

STAND. COM. REP. NO.

484

Honolulu, Hawaii

Feb 19, 2009

RE: H.B. No. 638

H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Economic Revitalization, Business, &
Military Affairs, to which was referred H.B. No. 638 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC PROCUREMENT
CODE,"

begs leave to report as follows:

The purpose of this measure is to speed up the award of
public contracts.

Specifically this measure requires the dismissal of a protest
of an award or contract if the protest is based upon an
inadvertent error in a bid that is less than one per cent of the
bid amount.

The State Procurement Office recommended the measure be held.

Your Committee finds that additional measures to discourage
frivolous or bad-faith protests may expedite the awarding of
public contracts and eliminate delays in providing essential
facilities and services to the public.

Accordingly, your Committee has amended this measure by:

- (1) Permitting an administrative proceeding to protest a
solicitation or award under section 103D-302 or 103D-303
only if:



- (A) The protest concerns a matter that is equal to no less than ten per cent of the total estimated value of the contract; and
 - (B) The soliciting party pays a cash or protest bond to the Department of Commerce and Consumer Affairs in an amount equal to one per cent of the total estimated value of the contract, up to a maximum of \$50,000, for contracts of \$1,000,000 or more;
- (2) Providing for the disposition of the cash or protest bond upon the outcome of the administrative hearing, as follows:
- (A) Returned to an initiating party, if the party prevails; or
 - (B) Fifty per cent deposited into the compliance resolution fund and fifty per cent deposited into the general fund, if the initiating party does not prevail;
- (3) Defining "estimated value of the contract"; and
- (4) Making technical nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization, Business, & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 638, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 638, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Revitalization, Business, &
Military Affairs,



ANGUS L.K. MCKELVEY, Chair



State of Hawaii
House of Representatives
The Twenty-fifth Legislature

HSCR484

Record of Votes of the Committee on Economic Revitalization, Business, & Military Affairs

Bill/Resolution No.: HB638	Committee Referral: EBM, FIN	Date: 2/17/09
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The committee is reconsidering its previous decision on the measure.

The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) Hold
 Pass short form bill with HD to recommit for future public hearing (recommit)

EBM Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. CHOY, Isaac W. (VC)	✓			
3. BERG, Lyla B.	✓			
4. EVANS, Cindy				✓
5. MANAHAN, Joey	✓			
6. TAKAI, K. Mark				
7. TOKIOKA, James Kunane	✓			
8. TSUJI, Clift	✓			
9. WAKAI, Glenn	✓			
10. WOOLEY, Jessica	✓			
11. WARD, Gene	<i>Ward</i>	✓		
TOTAL (11)	8	1		1

The recommendation is: Adopted Not Adopted
 If joint referral, _____ did not support recommendation.
committee acronym(s)

Vice Chair's or designee's signature: _____
Isaac W. Choy

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