
SENATE RESOLUTION

REQUESTING THE COMPTROLLER TO ESTABLISH A TASK FORCE TO STUDY THE STATE PROCUREMENT CODE AND IDENTIFY AMENDMENTS THAT WOULD INCREASE ECONOMY, EFFICIENCY, EFFECTIVENESS, AND IMPARTIALITY IN THE PROCUREMENT OF PUBLIC WORKS CONSTRUCTION PROJECTS.

1 WHEREAS, chapter 103D, Hawaii Revised Statutes, governs the
2 procurement of goods, services, or construction by state and
3 county agencies; and
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5 WHEREAS, pursuant to chapters 103D and 103F, Hawaii Revised
6 Statutes, the mission of the State Procurement Office is to
7 promote economy, efficiency, effectiveness, and impartiality in
8 procurement for state and county governments through
9 development, implementation, and maintenance of policies and
10 procedures that provide for broad-based competition,
11 accessibility to government contracts, fiscal integrity, and
12 responsibility in the procurement process, and to promote
13 efficiency, effectiveness, and stewardship in inventory
14 management and surplus property management in an open, fair, and
15 transparent process; and
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17 WHEREAS, the Procurement Policy Board adopts rules to
18 implement the procurement law for all state and county agencies;
19 and the State Procurement Office provides coordination, review,
20 analysis, implementation, and oversight services for various
21 procurement projects and provides training to ensure compliance
22 with procurement laws; and
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24 WHEREAS, chapter 103D, Hawaii Revised Statutes, was based
25 on the framework provided by the American Bar Association's
26 Model Procurement Code for State and Local Governments and was
27 enacted to increase competition, ensure fairness, and establish
28 greater uniformity in the public procurement of goods and
29 services; and
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31 WHEREAS, the state procurement code has been amended more
32 than forty times since its enactment in 1993, and the numerous



1 statutory changes have resulted in increased complexity in the
2 procurement process; and

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4 WHEREAS, in an effort to promote economy, efficiency,
5 effectiveness, and impartiality in public procurement, it is
6 important to identify factors that may cause delays in the
7 procurement process, including unnecessary bid preferences, bid
8 protests, and increased contract prices for public works
9 construction projects; and

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11 WHEREAS, the State currently recognizes various specialty
12 contractor licenses that a bidder must review to determine
13 whether a particular subcontractor specialty must be listed on a
14 bid; and

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16 WHEREAS, many recent bid protests have arisen due to a
17 variety of issues, resulting in major delays and cost increases
18 on public works construction projects; and

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20 WHEREAS, Act 173, Session Laws of Hawaii 2012, requires the
21 State Procurement Office to maintain statistics on solicitations
22 and awards protested under section 103D-701, Hawaii Revised
23 Statutes, for the purpose of improving procurement procedures;
24 and

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26 WHEREAS, it is important to continue to gather past bid
27 protest data and study bid protest outcomes to further determine
28 if costs have increased solely due to bid protests in public
29 works construction projects; now, therefore,

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31 BE IT RESOLVED by the Senate of the Twenty-seventh
32 Legislature of the State of Hawaii, Regular Session of 2013,
33 that the Comptroller is requested to establish a task force to
34 study the cost impacts that the procurement process has had for
35 public works construction projects as well as the existing bid
36 preferences in relation to promoting economy, efficiency,
37 effectiveness, and impartiality in procurement for state and
38 county governments; and

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40 BE IT FURTHER RESOLVED that the Comptroller, or the
41 Comptroller's designee, is requested to serve as chair of the
42 task force; and

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1 BE IT FURTHER RESOLVED that the Comptroller is requested to
2 solicit representatives from the following entities to serve on
3 the task force, provided that those persons designated shall be
4 knowledgeable of procurement procedures and issues within their
5 respective organizations:

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- 7 (1) The State Procurement Office;
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- 9 (2) The University of Hawaii;
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- 11 (3) The Department of Education;
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- 13 (4) The Office of Hawaiian Affairs;
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- 15 (5) The Department of Transportation;
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- 17 (6) A county procurement department;
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- 19 (7) A county board or department of water supply;
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- 21 (8) The semi-autonomous public transit agency of the City
22 and County of Honolulu;
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- 24 (9) The Subcontractors Association of Hawaii;
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- 26 (10) The General Contractors Association of Hawaii;
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- 28 (11) The Hawaii Building and Construction Trades Council,
29 AFL-CIO; and
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- 31 (12) The Hawaii Construction Alliance; and
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33 BE IT FURTHER RESOLVED that the task force is requested to:

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- 35 (1) Identify and propose amendments, if any, to the state
36 procurement code that may better promote economy,
37 efficiency, effectiveness, and impartiality in the
38 procurement of public works construction projects,
39 including but not limited to a review of all bid
40 preferences on public works projects; and
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- 42 (2) Solicit input from the construction industry and
43 determine whether administrative rules governing



1 contractors reflect the intent of the Legislature and
2 chapter 103D, Hawaii Revised Statutes; and
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4 BE IT FURTHER RESOLVED that members of the task force are
5 requested to serve without compensation; and
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7 BE IT FURTHER RESOLVED that the task force is requested to
8 submit its findings and recommendations, including any proposed
9 legislation, to the Legislature no later than twenty days prior
10 to the convening of the Regular Session of 2015; and
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12 BE IT FURTHER RESOLVED that the Legislative Reference
13 Bureau is requested to assist the task force in drafting
14 proposed legislation; provided that the task force submits its
15 request for proposed legislation, if any, to the Legislative
16 Reference Bureau no later than November 1, 2014; and
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18 BE IT FURTHER RESOLVED that the task force shall be
19 dissolved on June 30, 2015; and
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21 BE IT FURTHER RESOLVED that certified copies of this
22 Resolution be transmitted to the Governor; President of the
23 Senate; Speaker of the House of Representatives; Attorney
24 General; Comptroller; Chief Procurement Officer; Director of
25 Transportation; Superintendent of Education; Administrator of
26 the Office of Hawaiian Affairs; President of the University of
27 Hawaii System; Acting Director of the Legislative Reference
28 Bureau; the Mayor of each county; the board or department of
29 water supply of each county; Executive Director of the
30 Subcontractors Association of Hawaii; Executive Director of the
31 General Contractors Association of Hawaii, Executive Director of
32 the Hawaii Building and Construction Trades Council, AFL-CIO;
33 and Executive Director of the Hawaii Construction Alliance.

