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## A BILL FOR AN ACT

RELATING TO THE PROCUREMENT CODE.

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

1           SECTION 1. The legislature finds that it is extremely  
2 important to support food sustainability and self-sufficiency.  
3 House Concurrent Resolution No. 167, Session Laws of Hawaii  
4 2011, requested the department of agriculture to convene a  
5 working group to examine the Federal 2008 Farm Bill amendment to  
6 The Richard B. Russell National School Lunch Act. The working  
7 group submitted its report to the 2012 legislature, which  
8 recommends that the Hawaii public procurement code be amended to  
9 make exemptions for locally grown and produced agricultural  
10 commodities to make it easier for state agencies to procure  
11 local products.

12           Accordingly, the purpose of this Act is to amend the Hawaii  
13 public procurement code to make it easier for state agencies to  
14 procure local products to promote food sustainability and self-  
15 sufficiency.

16           SECTION 2. Section 103D-102, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:



1           "(b) Notwithstanding subsection (a), this chapter shall  
2 not apply to contracts by governmental bodies:

3           (1) Solicited or entered into before July 1, 1994, unless  
4           the parties agree to its application to a contract  
5           solicited or entered into prior to July 1, 1994;

6           (2) To disburse funds, irrespective of their source:

7           (A) For grants or subsidies as those terms are  
8           defined in section 42F-101, made by the State in  
9           accordance with standards provided by law as  
10          required by article VII, section 4, of the state  
11          constitution; or by the counties pursuant to  
12          their respective charters or ordinances;

13          (B) To make payments to or on behalf of public  
14          officers and employees for salaries, fringe  
15          benefits, professional fees, or reimbursements;

16          (C) To satisfy obligations that the State is required  
17          to pay by law, including paying fees, permanent  
18          settlements, subsidies, or other claims, making  
19          refunds, and returning funds held by the State as  
20          trustee, custodian, or bailee;

21          (D) For entitlement programs, including public  
22          assistance, unemployment, and workers'



- 1 compensation programs, established by state or  
2 federal law;
- 3 (E) For dues and fees of organizations of which the  
4 State or its officers and employees are members,  
5 including the National Association of Governors,  
6 the National Association of State and County  
7 Governments, and the Multi-State Tax Commission;
- 8 (F) For deposit, investment, or safekeeping,  
9 including expenses related to their deposit,  
10 investment, or safekeeping;
- 11 (G) To governmental bodies of the State;
- 12 (H) As loans, under loan programs administered by a  
13 governmental body; and
- 14 (I) For contracts awarded in accordance with chapter  
15 103F;
- 16 (3) To procure goods, services, or construction from a  
17 governmental body other than the University of Hawaii  
18 bookstores, from the federal government, or from  
19 another state or its political subdivision;
- 20 (4) To procure the following goods or services which are  
21 available from multiple sources but for which



- 1 procurement by competitive means is either not  
2 practicable or not advantageous to the State:
- 3 (A) Services of expert witnesses for potential and  
4 actual litigation of legal matters involving the  
5 State, its agencies, and its officers and  
6 employees, including administrative quasi-  
7 judicial proceedings;
  - 8 (B) Works of art for museum or public display;
  - 9 (C) Research and reference materials including books,  
10 maps, periodicals, and pamphlets, which are  
11 published in print, video, audio, magnetic, or  
12 electronic form;
  - 13 (D) Meats and foodstuffs for the Kalaupapa  
14 settlement;
  - 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 rules or the chief
- 16 procurement officer determines in writing is
- 17 available from multiple sources but for which
- 18 procurement by competitive means is either not
- 19 practicable or not advantageous to the State; and
- 20 (M) Fresh meats and produce, and animals and plants,
- 21 for use by any government body; and



1 (5) Which are specific procurements expressly exempt from  
2 any or all of the requirements of this chapter by:

3 (A) References in state or federal law to provisions  
4 of this chapter or a section of this chapter, or  
5 references to a particular requirement of this  
6 chapter; and

7 (B) Trade agreements, including the Uruguay Round  
8 General Agreement on Tariffs and Trade (GATT)  
9 which require certain non-construction and non-  
10 software development procurements by the  
11 comptroller to be conducted in accordance with  
12 its terms."

13 SECTION 2. Section 103D-104.5, Hawaii Revised Statutes, is  
14 repealed.

15 [~~["§103D-104.5] Agricultural products subject to this~~  
16 ~~chapter. The following agricultural products shall be subject~~  
17 ~~to this chapter:~~

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

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

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



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2013.

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INTRODUCED BY:

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JAN 18 2013



# H.B. NO. 508

**Report Title:**

Procurement Code; Exemption

**Description:**

Exempts from the procurement code any contract by governmental bodies to procure fresh meat and produce, and animals and plants for use by any governmental body.

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

