

FEB 26 2010

---

# SENATE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY RECENT  
INTERIM 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.

1           WHEREAS, the Hawaii Public Procurement Code, codified in  
2 chapter 103D, Hawaii Revised Statutes, was designed to create a  
3 method of awarding public contracts in a manner that ensures  
4 that public moneys are spent in a way that provides the best  
5 value for products and services provided by the most qualified  
6 offeror; and  
7

8           WHEREAS, the Procurement Policy Board is authorized under  
9 section 103D-202, Hawaii Revised Statutes, to adopt interim  
10 rules, which are valid for a maximum of eighteen months and are  
11 not subject to the notice, hearing, and gubernatorial approval  
12 requirements under chapter 91, Hawaii Revised Statutes, the  
13 Administrative Procedure Act; and  
14

15           WHEREAS, recent interim amendments to the Hawaii  
16 Administrative Rules that address the awarding of public  
17 contracts for construction projects may have an effect that is  
18 contrary to the intent of the Hawaii Public Procurement Code;  
19 and  
20

21           WHEREAS, interim rulemaking actions may result in the award  
22 of public contracts to offerors that are not the most qualified  
23 to perform the work under the contract or do not provide the  
24 best value; and  
25

26           WHEREAS, it is in the interest of equity and fiscal  
27 responsibility to study the relevant interim administrative  
28 rules to determine if they comply with the letter or spirit of  
29 the Hawaii Public Procurement Code; now, therefore,  
30



# S.C.R. NO. 119

1 BE IT RESOLVED by the Senate of the Twenty-fifth  
 2 Legislature of the State of Hawaii, Regular Session of 2010, the  
 3 House of Representatives concurring, that the Legislative  
 4 Reference Bureau is requested to study amendments made to the  
 5 Hawaii Administrative Rules through interim rulemaking actions  
 6 implementing and interpreting the Hawaii Public Procurement Code  
 7 relating to construction contracts since January 1, 2003, to  
 8 determine whether those amendments are contrary to the letter or  
 9 spirit of chapter 103D, Hawaii Revised Statutes; and

10  
 11 BE IT FURTHER RESOLVED that the Legislative Reference  
 12 Bureau is requested to study the feasibility and advisability of  
 13 establishing a mechanism that requires the Procurement Policy  
 14 Board to provide timely notice to trade unions or trade  
 15 associations in Hawaii of the adoption of interim rules; and

16  
 17 BE IT FURTHER RESOLVED that the Legislative Reference  
 18 Bureau is requested to submit a report of its findings to the  
 19 Legislature not later than twenty days prior to the convening of  
 20 the Regular Session of 2011; and

21  
 22 BE IT FURTHER RESOLVED that the State Procurement Office is  
 23 requested to provide full cooperation and support to the  
 24 Legislative Reference Bureau; and

25  
 26 BE IT FURTHER RESOLVED that certified copies of this  
 27 Concurrent Resolution be transmitted to the Director of the  
 28 Legislative Reference Bureau, the Comptroller, and the  
 29 Administrator of the State Procurement Office.  
 30  
 31  
 32

OFFERED BY: Michelle A. Tidani

*Clarence A. Smith*  
*David Y. Lee* *Will Taylor* *John K.*  
*William J. F. ...*  
*Maunakea ...*  
*Mike ...* *James ...* *Ray ...*  
*...* *...* *...*

