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GOVERNOR

AARON S. FUJIOKA
ADMINISTRATOR



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

**TO THE
SENATE COMMITTEE
ON
TOURISM AND GOVERNMENT OPERATIONS**

January 31, 2008

SB 2867

RELATING TO THE HAWAII PUBLIC PROCUREMENT CODE.

Chair Nishihara, Vice Chair Kim and committee members, thank you for the opportunity to testify on SB 2867. This bill would require that any false information or misrepresentation knowingly placed in a competitive sealed bid or competitive sealed proposal be a basis for not awarding to an offeror, and require a mandatory one year suspension from bidding or submitting a proposal for any contract under this chapter.

The State Procurement Office supports this bill to further enhance the integrity of the competitive procurement processes. Thank you

DR. SANFORD W. FRIEDMAN
Global Education Trust
3717 Old Pali Rd., Honolulu, Hawaii 96817
Phone (808) 595-8866

Wednesday, January 30, 2008

Ladies and gentlemen:

I hereby submit the following testimony regarding SB2823, 2824, 2825, 2826, 2867. The SENATE Tourism and Government Operations Committee is set to hear this bill on Thursday, January 31, 2008 at 1:15 pm in Senate Conference Room 229.

I would appreciate if you would make and deliver 25 copies of my testimony to Room 213 for this hearing. Thank you.

TO: THE SENATE TOURISM AND GOVERNMENT OPERATIONS COMMITTEE, Senator Clarence K. Nishihara, Chair (telefax - (808) 586-6659)

FROM: DR. SANFORD W. FRIEDMAN, GLOBAL EDUCATION TRUST

SUBJECT: Testimony relating to SENATE PROCUREMENT PACKAGE (SB2823, 2824, 2825, 2826, 2867) - Relating To Procurement, set to be heard on 1/31/2008 at 1:15 pm in Conference Room 229

Successful economic development, especially in the areas of innovation and high technology require strong public-private sector partnerships and collaborations based on trust and fairness. Public-private collaboration in Hawaii has been essential for the growth of Hawaii's technology sector and is exemplified by federal and state programs such as the Hawaii Technology Development Venture, the State Small Business Innovation Research matching grants and programs such as the Center for Excellence for Research in Ocean Science. In 2007 with the Hydrogen Fund procurement, we saw how a dispute over interpretation of procurement laws by administration officials has denied qualified companies the opportunity to do business with the State resulting in wasted tax payer dollars, time, and resources.

State level public-private collaboration takes place continually in the context of State procurement for goods and services and must set the highest standards of objectivity and fairness by government officials administering the procurement process. Senate Bills 2823, 2824, 2825, 2826 and 2827 strive to ensure compliance with chapter 103D, HRS and assure that State administrators are fully cognizant of the procurement laws.

I support each of these five bills, which promote appropriate audits and oversight of state agencies in the procurement process, provide sanctions and penalties to enforce corrective action and provide for procurement law education of State employees. Such measures are essential to the involvement of Hawaii's best and most qualified companies in conducting business with the State and will help avoid the loss of trust in government by discouraging government employees from exercising unfair or uneducated acts.

I encourage this committee to approve SB 2823, 2824, 2825, 2826 and 2827 and hasten their passage.

Thank you very much for your consideration of my views and my testimony on this bill.

Respectfully submitted,

Dr. Sanford W. Friedman
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FROM: JOE COOPER, ARCHINOETICS, LLC

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Respectfully submitted,

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Wednesday, January 30, 2008

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TO: THE SENATE TOURISM AND GOVERNMENT OPERATIONS COMMITTEE, Senator Clarence K. Nishihara, Chair (telefax - (808) 586-6659)

FROM: ERIC CARLSON, PRODUCED BY YOU.COM, LLC

SUBJECT: Testimony relating to SENATE PROCUREMENT PACKAGE (SB2823, 2824, 2825, 2826, 2867) - Relating To Procurement, set to be heard on 1/31/2008 at 1:15 pm in Conference Room 229

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Thank you very much for your consideration of my views and my testimony on this bill.

Respectfully submitted,

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January 30, 2008

To: testimony@capitol.hawaii.gov

*Testimony for Hearing before the
Senate Committee on Tourism and Government Operations
Thursday, January 31, 2008, 1:15 pm*

*State Capitol, Conference Room 229
415 South Beretania Street
Honolulu, Hawaii 96813*

Re: Testimony in Support of SB 2823, SB 2824, SB 2825, SB 2826 and SB 2867

Chair Nishihara, Vice Chair Kim, and Committee Members:

Thank you for the opportunity to submit testimony in support of SB 2823, SB 2824, SB 2825 and SB 2826, each Relating to Procurement, as well as SB 2867 Relating to the Hawaii Public Procurement Code.

I am Jeff Au, Managing Director and General Counsel of PacifiCap, Hawaii's largest locally based venture capital firm. Since 2000, PacifiCap affiliates have invested in more than two dozen Hawaii companies, and we have led or co-invested in financing rounds totaling more than \$400 million. Our investor base of more than 100 institutional, corporate and high net worth individual investors from Hawaii demonstrates the widespread support that innovation, capital formation and economic diversification have across our community.

As a fourth generation kamaaina, at a very personal level, issues of Innovation and economic diversification have always remained very close to my heart, to continue the precious legacies of economic opportunity and social mobility that our grandparents worked so very hard to provide for us.

We at PacifiCap support these bills, which seek to restore trust, credibility and fairness in the State's procurement process. We believe that instituting required checks and balances for procurement oversight and audits of State agencies, providing sanctions and penalties to enforce corrective action, as well as requiring procurement law education for State employees, as prescribed by these bills, are critical for promoting Innovation and economic development in our State, as well as for restoring Trust in Government.

While many of you may have read in the papers about the Office of Procurement's findings of procurement law violations by the Department of Business Economic Development and

Tourism ("DBEDT") in connection with the State Hydrogen Fund, for the record, our firm did not respond to the RFP or any way apply for any funds under that program.

Our support for these bills results from our deep concern over the broader policy implications and damage inflicted by procurement law violations on our efforts to promote innovation and economic diversification in Hawaii that many of us, in both the Legislature and business community, have worked very hard to nurture and support for many years now.

Public-private sector partnerships and collaboration have been essential to successful economic development around the world, particularly in the areas of innovation and high technology. In Hawaii, such public-private sector collaboration has been critical for the growth of Hawaii's tech sector at the federal level and could potentially yield substantial benefits at the State level as well.

However, a prerequisite to successful public-private sector collaboration at the State level is the need for our business community to have a level of fundamental trust in the objectivity and fairness of State officials and the procurement process.

The damage to our State from violations of procurement laws goes far beyond wasting taxpayer dollars and being unfair to participants in an RFP process. Even more significant is the chilling effect that such violations has on other private sector companies in undermining their trust in government and discouraging the best and most-qualified companies from wanting to even apply to do business with the State.

Procurement law violations create a lose-lose propositions for all RFP applicants. For an applicant who is improperly denied an award, the result is a waste of time, money and resources, in addition to potentially compromising confidential business plans, ideas and intellectual property. But even for legitimate winners, reputations can become tainted, both in the business community and among State officials, for being perceived as associated with a procurement process and/or state agency that has a reputation for procurement law violations.

Some may think that procurement law violations over the State Hydrogen Fund are a thing of the past. However, Winston Churchill once said,

Those that fail to learn from history, are doomed to repeat it.

Unfortunately, if these bills do not become law and if our State officials do not learn from the procurement history of the State Hydrogen Fund, history can, and may, very likely be repeated.

Consider, for example, HB 3074/SB 2996 introduced just last week to both the House and Senate, by request, as part of the Governor's legislative package. This bill proposes to:

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Appropriate \$100,000 to the department of business, economic development, and tourism to enter into a partnership with a qualified private entity to assist the office of technology transfer and economic development to accelerate commercialization of University of Hawaii discoveries.

Of course, there is the obvious policy question of if the Legislature wants to appropriate \$100,000 to OTTED to enter into a partnership with a "qualified private entity" to help commercialize UH technologies, why is it that OTTED cannot directly contract with such "qualified private entity," without a second State agency, such as DBEDT, serving as the "middleman?"

But from a procurement process standpoint, we must ask the question of what does "qualified private entity" mean, who this might be, and who is going to define and select such "qualified private entity," and what new legal checks and balances have been instituted to prevent the procurement process for this OTTED UH technology transfer partnership from repeating the problems found by the State Procurement Office with respect to the State Hydrogen Fund?

Thank you very much for the opportunity to submit this testimony.

Respectfully submitted,


Jeffrey K. D. Au
Managing Director and General Counsel
PacifiCap Group, LLC

LINDA LINGLE
GOVERNOR



RUSS K. SAITO
Comptroller

Barbara A. Annis
Deputy Comptroller

STATE OF HAWAII
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TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE
ON
TOURISM AND GOVERNMENT OPERATIONS
ON
January 31, 2008

S.B. 2867

RELATING TO THE HAWAII PUBLIC PROCUREMENT CODE

Chair Nishihara and members of the Committee, thank you for the opportunity to testify on S.B. 2867.

The Department of Accounting and General Services supports the intent of this bill. However, it only applies to Sections 103D-302 (IFB) and 103D-303 (RFP). It should apply to all source selection methods - 103D-304 (Professional Services), -305 (Small Purchases), -306 (Sole Source), and -307 (Emergency).

Thank you for the opportunity to testify on this matter.