

JAN 26 2009

A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended
2 by adding five new sections to be appropriately designated and
3 to read as follows:

4 "§11-A Election Procurements. The office of elections
5 shall procure goods and services, consistent with the goals of
6 the public procurement code found in chapter 103D. However, the
7 office of elections shall be exempt from the legal and
8 contractual remedies of part VII of chapter 103D. Instead, the
9 office of elections shall utilize the procedures of this chapter
10 to resolve any election procurement dispute in a timely manner,
11 so as not to compromise the conducting of those elections that
12 are required by law to be held on specific immovable dates.

13 §11-B Protested awards. (a) A person who is aggrieved by
14 an award of a contract may protest the office of elections'
15 alleged failure to follow procedures established by chapter
16 103D, rules adopted by the policy board, or a request for
17 proposals or other solicitation in selecting a provider and
18 awarding a contract; provided the contract was awarded under



1 chapter 103D. Amounts payable under a contract awarded by the
2 office of elections may not be protested and shall be final and
3 conclusive when made.

4 (b) The protest shall be submitted to the chief election
5 officer, in writing, within five working days after the postmark
6 date on the notice of award.

7 (c) The chief election officer, or a designee, may settle
8 and resolve a protest by one or more of the following means:

9 (1) Amending or canceling a request for proposals or other
10 solicitation;

11 (2) Terminating the contract which was awarded;

12 (3) Initiating a new process to award a contract;

13 (4) Declaring the contract null and void from the time of
14 its award; or

15 (5) Affirming the office of election's contract award
16 decision.

17 (d) If the protest is not resolved by mutual agreement,
18 the chief election officer, or a designee, shall promptly issue
19 a decision in writing. The decision shall:

20 (1) State the reasons for the action taken; and

21 (2) Inform the protesting person of the protester's right
22 to reconsideration as provided in this part.



1 A copy of the written decision shall be mailed or otherwise
2 furnished to the person who initiated the protest.

3 (e) A decision under subsection (d) shall be final and
4 conclusive unless a request for reconsideration is submitted to
5 the chief procurement officer under section 11-C.

6 **§11-C Right to request reconsideration.** (a) A request
7 for reconsideration of a decision of the chief election officer
8 under section 11-B shall be submitted to the chief procurement
9 officer not later than five working days after the receipt of
10 the written decision, and shall contain a specific statement of
11 the factual and legal grounds upon which reversal or
12 modification is sought.

13 (b) A request for reconsideration may be made only to
14 correct the office of elections' failure to comply with those
15 sections of chapter 103D that are applicable to the office of
16 elections, rules adopted to implement those sections, or a
17 request for proposal, if applicable.

18 (c) The chief procurement officer may uphold the previous
19 decision of the chief election officer or designee, or reopen
20 the protest as deemed appropriate.

21 (d) A decision under subsection (c) shall be final and
22 conclusive.



1 §11-D Award of contract suspended during a protest. In
2 the event of a timely protest, or request for reconsideration,
3 no further action to award the contract until the issue is
4 resolved shall be taken, unless the chief procurement officer
5 makes a written determination that the award of the contract
6 without delay is necessary to protect substantial interest of
7 the State such as the successful conducting of the elections and
8 compliance with applicable federal and state laws. However, a
9 stay will be lifted if there are less than days prior to
10 the day of the election.

11 §11-E Exclusivity of remedies. The procedures and
12 remedies provided for in this part, and the rules adopted by the
13 policy board, shall be the exclusive means available for persons
14 aggrieved in connection with the award of a contract to resolve
15 their concerns."

16 SECTION 2. In codifying the new sections added by section
17 1 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 3. New statutory material is underscored.



1 SECTION 4. This Act shall take effect upon its approval;
2 provided that this Act shall be repealed on
3

INTRODUCED BY: _____

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By Request



Report Title:

Elections; Office of Elections

Description:

Exempts the office of elections from the legal and contractual remedies of the procurement code and establishes a procedure for protesting procurement awards by the office of election, requesting reconsideration, and awarding contracts pending resolution of the protest. Makes remedies exclusive.

