

FEB 26 2010

SENATE 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
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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
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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
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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
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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,
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31 BE IT RESOLVED by the Senate of the Twenty-fifth
32 Legislature of the State of Hawaii, Regular Session of 2010,
33 that the Legislative Reference Bureau is requested to study



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1 amendments made to the Hawaii Administrative Rules through
 2 interim rulemaking actions implementing and interpreting the
 3 Hawaii Public Procurement Code relating to construction
 4 contracts since January 1, 2003, to determine whether those
 5 amendments are contrary to the letter or spirit of chapter 103D,
 6 Hawaii Revised Statutes; and

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

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

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

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 23 BE IT FURTHER RESOLVED that certified copies of this
 24 Resolution be transmitted to the Director of the Legislative
 25 Reference Bureau, the Comptroller, and the Administrator of the
 26 State Procurement Office.

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