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# A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1           SECTION 1. The convenience of modern society has provided  
2 people with a variety of inexpensive food choices but it has  
3 eliminated society's connection to and understanding of where  
4 food comes from, resulting in less healthful eating and distance  
5 from natural food sources.

6           A report made to the twenty-sixth legislature in response  
7 to Senate Concurrent Resolution No. 121, S.D. 1, H.D. 1, (2009)  
8 through the collaboration of private, public, and nonprofit  
9 entities, pointed to the problems of food insecurity and growing  
10 obesity rates that the State of Hawaii is facing, including that  
11 one in every three children born in the year 2000 is expected to  
12 develop diabetes. A 2003 food security task force report found  
13 that over nineteen per cent of Hawaii residents live in food  
14 insecure households. Food insecurity is defined in that report  
15 as "whenever the availability of nutritionally adequate and safe  
16 foods or the ability to acquire acceptable foods in socially  
17 acceptable ways is limited or uncertain". Supporting local



1 agriculture through initiatives like a farm-to-school program  
2 can serve to combat both of these problems.

3       Increasing the consumption of locally grown foods will  
4 ensure that fresh, high quality produce is available for healthy  
5 meals in schools, hospitals, and correctional facilities  
6 throughout the State. The increased revenue for local farmers  
7 will reverse the trend of farmers struggling to break even, and  
8 will place agriculture at the forefront as a driving economic  
9 force providing job creation and food security for our State.  
10 Furthermore, the availability of local produce will ensure our  
11 children eat the highest quality food that will nourish their  
12 bodies, enhance their educational experience, and cultivate  
13 long-term healthy habits.

14       The purpose of this Act is to amend the procurement process  
15 required for governmental bodies to acquire local agricultural  
16 commodities.

17       SECTION 2. Section 103D-102, Hawaii Revised Statutes, is  
18 amended by amending subsection (b) to read as follows:

19       "(b) Notwithstanding subsection (a), this chapter shall  
20 not apply to contracts by governmental bodies:



- 1           (1) Solicited or entered into before July 1, 1994, unless
- 2                   the parties agree to its application to a contract
- 3                   solicited or entered into prior to July 1, 1994;
- 4           (2) To disburse funds, irrespective of their source:
- 5                   (A) For grants or subsidies as those terms are
- 6                           defined in section 42F-101, made by the State in
- 7                           accordance with standards provided by law as
- 8                           required by article VII, section 4, of the state
- 9                           constitution; or by the counties pursuant to
- 10                           their respective charters or ordinances;
- 11                   (B) To make payments to or on behalf of public
- 12                           officers and employees for salaries, fringe
- 13                           benefits, professional fees, or reimbursements;
- 14                   (C) To satisfy obligations that the State is required
- 15                           to pay by law, including paying fees, permanent
- 16                           settlements, subsidies, or other claims, making
- 17                           refunds, and returning funds held by the State as
- 18                           trustee, custodian, or bailee;
- 19                   (D) For entitlement programs, including public
- 20                           assistance, unemployment, and workers'
- 21                           compensation programs, established by state or
- 22                           federal law;



- 1 (E) For dues and fees of organizations of which the  
2 State or its officers and employees are members,  
3 including the National Association of Governors,  
4 the National Association of State and County  
5 Governments, and the Multi-State Tax Commission;
- 6 (F) For deposit, investment, or safekeeping,  
7 including expenses related to their deposit,  
8 investment, or safekeeping;
- 9 (G) To governmental bodies of the State;
- 10 (H) As loans, under loan programs administered by a  
11 governmental body; and
- 12 (I) For contracts awarded in accordance with chapter  
13 103F;
- 14 (3) To procure goods, services, or construction from a  
15 governmental body other than the University of Hawaii  
16 bookstores, from the federal government, or from  
17 another state or its political subdivision;
- 18 (4) To procure the following goods or services which are  
19 available from multiple sources but for which  
20 procurement by competitive means is either not  
21 practicable or not advantageous to the State:



