

JAN 23 2009

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The legislature finds that the state
2 procurement policy board, in order to fully discharge its
3 responsibilities, must take further steps to ensure compliance
4 with chapter 103D, Hawaii Revised Statutes, by the executive
5 agencies.

6 The legislature further finds that the comptroller should
7 be an ex-officio non-voting member of the state procurement
8 policy board to ensure the board's independence.

9 The purpose of this Act is to require the state procurement
10 policy board to conduct compliance audits, and to make the
11 comptroller an ex-officio non-voting member of the procurement
12 policy board.

13 SECTION 2. Section 103D-201, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) The state procurement policy board shall consist of
16 seven members. Notwithstanding the limitations of section 78-4,
17 the members of the board shall include:



- 1 (1) The comptroller[+] as an ex-officio nonvoting member;
- 2 (2) A county employee with significant high-level
- 3 procurement experience; and
- 4 (3) Five persons who shall not otherwise be full-time
- 5 employees of the State or any county; provided that at
- 6 least one member shall be a certified professional in
- 7 the field of procurement, at least one member shall
- 8 have significant high-level, federal procurement
- 9 experience, and at least two members shall have
- 10 significant experience in the field of health and
- 11 human services.

12 Each appointed member shall have demonstrated sufficient
13 business or professional experience to discharge the functions
14 of the state procurement policy board. The initial and
15 subsequent members of the state procurement policy board, other
16 than the comptroller, shall be appointed by the governor from a
17 list of three individuals for each vacant position, submitted by
18 a nominating committee composed of four individuals chosen as
19 follows: two persons appointed by the governor; one person
20 appointed by the president of the senate; and one person
21 appointed by the speaker of the house. Except as provided in
22 this section, the selection and terms of the state procurement



1 policy board members shall be subject to the requirements of
2 section 26-34. No member of the state procurement policy board
3 shall act concurrently as a chief procurement officer. The
4 members of the state procurement policy board shall devote
5 [~~such~~] time to their duties as may be necessary for the proper
6 discharge thereof."

7 SECTION 3. Section 103D-202, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§103D-202 Authority and duties of the policy board. (a)**

10 Except as otherwise provided in this chapter, the state
11 procurement policy board shall have the authority and
12 responsibility to adopt rules, consistent with this chapter,
13 governing the procurement, management, control, and disposal of
14 any and all goods, services, and construction. All rules shall
15 be adopted in accordance with chapter 91; provided that the
16 policy board shall have the power to issue interim rules by
17 procurement directives, which shall be exempt from the public
18 notice, public hearing, and gubernatorial approval requirements
19 of chapter 91. The interim rules shall be effective for not
20 more than eighteen months.



1 (b) The state procurement policy board shall consider and
2 decide matters of policy within the scope of this chapter
3 including those referred to it by a chief procurement officer.

4 (c) The state procurement policy board [~~shall have the~~
5 ~~power to~~] shall audit and monitor the implementation of its
6 rules and the requirements of this chapter; but shall not
7 exercise authority over the award or administration of any
8 particular contract, or over any dispute, claim, or litigation
9 pertaining thereto.

10 The state procurement policy board, through the state
11 procurement office, shall annually audit a minimum of two
12 executive departments, divisions, or agencies, to be randomly
13 selected, to ensure compliance with this chapter. In addition,
14 the state procurement policy board shall select any department,
15 division, or agency for compliance audits:

- 16 (1) Based upon a pattern of non-compliance;
17 (2) Based upon circumstances of a particular procurement
18 that may indicate an intention to circumvent this
19 chapter; or
20 (3) As otherwise authorized by law;



1 provided that there shall be follow-up audits of a department,
2 division, or agency that has been previously audited under
3 paragraph (1) or (2).

4 The state procurement office shall report the results of
5 all compliance audits to the legislature no later than twenty
6 days before the convening of each regular session."

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Procurement; Audit; Comptroller

Description:

Requires the state procurement office to conduct audits and follow-up audits to ensure compliance with the procurement code and report results to the legislature; makes comptroller ex-officio nonvoting member of procurement policy board.

