

STAND. COM. REP. NO. 1535

Honolulu, Hawaii

Aj 7, 2009

RE: H.C.R. No. 206
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Economic Revitalization, Business, & Military Affairs, to which was referred H.C.R. No. 206 entitled:

"HOUSE CONCURRENT RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY RECENT AMENDMENTS TO HAWAII ADMINISTRATIVE RULES RELATING TO CONSTRUCTION CONTRACTS UNDER THE HAWAII PUBLIC PROCUREMENT CODE TO DETERMINE WHETHER THOSE AMENDMENTS ARE CONTRARY TO THE LETTER OR SPIRIT OF THE PROCUREMENT CODE,"

begs leave to report as follows:

The purpose of this measure is to request the Legislative Reference Bureau to study recent amendments to the Hawaii Administrative Rules relating to public construction contracts to determine whether those amendments are contrary to the letter or spirit of the Hawaii State Procurement Code.

Testimony in support of this measure was submitted by the Iron Workers Stabilization Fund. Comments on this measure were submitted by the Legislative Reference Bureau.

You Committee finds that the Hawaii Public Procurement Code, codified in chapter 103D, Hawaii Revised Statutes, was designed to create a method of awarding public contracts in a manner that ensures that public moneys are spent in a way that provides the best value for products and services delivered by the most qualified offeror. However, your Committee finds that recent interim amendments to the Hawaii Administrative Rules that address

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the awarding of public contracts for construction projects may have an effect that does not provide the best value for the public's money.

Your Committee is aware that interim amendments made to the Hawaii Administrative Rules for procurement are exempt from the public hearing, public notice, and gubernatorial approval requirements of Chapter 91, Hawaii Revised Statutes. Your Committee believes that the interim rulemaking process and the corresponding lack of public scrutiny may have resulted in the issuance of administrative rules for public construction contracts that may be contrary to the letter or spirit of the Hawaii Public Procurement Code.

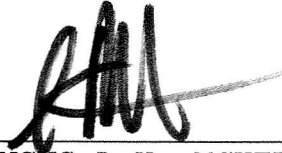
Your Committee has amended this measure to:

- (1) Include language acknowledging that the Procurement Policy Board is authorized to adopt interim rules, valid for eighteen months, and not subject to public notice, hearing, or gubernatorial approval;
- (2) Clarify that amendments to be studied are those adopted since January 1, 2003, to the Hawaii Administrative Rules through interim rulemaking actions; and
- (3) Request the Legislative Reference Bureau to study the feasibility and advisability of establishing a mechanism that requires the procurement policy board to provide timely notice to trade unions or trade associations in Hawaii of the adoption of interim rules.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization, Business, & Military Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 206, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 206, H.D. 1.



Respectfully submitted on
behalf of the members of the
Committee on Economic
Revitalization, Business, &
Military Affairs,



ANGUS L.K. MCKELVEY, Chair



State of Hawaii
House of Representatives
The Twenty-fifth Legislature

HXR 1535

Record of Votes of the Committee on Economic Revitalization, Business, & Military Affairs

Bill/Resolution No.: HCR 206	Committee Referral: EBM	Date: 04-02-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
EBM Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	Y			
2. CHOY, Isaac W. (VC)	Y			
3. BERG, Lyla B.	X			
4. EVANS, Cindy	Y			
5. MANAHAN, Joey				X
6. TAKAI, K. Mark				
7. TOKIOKA, James Kunane	Y			
8. TSUJI, Clift	X			
9. WAKAI, Glenn				X
10. WOOLEY, Jessica				X
11. WARD, Gene				Y
TOTAL (11)	6	0	0	4
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. _____ committee acronym(s)				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				