



GOV. MSG. NO. 657

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 6, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB2133 HD1 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB2133 HD1 SD1 CD1

A BILL FOR AN ACT
RELATING TO PROCUREMENT.

Sincerely,


LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2010

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2133

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 2133, entitled "A Bill for an Act Relating to Procurement."

The purpose of this bill is to require the State Procurement Office to authorize local reseller agreements as part of any multi-state contracting agreement and to place orders with local resellers having a principal place of business or ancillary headquarters located within the state, and not less than thirty-five per cent of the reseller's employees residing within the state.

Although I support increased competition among resellers of vendors contracted under multi-state contracts entered into by the Western States Contracting Alliance (WSCA), this measure does not help the State realize greater discounts in its purchases or improved servicing support. On the contrary, this bill has the potential to increase the cost of goods and services for state agencies.

This bill's definition of "local reseller" is problematic, because if a reseller is authorized and designated by a WSCA multi-state contract but does not meet the thirty-five percent residency requirement, it could nullify the reseller being able to participate, and in effect interfere with the operations and business decisions of the vendor. This could hurt vendors, and by extension, the State, because the purpose of multi-state contracting is to benefit the State with reduced pricing. Interfering with vendor business decisions and

decreasing the availability of resellers is antithetical to this goal. As such, the bill has the potential to increase the cost of goods and services for state agencies.

Local resellers conducting business in Hawaii may already be included on the procurement list of the State Procurement Office. WSCA solicitation allows vendors to designate resellers, including those based in Hawaii. Based on the original vendor's list of authorized resellers, the State Procurement Office adds the resellers to its procurement list to allow State agencies to solicit and procure competitive, cost-effective goods and services. Thus, requiring the use of local resellers when authorized by the vendor is unnecessary, as they may already be utilized if they are authorized by the vendor.

For the foregoing reasons, I am returning House Bill No. 2133 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

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



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

12 WSCA does allow for the extension of this competitive
13 environment at the individual order level by allowing each
14 contract holder to designate multiple resellers (servicing
15 subcontractors) to quote and sell products under their
16 respective WSCA contract within any particular participating
17 state. The use of reseller agents expands the discounting
18 possibilities by pitting two or more resellers against each
19 other in a competitive environment -- in most cases ensuring
20 additional discounts are offered by the resellers to secure the
21 task order award. Additionally, as these selected reseller
22 agents are usually local firms, WSCA customers receive better



1 service than if working directly with a manufacturer that has
2 little or no local presence. The majority of states with WSCA
3 agreements use reseller agents.

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

15 The purpose of this Act is to implement recommendations of
16 the technology caucus work group by requiring the state
17 procurement office to authorize reseller agreements in
18 multi-state contracting agreements.

19 SECTION 2. Chapter 103D, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§103D- Reseller agreements. The state procurement
2 office shall authorize local reseller agreements as part of any
3 multi-state contracting agreement and shall place orders
4 directly with local resellers authorized and designated by
5 original equipment manufacturers or other national equipment or
6 products suppliers.

7 For the purposes of this section "local reseller" means a
8 business having:

- 9 (1) Its principal place of business or ancillary
10 headquarters located within the state; and
- 11 (2) Not less than thirty-five per cent of its employees
12 residing within the state."

13 SECTION 3. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 4. New statutory material is underscored.

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

