

Honolulu, Hawaii

MAR 23 2012

RE: H.B. No. 2122
H.D. 2
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Public Safety, Government Operations, and Military Affairs, to which was referred H.B. No. 2122, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE PROCUREMENT CODE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize the Governor or the mayor of a county, under certain specified conditions, to exempt a procurement for a construction or design-build contract from protest and administrative review of a nonresponsible offeror determination, under certain conditions; and
- (2) Clarify that information regarding procurements that are exempt pursuant to this measure shall not be exempt from confidentiality requirements if that information is required to be made public by this measure.

Your Committee received testimony in support of this measure from the Department of Transportation. Your Committee received testimony in opposition to this measure from the State Procurement Office; Associated Builders and Contractors Inc., Hawaii Chapter; General Contractors Association of Hawaii; and BIA-Hawaii.

Your Committee finds that procurement code protests of awards have delayed the awarding of construction and design-build



projects. Both types of projects have high economic multipliers. Thus, the Governor or a county mayor, as applicable, should have the authority for two years to exempt the procurement of these contracts from protests and administrative review of nonresponsible offeror determinations.

The intent of your Committee is to authorize a temporary procurement exemption from the procurement code provisions pertaining only to protests and administrative review of nonresponsible offeror determinations. Because the exemption provided by this measure is so extraordinary, your Committee finds that the public must be ensured of the integrity of the process and actions under an exempt procurement. Public confidence may be achieved by ensuring that the public has access to all information concerning the procurement, except trade secrets and other proprietary data.

Your Committee has amended this measure by:

- (1) Decreasing the term of the temporary exemption from two years to one year;
- (2) Changing the effective date to July 1, 2050, to ensure further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Public Safety, Government Operations, and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2122, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2122, H.D. 2, S.D. 1, and be referred to the Committees on Judiciary and Labor and Ways and Means.



Respectfully submitted on
behalf of the members of the
Committee on Public Safety,
Government Operations, and
Military Affairs,


Will Espero

WILL ESPERO, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Public Safety, Government Operations, and
Military Affairs
PGM

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2122, HD 2	PGMA, JDL/WAM	3-20-12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
ESPERO, Will (C)	/			
KIDANI, Michelle N. (VC)		/		
BAKER, Rosalyn H.		/		
RYAN, Pohai	/	WA /		
SLOM, Sam			/	
TOTAL	2	2	1	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes