, the University is independently audited every year to ensure that we foster fair and equitable treatment of vendors, support effective broad-based competition in order to secure the best value in purchases and that the integrity of the procurement process is maintained.

In summary, the University used the flexibility that was given to us by the voters of our State responsibly and effectively. We have checks and balances built into our administrative procedures to ensure openness and accountability and we are audited on a yearly basis to ensure compliance.

The University respectfully requests your support on SB 2161.

LINDA LINGLE
GOVERNOR



PROCUREMENT POLICY BOARD
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ADMINISTRATOR

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TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
SENATE COMMITTEES
ON
TOURISM AND GOVERNMENT OPERATIONS
AND
EDUCATION

February 8, 2008

SB 2161

RELATING TO THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII.

Chair Sakamoto, Chair Nishihara and committee members, thank you for the opportunity to testify on SB 2161.

The State Procurement Office (SPO) does not support the proposed language to amend section 304A-105, to allow the board of regents to develop procurement practices exempt from chapter 103D, the public procurement code. The designated chief procurement officer, the President of the University of Hawaii, has the autonomy and independence to direct its own procurement program. There is no advantage in independence gained by exempting the UH from the code since the code already provides independence and flexibility in the procurement process.

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 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. SPO believes that for this to be accomplished, we must participate in the process with one set of statutes and rules.

The Code provides consistency in the manner in which purchasing agencies procure goods, services, and construction. Although an exempted agency may develop their own procurement source selection methods, it was the intent and goal of the legislature to have a single source of policy and procedures to ensure consistency and continuity in the application of the procurement process among government agencies throughout the State and counties.

Exempting agencies from the Code will jeopardize uniform and consistent protections against waste, fraud, and abuse the legislature placed in the Code; and will potentially hinder the legislature in promoting and supporting specific segments of the Hawaii economy through preferences allowed by the Code. "Preferences" permit the legislature to promote specific segments of the state's economy and encourage the development of new products and technologies. However, preference programs apply only to agencies subject to the Code, and exempt agencies are not subject to the legislature's designated preferences.

The Code enables the legislature to impose specific requirements to eliminate practices that are detrimental to the public's perception of government procurement. The legislature passed and the governor signed into law, Act 52(2003), amending Section 103D-304 to require that all contract awards to professional service providers be made based upon the merits of the provider, and not upon any other factors; thereby reaffirming the public's understanding that professional service contracts are not awarded to companies based on political affiliation or amount of political contributions.

To provide fairness and consistency, and due process for vendors/contractors, the Code offers a legal and contractual remedy process to resolve protested solicitations and awards, which includes impartial reviews by the Department of Commerce and Consumer Affairs administrative hearings process and the ability to request judicial review. The protest process also protects agencies and taxpayers from onerous and baseless protests, minimizes delays and disruptions in the award of contracts, and supports a prompt resolution.

To insure all vendors/contractors who seek public contracts compete on equal footing they are required to demonstrate compliance with Hawaii laws. The Code requires potential vendors/contractors to comply with Hawaii laws prior to award of a contract, i.e. DOTAX Tax Clearance Certificate including IRS certification, DLIR Certificate of Compliance; DCCA Certificate of Good Standing. Upon completion of goods provided or services performed, and before final payment is made, a vendor/contractor is again required to demonstrate compliance with Hawaii laws, thereby assuring that public funds are paid to compliant vendors/contractors.

The Code contains a provision (§103D-102(b)(4)(L)) that allows a purchasing agency to request an exemption when it has been determined that procurement by competitive means is either not practicable or not advantageous to the State, thereby providing flexibility, but within the requirements of the Code.

Open bidding procedures assure that the State obtains value, and potential vendors/contractors are treated fairly. The SPO believes that it is vital to good government to have a fair and consistent process to award government contracts that hold agencies responsible and accountable for their actions.

The SPO is against exempting specific agencies 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.

In conclusion, there is no compelling reason to statutorily exempt agencies from the Code.

Thank you.

FAX TESTIMONY 586 6659

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Hawaii

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February 7, 2008

EMAILED TESTIMONY TO: testimony@capitol.hawaii.gov

Hearing Date: Friday, February 8, 1:15 p.m., Conference Room 225

Honorable Senators Clarence K. Nishihara, Chair, Donna Mercado Kim, Vice Chair, and Members of the Senate Committee on Tourism and Government Operations

Honorable Senators Norman Sakamoto, Chair, Jill N. Tokuda, Vice Chair, and Members fo the Senate Committee on Education

Subject: SB 2161, Relating to the Board of Regents of the University of Hawaii

Dear Chair Nishihara, Vice Chair Kim, and Committee Members,

The American Council of Engineering Companies of Hawaii (ACECH), representing more than 70 consulting engineering firms in Hawaii, **opposes SB 2161, Relating to the Board of Regents of the University of Hawaii.**

SB 2893 attempts to exempt the University of Hawaii Board of Regents from Hawaii Revised Statutes (HRS) Chapter 103D, the State procurement code.

