

JAN 21 2010

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 person,
2 agency, corporation, or other business entity with its principal
3 place of business or ancillary headquarters located in the State
4 and that proposes to obtain eighty per cent of the labor [~~for~~
5 ~~software development~~] from persons domiciled in Hawaii."

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

8 "**§103D-1006 [Software development businesses.] High**
9 **technology goods or services.** (a) In any expenditure of public
10 funds for [~~software development,~~] high technology goods or
11 services that may be provided by a Hawaii business, the use of
12 Hawaii [~~software development~~] businesses shall be preferred.
13 Where a package bid or response to a request for proposal for
14 high technology goods or services contains both Hawaii and non-
15 Hawaii [~~software development~~] businesses, then for the purpose
16 of selecting the lowest bid or purchase price only, the bid or
17 offer by a non-Hawaii [~~software development~~] business shall be
18 increased by a preference percentage [~~pursuant to rules adopted~~
19 ~~by the policy board.~~] of five per cent.

20 (b) Intellectual property specifically developed and
21 designed by any Hawaii business for high technology goods or
22 services that is purchased by the State shall require an



1 unlimited use license to assure maximum benefit to state
2 agencies and the high technology goods or services vendors.

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

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

- 9 (1) A description of the ways in which the state
10 procurement office promoted the use of the high
11 technology goods and services Hawaii business
12 preference;
- 13 (2) Statistics on the use of the preference and its
14 economic impact;
- 15 (3) Any other information available to the state
16 procurement office that would be useful in evaluating
17 and improving the preference;
- 18 (4) A copy of any rules adopted; and
- 19 (5) Any recommendations concerning the preference.

20 **PART III**

21 SECTION 6. The legislature finds that the Western States
22 Contracting Alliance (WSCA) was formed in October 1993 by the



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

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



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

4 In the past, Hawaii used reseller agents, but currently the
5 state procurement office does not allow reseller agents to
6 participate under the WSCA contracts. This change has a greater
7 impact on the Hawaii economy than probably any other region,
8 particularly Hawaii's small business community. The use of
9 reseller agents will benefit Hawaii's economy with reduced
10 acquisition costs through increased task orders, reduced
11 shipping charges for deliveries from local resellers, increased
12 hiring of local sales support, and increased tax revenue for
13 Hawaii.

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

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



1 "§103D- Reseller agreements. The state procurement
 2 office shall authorize reseller agreements as part of any
 3 multi-state contracting agreement."

PART IV

5 SECTION 8. This Act does not affect rights and duties that
 6 matured, penalties that were incurred, and proceedings that were
 7 begun before its effective date.

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

10 SECTION 10. This Act shall take effect upon its approval;
 11 provided that section 4 shall take effect on July 1, 2009.

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INTRODUCED BY:

Carol Finkenberg
Russell H Baker
 David Y. Lee
 Cynthia
 Kenneth J. Stone
 Jeff



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.

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