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# A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

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

**1** **PART I**

**2** SECTION 1. Following the 2009 legislative session, the  
**3** chairs of the senate committee on economic development and  
**4** technology and the house committee on economic revitalization,  
**5** business and military affairs convened a technology caucus work  
**6** group to bring together industry stakeholders and interested  
**7** policymakers to develop recommendations for legislation to  
**8** enhance Hawaii's struggling economy. The work group provided a  
**9** forum to review the current status of Hawaii's  
**10** science/technology industry, identify state or county actions  
**11** that impede long-term growth and expansion of technology  
**12** companies, and develop recommendations to address these  
**13** impediments. The work group also identified best practices  
**14** supporting the growth and development of science/technology  
**15** industries in other jurisdictions to aid in developing proposed  
**16** suggestions for future legislation.

**17** **PART II**

1 SECTION 2. The legislature finds that state government  
2 procurement procedures impede the ability of local high  
3 technology businesses to compete in areas in which they can  
4 provide the best services for the best price. One means of  
5 achieving greater parity for high technology businesses in  
6 Hawaii is the implementation of a Hawaii business preference, or  
7 set-aside, to achieve comparable opportunities as federal  
8 procurement set-asides for small business.

9 The purpose of this part is to implement recommendations of  
10 the technology caucus work group by establishing a state  
11 procurement preference for the benefit of Hawaii businesses  
12 providing high technology goods or services.

13 SECTION 3. Section 103D-1001, Hawaii Revised Statutes, is  
14 amended as follows:

15 1. By adding a new definition to be appropriately inserted  
16 and to read:

17 "High technology" means industries that are technology-  
18 intensive, including but not limited to electronics,  
19 biotechnology, software, computers, telecommunications, and  
20 other computer-related technologies."

21 2. By amending the definition of "Hawaii software  
22 development business" to read:

1        "Hawaii [~~software development~~] business" means [any]  
2        (1) Any person, agency, corporation, or other business  
3        entity with its principal place of business or  
4        ancillary headquarters located in the State and that  
5        proposes to obtain eighty per cent of the labor [~~for~~  
6        ~~software development~~] from persons domiciled in  
7        Hawaii[-]; or  
8        (2) A small business qualified for federal procurements  
9        under the Small Business Administration HUBzone  
10       Empowerment Contracting program."

11       SECTION 4. Section 103D-1006, Hawaii Revised Statutes, is  
12       amended to read as follows:

13       "§103D-1006 [~~Software development businesses.] High~~  
14       technology goods or services. (a) In any expenditure of public  
15       funds for [~~software development,~~] high technology goods or  
16       services that may be provided by a Hawaii business, the use of  
17       Hawaii [~~software development~~] businesses shall be preferred.  
18       Where a package bid or response to a request for proposal for  
19       high technology goods or services contains both Hawaii and  
20       non-Hawaii [~~software development~~] businesses, then for the  
21       purpose of selecting the lowest bid or purchase price only, the  
22       bid or offer by a non-Hawaii [~~software development~~] business

1 shall be increased by a preference percentage [~~pursuant to rules~~  
2 ~~adopted by the policy board.~~] of five per cent.

3 (b) Intellectual property specifically developed and  
4 designed by any Hawaii business for high technology goods or  
5 services that is purchased by the State may require an unlimited  
6 use license to assure maximum benefit to state agencies and the  
7 high technology goods or services vendors.

8 [~~(b)~~] (c) This section shall not apply when precluded by  
9 federal requirements for competitive bidding."

10 SECTION 5. The state procurement office shall submit a  
11 report to the legislature on the implementation of this part no  
12 later than twenty days prior to the convening of the regular  
13 session of 2012. The report shall include:

14 (1) A description of the ways in which the state  
15 procurement office promoted the use of the high  
16 technology goods and services Hawaii business  
17 preference;

18 (2) Statistics on the use of the preference and its  
19 economic impact;

20 (3) Any other information available to the state  
21 procurement office that would be useful in evaluating  
22 and improving the preference;

- 1 (4) A copy of any rules adopted; and  
2 (5) Any recommendations concerning the preference.

3 **PART III**

4 SECTION 6. The legislature finds that the Western States  
5 Contracting Alliance (WSCA) was formed in October 1993 by the  
6 state purchasing directors from fifteen western states. The  
7 primary purpose of creating WSCA was to establish the means by  
8 which participating states may join together in cooperative  
9 multi-state contracting to achieve cost-effective and efficient  
10 acquisition of quality products and services. WSCA uses a  
11 cooperative, competitive model to capture the best pricing  
12 possible for the volume of purchases being made. However, once  
13 a brand determination has been made, and WSCA has been chosen as  
14 the contracting vehicle, there is no incentive for the chosen  
15 manufacturer to offer any additional discounts below the pre-  
16 negotiated WSCA price.

17 The legislature further finds that WSCA does allow for the  
18 extension of this competitive environment at the individual  
19 order level by allowing each contract holder to designate  
20 multiple resellers (servicing subcontractors) to quote and sell  
21 products under their respective WSCA contract within any  
22 particular participating state. The use of reseller agents

1 expands the discounting possibilities by pitting two or more  
2 resellers against each other in a competitive environment; in  
3 most cases ensuring additional discounts are offered by the  
4 resellers to secure the task order award. Additionally, as  
5 these selected reseller agents are usually local firms, WSCA  
6 customers receive better service than if working directly with a  
7 manufacturer that has little or no local presence. The majority  
8 of states with WSCA agreements use reseller agents.

9 In the past, Hawaii placed orders for goods and services  
10 directly with local reseller agents for goods and services  
11 procured under WSCA multistate agreements; however, since 2009,  
12 the state procurement office has changed its practices and now  
13 requires purchase orders for goods and services to be placed  
14 directly with original equipment manufacturers. By doing so, the  
15 State has eliminated an efficient, cost-effective means of  
16 obtaining local support for goods and services procured under  
17 WSCA agreements and replaced it with a procedure that costs the  
18 same, but does not include the level of servicing support that  
19 occurred previously.

20 The purpose of this part is to implement recommendations of  
21 the technology caucus work group by requiring the state

1 procurement office to authorize reseller agreements in  
2 multi-state contracting agreements.

3 SECTION 7. Chapter 103D, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§103D- Reseller agreements. The state procurement  
7 office shall authorize local reseller agreements as part of any  
8 multi-state contracting agreement, and shall place orders  
9 directly with local resellers designated by original equipment  
10 manufacturers."

11 **PART IV**

12 SECTION 8. This Act does not affect rights and duties that  
13 matured, penalties that were incurred, and proceedings that were  
14 begun before its effective date.

15 SECTION 9. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 10. This Act shall take effect upon its approval.

18

**Report Title:**

State Procurement Office; High Technology Goods or Services;  
Hawaii Business Procurement Preference; Reseller Agreements

**Description:**

Expands the procurement preference for high technology goods or services provided by Hawaii businesses; specifies a five per cent preference; requires the state procurement office to report to the 2012 legislature on implementation of the preference; requires the state procurement office to authorize reseller agreements in multi-state contracting agreements. (SD1)

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