
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Section 103D-709, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) The several hearings officers appointed by the
4 director of the department of commerce and consumer affairs
5 pursuant to section 26-9(f) shall have jurisdiction to review
6 and determine [~~de novo~~] any request from any bidder, offeror,
7 contractor, or person aggrieved under section 103D-106, or
8 governmental body aggrieved by a determination of the chief
9 procurement officer, head of a purchasing agency, or a designee
10 of either officer under section 103D-310, 103D-701, or 103D-
11 702[-]; provided that the hearings officers shall not have
12 jurisdiction to review and determine any request from a bidder,
13 offeror, or contractor that raises matters not raised before and
14 determined by the chief procurement officer, head of a
15 purchasing agency, or a designee of either officer under section
16 103D-310, 103D-701, or 103D-702."

17 SECTION 2. Section 103D-710, Hawaii Revised Statutes, is
18 amended by amending subsections (d) and (e) to read as follows:



1 "(d) The review shall be scheduled as expeditiously as
2 practicable. It shall be conducted on the record of the
3 administrative proceedings, and briefs and oral argument. No
4 new issues or arguments shall be presented. No new evidence
5 shall be introduced, except that the circuit court may, if
6 evidence is offered which is clearly newly discovered evidence
7 and material to the just decision of the appeal, admit the same.

8 (e) No later than thirty days from the filing of the
9 application for judicial review, based upon review of the record
10 the circuit court may affirm the decision of the hearings
11 officer issued pursuant to section 103D-709 or remand the case
12 with instructions for further proceedings[+] only on those
13 issues raised and determined during the administrative
14 proceedings; or it may reverse or modify the decision and order
15 if substantial rights may have been prejudiced because the
16 administrative findings, conclusions, decisions, or orders are:

- 17 (1) In violation of constitutional or statutory
18 provisions;
- 19 (2) In excess of the statutory authority or jurisdiction
20 of the chief procurement officer or head of the
21 purchasing agency;
- 22 (3) Made upon unlawful procedure;



- 1 (4) Affected by other error of law;
- 2 (5) Clearly erroneous in view of the reliable, probative,
- 3 and substantial evidence on the whole record; or
- 4 (6) Arbitrary, or capricious, or characterized by abuse of
- 5 discretion or clearly unwarranted exercise of
- 6 discretion;

7 provided that if an application for judicial review is not
 8 resolved by the thirtieth day from the filing of the
 9 application, the court shall lose jurisdiction and the decision
 10 of the hearings officer shall not be disturbed. All time
 11 limitations on actions, as provided for in section 103D-712,
 12 shall remain in effect."

13 SECTION 3. This Act does not affect rights and duties that
 14 matured, penalties that were incurred, and proceedings that were
 15 begun before its effective date.

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

18 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

Karen Curran
Michelle Connell

Cindy Evans
[Signature]
[Signature]



H.B. NO. 192

Report Title:

Procurement; Administrative Review

Description:

Repeal the de novo standard of review for administrative review of hearing officer's decisions of protests.

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

