

JAN 26 2011

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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 legislature finds that in order for the  
2 state procurement policy board to fully discharge its  
3 responsibilities, the board must take further steps to ensure  
4 compliance with chapter 103D, Hawaii Revised Statutes, by the  
5 executive agencies.

6           The legislature further finds that the comptroller should  
7 be an ex officio nonvoting member of the state procurement  
8 policy board to ensure the board's independence.

9           The purpose of this Act is to require the state procurement  
10 policy board to conduct compliance audits and to make the  
11 comptroller an ex officio nonvoting member of the state  
12 procurement policy board.

13           SECTION 2. Section 103D-201, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15           "(b) The state procurement policy board shall consist of  
16 seven members. Notwithstanding the limitations of section 78-4,  
17 the members of the board shall include:

18           (1) The comptroller[+] as an ex officio nonvoting member;



- 1           (2) A county employee with significant high-level
- 2                 procurement experience; and
- 3           (3) Five persons who shall not otherwise be full-time
- 4                 employees of the State or any county; provided that at
- 5                 least one member shall be a certified professional in
- 6                 the field of procurement, at least one member shall
- 7                 have significant high-level, federal procurement
- 8                 experience, and at least two members shall have
- 9                 significant experience in the field of health and
- 10                human services.

11 Each appointed member shall have demonstrated sufficient  
12 business or professional experience to discharge the functions  
13 of the state procurement policy board. The initial and  
14 subsequent members of the state procurement policy board, other  
15 than the comptroller, shall be appointed by the governor from a  
16 list of three individuals for each vacant position, submitted by  
17 a nominating committee composed of four individuals chosen as  
18 follows: two persons appointed by the governor; one person  
19 appointed by the president of the senate; and one person  
20 appointed by the speaker of the house. Except as provided in  
21 this section, the selection and terms of the state procurement  
22 policy board members shall be subject to the requirements of

1 section 26-34. No member of the state procurement policy board  
2 shall act concurrently as a chief procurement officer. The  
3 members of the state procurement policy board shall devote  
4 [~~such~~] time to their duties as may be necessary for the proper  
5 discharge thereof."

6 SECTION 3. Section 103D-202, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "§103D-202 **Authority and duties of the policy board.** (a)  
9 Except as otherwise provided in this chapter, the state  
10 procurement policy board shall have the authority and  
11 responsibility to adopt rules, consistent with this chapter,  
12 governing the procurement, management, control, and disposal of  
13 any and all goods, services, and construction. All rules shall  
14 be adopted in accordance with chapter 91; provided that the  
15 policy board shall have the power to issue interim rules by  
16 procurement directives, which shall be exempt from the public  
17 notice, public hearing, and gubernatorial approval requirements  
18 of chapter 91. The interim rules shall be effective for not  
19 more than eighteen months.

20 (b) The state procurement policy board shall consider and  
21 decide matters of policy within the scope of this chapter,  
22 including those referred to it by a chief procurement officer.



1       (c) The state procurement policy board shall [have the  
2 power to] audit and monitor the implementation of its rules and  
3 the requirements of this chapter[7] but shall not exercise  
4 authority over the award or administration of any particular  
5 contract[7] or over any dispute, claim, or litigation pertaining  
6 thereto.

7       (d) The state procurement policy board, through the state  
8 procurement office, shall annually audit a minimum of two  
9 executive departments, divisions, or agencies, to be randomly  
10 selected, to ensure compliance with this chapter. In addition,  
11 the state procurement policy board shall select any department,  
12 division, or agency for compliance audits:

13       (1) Based upon a pattern of noncompliance;

14       (2) Based upon the circumstances of a particular  
15 procurement that may indicate an intention by that  
16 department, division, or agency to circumvent this  
17 chapter; or

18       (3) As otherwise authorized by law;  
19 provided that there shall be follow-up audits of a department,  
20 division, or agency that has been previously audited under  
21 paragraph (1) or (2).



1        The state procurement office shall report the results of  
 2 all compliance audits to the legislature no later than twenty  
 3 days prior to the convening of each regular session."

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 upon its approval.

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**Report Title:**

Procurement; Audit; Comptroller

**Description:**

Requires the state procurement office to conduct random and compliance audits, including follow-up audits, to ensure compliance with the procurement code and report results to the legislature; makes comptroller ex officio nonvoting member of procurement policy board.

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