ACECH believes that the State procurement code is the best means for procuring services and products, and should be used by all entities that procure services and products on behalf of the State. The procurement code provides for fair and proper award of State contracts, in a manner open and transparent to the public. ACECH worked for many years with other groups to enact Qualification-based selection and an open and transparent procurement process, to move this State away from the perception of procurement irregularities. We believe exempting UH from the procurement code sets a dangerous precedent, and is poor public policy.

We appreciate your time and the opportunity to present our case in opposition of HB 2996. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,

ACEC Hawaii



Jon Nishimura
President



AIA Hawaii State Council
A Council of The American Institute of Architects

To Senate Sgt-at-Arms
TSG/EDU 2/8/08
1:15 pm Rm 225

February 8, 2008

Honorable Clarence Nishihara, Chair
Senate Committee on Tourism & Government Operations
Honorable Norman Sakamoto, Chair
Senate Committee on Education

Re: **Senate Bill 2161**
Relating to Procurement

Dear Chair Nishihara, Chair Sakamoto, and Members of the Committees,

My name is Daniel Chun, Government Affairs Chair of The American Institute of Architects (AIA). The Board of Directors of the AIA Hawaii State Council is **STRONGLY OPPOSED** to Senate Bill 2161 because it grants the University of Hawaii a "wholesale" exemption from the Hawaii public procurement code. Following are our specific concerns:

1. The exemption from chapter 103D-304 will nullify over ten years of efforts by legislators and all of Hawaii's design professional societies to pass an architect-engineer procurement law (Act 52 of 2003) that meets national and federal standards for awarding these types of professional service contracts.
2. The exemption has the potential of increasing business costs in the design and construction industries such as the use of different design and construction procurement methods than are used by other public entities. These increased overhead costs will have to be borne by other public entities and the private sector.
3. All other procurement statutes and administrative rules and processes that have been developed through years of careful public deliberation are swept away by this bill.

While the bill encourages the University to use the provisions of the Code, there is no guarantee to the private sector that the regents will do this. This legislature is a better public arena for developing state-wide procurement policy that balances the needs of a public entity with that of private businesses that intend to provide design and construction services. In the 1990s AIA supported the University's independence to select its own providers of services; while operating within the provisions of a state procurement code.

I also have personal experience in designing about \$75 million of UH facilities. Much of the current time length to design and construct UH facilities is adversely affected by lack of adequate budgets and overworked staff. AIA believes that these problems will not be solved by granting an exemption from the Code. Thank you for this opportunity to present **STRONGLY OPPOSING** testimony for SB 2161.



ROOFING CONTRACTORS ASSOCIATION OF HAWAII

820 Mililani Street, Ste. 810, Honolulu, Hawaii 96813-2938
Phone (808) 537-1224 ♦ Facsimile (808) 533-2739

February 8, 2008

Testimony To: Senate Committee on Tourism and Government Operations
Senator Clarence K. Nishihara, Chair

Senate Committee on Education
Senator Norman Sakamoto, Chair

Presented By: Tim Lyons, CAE
Executive Director

Subject: S.B. 2161 – RELATING TO THE BOARD OF REGENTS OF THE
UNIVERSITY OF HAWAII.

Chair Nishihara, Chair Sakamoto and Members of the Joint Committees:

I am Tim Lyons, Executive Director of the Roofing Contractors Association of Hawaii and we oppose this bill.

It is extremely difficult for contractors to keep up to date as to what the rules of procurement are when you have several different sets of those rules. One of the things that we have always endorsed about the State of Hawaii Procurement Code is that it applies to all government purchases and the administration of their contracts. An exception to that code is likely to lead to other agencies requesting exemptions and eventually we will be back to where we were many years ago with several different sets of rules and regulations to play by.

We are also concerned about the fact that the bid protest process may be vacated and although we don't think it is a perfect process, it does provide for a timely and inexpensive way to resolve alleged problems.

Lastly, we also object because this legislature was very helpful in requiring a demonstration of compliance with Hawaii's laws prior to the award of the contract by passing legislation to that effect several years ago. Additionally, before final payment is made that compliance must also again be substantiated. The vacating of the code for the University of Hawaii would allow these kinds of projects to slip through. We would anticipate that if UH is exempted from the code they would be even more difficult to deal with.

Based on the above, we are opposed to this exemption.

Thank you.

SB2161, Relating to the Board of Regents TSG/EDU; Chair, Sen Sakamoto
AHW; Chair, Sen. Tokuda

PLEASE KILL THIS BILL.

I understand the motivation behind this bill. Sen. Sakamoto always has the best interests of UH in mind. But I do not believe this is the best way to help us.

