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## A BILL FOR AN ACT

RELATING TO THE REPEAL OF ACT 68, SESSION LAWS OF HAWAII 2010.

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

1           SECTION 1. The legislature finds that Act 68, Session Laws  
2 of Hawaii 2010 was intended to stimulate the local economy by  
3 imposing an eighty per cent residency requirement on a number of  
4 different types of procurement contracts, although not for  
5 professional services or small purchases. By imposing this  
6 requirement, it was thought that local construction firms would  
7 be forced to create local jobs.

8           During the legislative process, despite everyone's desire  
9 to boost local employment, concerns were publicly raised about  
10 the bill, including the difficulty in enforcing the law, the  
11 lack of staffing to enforce the law, and the legality of this  
12 type of law. These concerns were repeated when the Governor  
13 vetoed the bill. Despite these concerns, the legislature  
14 overrode the veto and passed Act 68, Session Laws of Hawaii 2010  
15 into law.

16           On September 16<sup>th</sup>, 2010, the United States Department of  
17 Housing and Urban Development (HUD) issued an Information  
18 Bulletin (CPD-HI-10-01) for all Community Planning and



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

19 In light of the growing conflict with federal laws, despite  
20 the language of savings clause of Act 68, Session Laws of Hawaii  
21 2010, the legislature finds it in the best interests of the  
22 State to repeal Act 68, Session Laws of Hawaii 2010.



# H.B. NO. 21

1 SECTION 2. Act 68, Session Laws of Hawaii 2010, is  
2 repealed.

3 SECTION 3. This Act shall take effect upon its approval.  
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INTRODUCED BY: *Sabara Maramba*

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.*

