

JAN 25 2012

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 our connection to and understanding of where food
4 comes from, resulting in less healthful eating and a distancing
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, through
8 the collaboration of private, public, and nonprofit entities,
9 pointed to the problems of food insecurity and growing obesity
10 rates that the State of Hawaii is facing. One in every three
11 children born in the year 2000 is expected to develop diabetes
12 and the 2003 food security task force report found that over
13 nineteen percent of Hawaii residents live in food insecure
14 households. Food insecurity is defined in that report as
15 "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

S.B. NO. 2694

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 section 103D-102,
15 Hawaii Revised Statutes, to ease the process required for
16 governmental bodies to acquire local agricultural 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:

S.B. NO. 2694

- 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;

S.B. NO. 2694

- 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:

S.B. NO. 2694

- 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 and produce, and
13 animals and plants for use by any governmental
14 body;
- 15 (E) Opponents for athletic contests;
- 16 (F) Utility services whose rates or prices are fixed
17 by regulatory processes or agencies;
- 18 (G) Performances, including entertainment, speeches,
19 and cultural and artistic presentations;
- 20 (H) Goods and services for commercial resale by the
21 State;

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

S.B. NO. 2694

- 1 (A) References in state or federal law to provisions
2 of this chapter or a section of this chapter, or
3 references to a particular requirement of this
4 chapter; and
- 5 (B) Trade agreements, including the Uruguay Round
6 General Agreement on Tariffs and Trade (GATT)
7 which require certain non-construction and non-
8 software development procurements by the
9 comptroller to be conducted in accordance with
10 its terms; and
- 11 (6) With a bidder or offeror who is a United States
12 General Services Administration-approved sole source
13 vendor, who shall be exempt from complying with
14 section 103D-302, 103D-303, or 103D-304, as
15 applicable, in any procurement funded by state and
16 federal matching funds, if the bidder or offeror was
17 responsible for obtaining and was the recipient of the
18 federal funds."

19 SECTION 3. Section 103D-104.5, Hawaii Revised Statutes, is
20 repealed.

S.B. NO. 2694

1 ~~["§103D-104.5] Agricultural products subject to this~~
2 ~~chapter. The following agricultural products shall be subject~~
3 ~~to this chapter:~~

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

5 ~~(2) Animals and plants.~~

6 ~~Except for the exemptions under section 103D-102(b), no~~
7 ~~exemptions under this chapter shall apply to this section."]~~

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

10 SECTION 5. This Act shall take effect on July 1, 2012;
11 provided that amendments made to sections 103D-102(b), Hawaii
12 Revised Statutes, by this Act shall not be repealed when section
13 103D-102, Hawaii Revised Statutes, is reenacted, pursuant to
14 section 14(1) of Act 175, Session Laws of Hawaii 2009.

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INTRODUCED BY: 

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BY REQUEST

S.B. NO. 2694

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.

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

JUSTIFICATION SHEET

DEPARTMENT: Agriculture

TITLE: A BILL FOR AN ACT RELATING TO PROCUREMENT.

PURPOSE: To exempt the purchase of fresh meats and produce and animals and plants by any governmental body from the Hawaii Public Procurement Code.

MEANS: Amend section 103D-102(b) and repeal section 103D-104.5, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Act 175, Session Laws of Hawaii 2009, added section 103D-104.5, HRS, which explicitly subjects the purchase of fresh meat and produce and animals and plants to the Procurement Code. Purchase of fresh meat and produce and animals and plants by governmental agencies has been problematic with agencies having to issue solicitations for these volatile items due to market pricing and availability. This requirement to competitively procure these items has not proven an efficient process for agencies.

Exempting these purchases from the Procurement Code will allow agencies to more efficiently purchase these items that are highly perishable, vary in availability, quality, and quantity, and to acquire these items from best available sources on an as needed basis.

Impact on the public: Expediting the processes to obtain needed goods.

Impact on the department and other agencies: This bill will simplify and expedite the processes to obtain the required goods in a timely manner.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: AGS-240 State Procurement.

OTHER AFFECTED
AGENCIES: All governmental agencies, including chief
procurement officers and heads of
governmental bodies.

EFFECTIVE DATE: July 1, 2012; provided that amendment made
to section 103D-102(b), HRS, by this Act
shall not be repealed when section 103D-102,
HRS, is reenacted pursuant to section 14(1)
of Act 175, Session Laws of Hawaii 2009.