The UH under this Board of Regents and the current President have demonstrated themselves to be incompetent at handling the needs of the University. This is never more obvious than in the casual, bordering on corrupt, handling of money. The current antics remind me of the bad old days of Evan Dobbelle! My comments are verified by the multiple, negative reviews of UH conducted by the State Auditor.

So, to actually REMOVE the safeguards of the public procurement code requirements is probably the OPPOSITE of what needs to be done.

Until a new BOR and President come on board, I ask that your committees not only kill this bill (sorry Sen Sakamoto), but institute as many safeguards and as much monitoring of UH appropriations as possible.

Thank you.

Aloha, joel

Dr. Joel Fischer, ACSW
President, 19-3, Democratic Party

Professor
University of Hawai'i, School of Social Work Henke Hall Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."
Dr. Martin Luther King, Jr.

"Never, never, never quit."
Winston Churchill



LATE

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

Testimony of Linda L. Smith
Senior Policy Advisor to the Governor

Before the

SENATE COMMITTEE ON TOURISM AND GOVERNMENT OPERATIONS

on

SENATE BILL No. 2161

Friday, February 08, 2008

1:15 P.M.

Chair Nishihara, Chair Sakamoto, Vice Chair Kim, Vice Chair Tokuda, and members of the Committees, thank you for the opportunity to testify on Senate Bill 2161. The Administration strongly supports this bill, which reinstates the University of Hawaii's Board of Regents' authority to develop procurement policies tailored to meet university needs.

The University of Hawaii is a unique and vital contributor to Hawaii's economic momentum. Historically, there has been public and private sector support for increased decision-making authority and flexibility concerning the management of the University's affairs.

In 1998 the Legislature enacted Act 115, Session Laws of Hawaii, which recognized the wisdom of delegating to the Board of Regents managerial authority over the university's real and personal property, and provided an exemption to the University of Hawaii from the procurement code. This flexibility allowed the Board of Regents to adopt University procurement procedures consistent with State procurement law, but not dependent on the State governmental processes, procedures and resources. This policy was supported by the Governor, the Legislature, and the Economic Revitalization Task Force. Legislative and popular recognition that the University of Hawaii deserved even greater autonomy was affirmed in 2000 when a constitutional amendment was voted on and ratified by the people of Hawaii to provide this autonomy.

Section 103D-203, Hawaii Revised Statutes, identifies twenty chief procurement officers of the state and counties. The President of the University of Hawaii is defined as the chief procurement officer for the University of Hawaii and possesses the authority and independence to direct the university's procurement process. The Administration recognizes the role of the President of the University of Hawaii in the procurement process, and stresses that we support reinstating the flexibility to the University to develop procurement policies that best address and provide for the needs of the University. The Administration does not believe that the analysis of another procurement officer should control or determine the fate of the University in their pursuit of managerial and operational flexibility that best enables them to fulfill their obligations and responsibilities. The testimony and position of the State Procurement Office does not represent the position of the Administration on Senate Bill 2161.

The Administration strongly believes that the autonomy granted to the University of Hawaii in 1998 must be restored in order to ensure that the Board of Regents can most adequately respond to administrative needs and react to future challenges in a timely and effective manner.

We ask that you pass this measure out, unamended. Thank you for the opportunity to testify in strong support of Senate Bill 2161.

**COALITION OF HAWAII ENGINEERING AND ARCHITECTURAL
PROFESSIONALS**

L A T E

Email to: testimony@capitol.hawaii.gov

Hearing Date: Friday, February 8, 2008 1:15pm, CR 225

Honorable Senator Clarence K. Nishihara, Chair, Senator Donna Mercado Kim, Vice Chair and Members of the Senate Committee on Tourism and Government Operations

Honorable Senator Norman Sakamoto, Chair, Senator Jill N. Tokuda, Vice Chair and Members of the Senate Committee on Education

Subject: SB 2161 - Relating to the Board of Regents of the University of Hawaii

Coalition of Hawaii Engineering & Architectural Professionals represents several professional Engineering and Architectural organizations including American Council of Engineering Companies Hawaii; American Institute of Architects; Hawaii Chapter of the American Society of Civil Engineers; American Public Works Association Hawaii Chapter; Structural Engineering Association of Hawaii; and the Hawaii Society of Professional Engineers.

Our coalition is OPPOSED to SB 2161 Relating to the Board of Regents of the University of Hawaii. This bill proposes to exempt the University of Hawaii, Board of Regents from following the State Procurement Code (HRS 103D-304). It took many years to ensure that the State Procurement Code for professional services models the federal government procurement code (Public Law 92-582). The State currently must procure professional services based on qualification based selection procedures and ensure that the process is open and transparent. We take exception to any entity requesting an exemption from the current code.

We urge you to Oppose SB 2161 - Relating to the Board of Regents of the University of Hawaii. Mahalo for this opportunity to express our business concerns.

Sincerely,

Coalition of Hawaii Engineering & Architectural Professionals

Lester H. Fukuda, P.E., FACEC

