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**TESTIMONY  
OF  
AARON S. FUJIOKA  
ADMINISTRATOR  
STATE PROCUREMENT OFFICE**

**TO THE  
HOUSE COMMITTEE  
ON  
ENERGY AND ENVIRONMENTAL PROTECTION**

March 11, 2008

SB 2845, SD 2

**RELATING TO REORGANIZATION OF STATE AGENCIES.**

Chair Morita, Vice Chair Carroll and committee members, thank you for the opportunity to testify on S.B. 2845, SD 2. The State Procurement Office's (SPO) testimony is limited to Section 3, which provides that any contract pursuant to SB 2845, SD 2, shall be a "non-bid" contract exempt from chapter 103D, Hawaii Revised Statutes.

The SPO does not support the language to exempt from HRS chapter 103D, any contract issued pursuant to this bill.

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

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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.

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. Fairness, open competition, a level playing field, and government disclosure and transparency in the procurement and contracting process are vital to good government. For this to be accomplished, we must participate in the process with one set of statutes and rules.

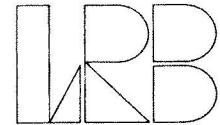
In conclusion, there is no compelling reason to statutorily exempt from the Code any contract pursuant to SB 2845, SD 2. The SPO recommends amending Page 6, line 22 and Page 7 lines 1 and 2, as follows:

Section 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$            or so much thereof as may be necessary for fiscal year 2008-2009 to carry out the purposes of this Act. ~~Any contract issued under this Act shall be exempt from the requirements of chapter 103D, Hawaii Revised Statutes.~~

Thank you.

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Acting Director

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**SB2845, SD2**  
**RELATING TO REORGANIZATION OF STATE AGENCIES**

Testimony of Legislative Reference Bureau  
Ken H. Takayama, Acting Director  
or Charlotte A. Carter-Yamauchi  
Assistant Director for Legislative Research

Submitted to the House Committee on Energy &  
Environmental Protection

Tuesday, March 11, 2008, 9:00 a.m.  
Conference Room 312

Chair Morita and Members of the Committee:

Thank you for this opportunity to testify on S.B. No. 2845, S.D. 2. The Bureau takes no position for or against the measure but submits the following comments.

This bill calls for the Legislative Reference Bureau (Bureau) to conduct a study to recommend the most effective and efficient options for reorganizing the state agencies responsible for issues relating to energy. The bill also appropriates an unspecified amount of funds to enable the Bureau to hire a contractor for the study. Findings and recommendations are required to be submitted prior to the convening of the 2009 regular session of the Legislature.

As always, if the Legislature really wants us to do this study, we will do it to the best of our abilities with the resources that we have and are otherwise provided us.

This S.D. 2 version of the bill provides straightforward direction for a study that appears to be manageable in scope. The bill is essentially the same as House Bill No. 2506, H.D. 1, except for the fact that this bill's appropriation amount is unspecified.

Thank you very much for this opportunity to comment.