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## A BILL FOR AN ACT

RELATING TO THE REPEAL OF ACT 17, SPECIAL SESSION LAWS OF HAWAII  
2009.

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

1           SECTION 1. The legislature finds that Act 17, Special  
2 Session Laws of Hawaii 2009 was intended to stimulate the local  
3 economy by applying a five per cent bid reduction for evaluation  
4 purposes to bids for public works contracts for bidders that  
5 were parties to a registered apprenticeship program with the  
6 State of Hawaii's Department of Labor and Industrial Relations.

7           During the legislative process, despite everyone's desire  
8 to boost local employment, concerns were publicly raised about  
9 the bill, including the potential cost increase to public works  
10 projects, the difficulties in enforcing such a requirement, and  
11 the legal problems such a preference would pose to out-of-state  
12 contractors.

13           These concerns were repeated when the Governor vetoed the  
14 bill. Despite these concerns, the legislature overrode the veto  
15 and passed Act 17, Special Session Laws of Hawaii 2009 into law.

16           On September 16<sup>th</sup>, 2010, the United States Department of  
17 Housing and Urban Development (HUD) issued an Information



1 Bulletin (CPD-HI-10-01) for all Community Planning and  
2 Development consolidated plan contacts within the jurisdiction  
3 of the Honolulu Field Office. The information bulletin informed  
4 the State and each of the counties that the "imposition of Act  
5 68 and Act 17 [Session Laws of Hawaii 2010 and Special Session  
6 Laws of Hawaii 2009, respectively] preferences is in violation  
7 of HUD procurement regulations. Procurement requirements set  
8 forth at 24 CFR 85.36(c)(2) prohibit 'the use of statutorily or  
9 administratively imposed in-State or local geography preferences  
10 in the evaluation of bids or proposals.'" The information  
11 bulletin went on to inform the State and each of the counties  
12 that the use of Act 68 and Act 17 to procurement contracts  
13 funded by community planning and development funds were  
14 prohibited, and that HUD forwarded the matter to their Office of  
15 General Counsel for a determination as to whether Act 68 and Act  
16 17 affected additional programs. In other words, Act 17,  
17 Special Session Laws of Hawaii 2009, violates some federal laws  
18 and, depending on the findings of HUD's Office of General  
19 Counsel, may violate even more federal laws.

20 In light of the growing conflict with federal laws, the  
21 legislature finds it in the best interests of the State to  
22 repeal Act 17, Special Session Laws of Hawaii 2009.



# H.B. NO. 20

1 SECTION 2. Act 17, Special Session Laws of Hawaii 2009, is  
2 repealed.

3 SECTION 3. This Act shall take effect upon its approval.  
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INTRODUCED BY: *Barbara Mammoto*

JAN 19 2011



**Report Title:**

Procurement

**Description:**

Repeals Act 68, Session Laws of Hawaii 2010

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