- 1 (A) Services of expert witnesses for potential and  
2 actual litigation of legal matters involving the  
3 State, its agencies, and its officers and  
4 employees, including administrative quasi-  
5 judicial proceedings;
- 6 (B) Works of art for museum or public display;
- 7 (C) Research and reference materials including books,  
8 maps, periodicals, and pamphlets, which are  
9 published in print, video, audio, magnetic, or  
10 electronic form;
- 11 (D) Meats and foodstuffs for the Kalaupapa  
12 settlement[+], and fresh meat, produce, animals,  
13 and plants for use by any governmental body;
- 14 (E) Opponents for athletic contests;
- 15 (F) Utility services whose rates or prices are fixed  
16 by regulatory processes or agencies;
- 17 (G) Performances, including entertainment, speeches,  
18 and cultural and artistic presentations;
- 19 (H) Goods and services for commercial resale by the  
20 State;
- 21 (I) Services of printers, rating agencies, support  
22 facilities, fiscal and paying agents, and



- 1                   registrars for the issuance and sale of the
- 2                   State's or counties' bonds;
- 3           (J)   Services of attorneys employed or retained to
- 4                   advise, represent, or provide any other legal
- 5                   service to the State or any of its agencies, on
- 6                   matters arising under laws of another state or
- 7                   foreign country, or in an action brought in
- 8                   another state, federal, or foreign jurisdiction,
- 9                   when substantially all legal services are
- 10                  expected to be performed outside this State;
- 11           (K)   Financing agreements under chapter 37D; and
- 12           (L)   Any other goods or services which the policy
- 13                   board determines by rule or the chief procurement
- 14                   officer determines in writing is available from
- 15                   multiple sources but for which procurement by
- 16                   competitive means is either not practicable or
- 17                   not advantageous to the State;
- 18           (5)   Which are specific procurements expressly exempt from
- 19                   any or all of the requirements of this chapter by:
- 20                   (A)   References in state or federal law to provisions
- 21                           of this chapter or a section of this chapter, or

1 references to a particular requirement of this  
2 chapter; and

3 (B) Trade agreements, including the Uruguay Round  
4 General Agreement on Tariffs and Trade (GATT)  
5 which require certain non-construction and non-  
6 software development procurements by the  
7 comptroller to be conducted in accordance with  
8 its terms; and

9 (6) With a bidder or offeror who is a United States  
10 General Services Administration-approved sole source  
11 vendor, who shall be exempt from complying with  
12 section 103D-302, 103D-303, or 103D-304, as  
13 applicable, in any procurement funded by state and  
14 federal matching funds, if the bidder or offeror was  
15 responsible for obtaining and was the recipient of the  
16 federal funds."

17 SECTION 3. Section 103D-104.5, Hawaii Revised Statutes, is  
18 repealed.

19 [~~"§103D-104.5~~] ~~Agricultural products subject to this~~  
20 ~~chapter.~~ ~~The following agricultural products shall be subject~~  
21 ~~to this chapter.~~

22 ~~(1) Fresh meats and produce; and~~



1       ~~(2) Animals and plants.~~  
2       ~~Except for the exemptions under section 103D-102(b), no~~  
3       ~~exemptions under this chapter shall apply to this section." ]~~

4       SECTION 4. Statutory material to be repealed is bracketed  
5       and stricken. New statutory material is underscored.

6       SECTION 5. This Act shall take effect on July 1, 2050;  
7       provided that amendments made to section 103D-102(b), Hawaii  
8       Revised Statutes, by this Act shall not be repealed when section  
9       103D-102, Hawaii Revised Statutes, is reenacted, pursuant to  
10      section 14(1) of Act 175, Session Laws of Hawaii 2009.





**Report Title:**

Procurement

**Description:**

Exempts the purchase of fresh meats and produce and animals and plants by any governmental body from the Hawaii Public Procurement Code. Effective July 1, 2050. (HB2432 HD1)

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

