
A BILL FOR AN ACT

RELATING TO PROCUREMENT OF VOTING SYSTEM EQUIPMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The procurement process set forth in chapter
2 103D, Hawaii Revised Statutes, is ill-suited to the State's
3 procurement of voting system equipment. The administrative
4 appeals process of 103D is a time-consuming one that causes undue
5 burden to both vendors and the government when applied to the
6 unique area of elections procurement. Due process rights of
7 unsuccessful bidders will not be abridged because this bill allows
8 appeals to be made directly to the courts. This fair parallel
9 procurement process, where the selection is made by a committee
10 composed of stakeholders as well as local election officials, will
11 better balance the interests of an open and competitive procurement
12 process with the State's need to obtain voting system equipment on
13 a timely basis.

14 The purpose of this Act is to provide for an alternative
15 procurement process for the procurement of voting system
16 equipment.



1 SECTION 2. Chapter 16, Hawaii Revised Statutes, is amended by
2 adding four new sections to part IV to be appropriately designated
3 and to read as follows:

4 "§16- Definitions. "Voting system equipment" means any
5 and all systems and equipment used to record or count votes,
6 including "voting capitol equipment" as delineated under section
7 11-181, "voting machine systems," "paper ballot voting systems,"
8 and "electronic voting systems" as defined under this chapter.

9 §16- Procurement of voting system equipment. (a)
10 Notwithstanding any law to the contrary, including chapter 103D, the
11 process described in this section shall be used to procure voting
12 system equipment. Contracts to procure voting system equipment to
13 be awarded pursuant to this section shall be exempt from the
14 requirements of chapter 103D. Nothing in this section shall
15 prevent the State from satisfying any requirement of federal law.
16 This section shall be liberally construed to not hinder or impede
17 the State's application for, receipt of, and use of federal funds.

18 (b) The chief election officer shall solicit offers to provide
19 voting system equipment by publishing a notice statewide requesting
20 the submission of offers. Notice of the solicitation for offers
21 shall be given a reasonable time before the date set forth in the
22 solicitation for the submission of offers. The chief election



1 officer shall determine the form of the notice, what constitutes
2 reasonable interim between notice and the deadline for offers, and
3 how the notice shall be published. The solicitation shall state all
4 requirements for voting system equipment and all criteria that
5 shall be used to evaluate offers. Contracts shall be awarded on
6 the basis of which offer is in the best interest of the State.

7 (c) Upon receipt of one or more offer, the chief election
8 officer shall convene a selection committee to evaluate the offers.
9 The selection committee shall comprise the following members:

- 10 (1) The clerk of each county or respective designee;
11 (2) One representative from the office of elections
12 selected by the chief election officer;
13 (3) One representative from the disabled community
14 selected by the chief election officer;
15 (4) One person selected by the president of the senate;
16 (5) One person selected by the speaker of the house of
17 representatives; and
18 (6) One person selected by the governor.

19 The members of the selection committee shall not be subject to
20 the requirements of section 26-34, and shall receive no
21 compensation for their services on the committee. The committee



1 shall be exempt from the requirements of chapter 91 and part I of
2 chapter 92.

3 Offers shall be opened during the evaluation process to avoid
4 any disclosure of the contents to competing offerors. The committee
5 shall review and evaluate all submissions and other pertinent
6 information, including references and reports, and shall prepare a
7 list of offerors for the provision of voting system equipment. The
8 list of offerors shall be available for public inspection.

9 (d) The evaluation criteria shall be set forth in the
10 solicitation document issued by the chief election officer.

11 (e) The selection committee shall evaluate the offers pursuant
12 to the evaluation criteria and any other pertinent information that
13 may be available to the office of elections. The committee may
14 conduct confidential discussions with any offeror. In conducting
15 discussions, there shall be no disclosure of any information derived
16 from any of the competing offers.

17 (f) The selection committee shall rank a minimum of three
18 offers based upon the evaluation criteria and send the ranking to the
19 chief election officer. The committee shall recommend awarding the
20 contract to the first-ranked offeror whose offer is determined to be
21 the most advantageous to the State, taking into consideration price
22 and the evaluation criteria set forth in the solicitation.



1 (g) The chief election officer shall award the contract to
2 the first-ranked offeror. The notice of the award shall be mailed
3 or otherwise communicated to the first-ranked offeror and posted on
4 the website of the office of elections.

5 §16- Right to request reconsideration. (a) A request
6 for reconsideration of an award shall be submitted to the chief
7 election officer not later than five working days after the award,
8 and shall contain a specific statement of the factual and legal
9 grounds upon which reconsideration is sought.

10 (b) The chief election officer shall promptly review the
11 request for reconsideration and issue a decision within five
12 working days after receipt of the request for reconsideration.

13 (c) The chief election officer's decision shall be final and
14 nonappealable.

15 §16- Exclusivity of remedies. The procedures and
16 remedies provided for in this part shall be the exclusive means
17 available for persons aggrieved in connection with the award of
18 the contract to resolve their concerns."

19 SECTION 3. This Act shall be liberally construed to
20 accomplish the purposes set forth in section 1.

21 SECTION 4. If any provision of this Act, or the
22 application thereof to any person or circumstance is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the Act, which can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 5. The alternative procurement process of this Act
6 shall apply to any and all current or pending solicitations or
7 requests for proposals for voting system equipment issued by the
8 chief election officer or the office of elections, all requests for
9 proposals for which a contract has not yet been finalized or
10 awarded, as well as all future solicitations or requests for
11 proposals for voting system equipment issued by the chief election
12 officer or the office of elections.

13 SECTION 6. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval and
15 shall be repealed on December 31, 2010.



Report Title:

Voting System Equipment; Procurement

Description:

Establishes an alternative public procurement process for the procurement of voting system equipment. Effective upon approval and repealed on December 31, 2010. (HB1901 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

