

Honolulu, Hawaii

Feb 15, 2012

RE: H.B. No. 2044
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Economic Revitalization & Business, to which was referred H.B. No. 2044 entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose of this measure is to require a hearings officer to affirm the decision of a procurement officer in protests filed in connection with solicitation or award of a contract under section 103D-701, Hawaii Revised Statutes, unless the procurement officer's decision is shown by clear and convincing evidence to be arbitrary, capricious, fraudulent, or clearly erroneous.

The Department of Budget and Fiscal Services of the City and County of Honolulu, Healy Tibbitts Builders, Inc., S&M Sakamoto, Inc., Grace Pacific Corporation, and Ralph S. Inouye Co., Ltd. testified in support of this measure. The General Contractors Association testified in support of this measure with amendments. The Department of Commerce and Consumer Affairs, and Associated Builders and Contractors, Incorporated provided comments on this measure.

Your Committee has amended this measure by:

- (1) Deleting its contents and replacing it with language that amends the administrative review process by limiting the hearings officers' scope of review to a review of the written record of the procuring agency's



protest proceedings in order to determine whether the agency's decision was arbitrary, capricious, fraudulent, or clearly erroneous;

- (2) Changing the effective date to July 1, 2112, for the purposes of facilitating further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization & Business that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2044, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2044, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Revitalization & Business,



ANGUS L.K. MCKELVEY, Chair



State of Hawaii
House of Representatives
The Twenty-sixth Legislature

Record of Votes of the Committee on Economic Revitalization & Business

Bill/Resolution No.: HB 2044	Committee Referral: ERB, FIN	Date: 2/7/12		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
ERB Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	X			
2. CHOY, Isaac W. (VC)	X			
3. AWANA, Karen L.	X			
4. BROWER, Tom	X			
5. EVANS, Cindy	X			
6. HASHEM, Mark J.	X			
7. NISHIMOTO, Scott Y.	X			
8. TOKIOKA, James Kunane				✓
9. TSUJI, Clift	X			
10. MARUMOTO, Barbara C.	X			
11. PINE, Kymberly Marcos	X			
TOTAL (11)	10	—	—	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small style="margin-left: 100px;">committee acronym(s)</small>				
Vice Chair's or designee's signature: <u><i>Sam W. Choy</i></u>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				