

SB 2557

Directs the State Procurement Officer to study feasibility of replacing the State Procurement Code with provisions of the federal procurement code and report findings to the legislature. Repeals Chapter 103D, HRS, on 7/1/2016.



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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
SENATE COMMITTEE
ON

ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING

February 3, 2014, 3:20 PM

SB2557

RELATING TO PROCUREMENT

Chair Dela Cruz Vice-Chair Slom, and members of the committee, thank you for the opportunity to submit testimony on SB 2557. The State Procurement Office (SPO) does not oppose a feasibility study to replace the State Procurement Code with applicable federal procurement code, provided the legislature appropriate a minimum of \$500,000 to procure for the outsourcing services the SPO will require to achieve this study. A feasibility study will be an extensive undertaking, requiring expertise, staffing, and funding resources currently not available within the SPO.

The SPO respectfully notes the following observations in regards to this study:

The study must include a detailed examination and meticulous side-by-side comparisons of the Hawaii procurement environment, procurement related statutes and rules with the federal code, a determination of whether the switch to federal code is beneficial, and the challenges thereto. A study must also include an assessment of the logistical requirements and anticipated costs (monetarily and culturally, taking into account governance and infrastructure) of rewriting the Hawaii Code to adapt to the Federal Code. Adaptation not only affects State agencies, but all CPO jurisdictions. On receipt of appropriated and allocated funding for the report, the SPO must first procure for the respective consulting services which will reduce the time allocation and quality of the interim report.

The SPO respectfully notes the following observations in regards to the reality of a total replacement of the procurement code in HRS 103D:

1. There will be some federal code procurement requirements that are more restrictive than the current State procurement code which may slow down the procurement process and possibly limit competition.
2. The extent of the transition from one set of regulations to a new set will be immense for the departments to implement and manage. The effects will be seen in increased funding requests, change management, infrastructure requirements and training.
3. With Hawaii being one of the most decentralized States when it comes to procurement, a major concern will be to provide adequate training to personnel not familiar with the FAR, a much more complex regulation and standards to comprehend.
4. Federal code requires large amounts of reporting and metrics. While these are goals that the State intends to ultimately reach over time, the immediate requirement will burden the current infrastructure, require a large dollar funding, additional civil service staffing, staff reorganizations, increased salary requirements, and the development of multiple procurement data bases that will manage federal requirements such as past performance, small business administration, source selection, and vendor coding.
5. Training and governance will include FAR training with higher-level certification requirements, a help desk; changes to various other Hawaii statutes (such as the Labor and Construction statutes), Rules and County Charters referencing the new Code; and the creation of new policy, directives and procurement circulars to provide guidance.
6. An in-depth, long-term change management plan will need to be developed and implemented over this period as we move the state over to federal code. Additional funds for outsourcing to subject matter experts will be required.
7. HRS 103F, State procurement code that deals with Health and Human Services has not been included in the repealing of code per this bill. The implementation of federal code would directly contradict and be mis-aligned to the current 103F code, causing confusion and higher expectation of protests.
8. In order to ensure the replacement to federal code would stand, the Hawaii Legislature would need to commit to exclude themselves from submitting any future procurement code changes as this would morph the code back into a customized code specific to Hawaii, diminishing the original intent to follow federal code.

9. The bill repeals State Procurement code 103D. It is not clear whether the intention to repeal is immediate upon approval of this bill or whether it is repealed at the date of the final report of January 2016. Notwithstanding the former assumption, the achievement of a fully fledged federal code implementation across the State by the latter date is extremely remote.

The SPO is committed to working with State Legislature and Agencies to develop the best policy and procedures for procurement that allow for streamlining, efficiencies, innovation, cost control and fair and equal contracting opportunities across the State of Hawaii. The SPO recognizes the benefits of certain federal procurement laws with much of the current State code is aligned with the federal code. Further, the SPO intends to continue research to determine what code (whether it be state specific or federally aligned) would best benefit our State as a whole.

Thank you.

HAWAII OPERATING ENGINEERS
INDUSTRY STABILIZATION FUND



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February 2, 2014

TO: The Honorable Donovan M. Dela Cruz, Chair
The Honorable Sam Slom, Vice Chair and
Members of the Senate Committee on Economic Development, Government
Operations and Housing

Date: February 3, 2014
Time: 3:20 p.m.
Place: Conference Room 016, State Capitol

FROM: Kimberly Ribellia, Government Liaison
Hawaii Operating Engineers Industry Stabilization Fund

RE: Support of Senate Bill 2557 – Relating to Procurement

Good afternoon, my name is Kimberly Ribellia, Government Liaison, of the Hawaii Operating Engineers Industry Stabilization Fund (HOEISF), a labor management fund representing 4000 unionized members in heavy engineering site work and 500 general contractors specializing in heavy site and vertical construction.

On behalf of Stabilization fund, I would like to state our **support** of Senate Bill 2557 which directs the State Procurement Officer to study the feasibility of replacing the State Procurement Code with provisions of the federal government code and report findings to the legislature.

HOEISF believes it is prudent to look for ways to improve efficiency and effectiveness of the State Procurement process, especially for public construction projects.

HOEISF supports Senate Bill 2557. Thank you for your consideration of this matter.

Testimony of Glenn Ida
Representing
The Plumbers and Fitters UA, Local 675
1109 Bethel St. Lower Level
Honolulu, Hi. 96813

Committee on Economic Development, Government Operations and Housing
Sen. Donovan Dela Cruz, Chair
Sen. Sam Slom, Vice-Chair
Monday, 2-3-2014
3:20 PM, Room 016

Re: Opposition of SB2557

Aloha Chair Dela Cruz, Vice-Chair Slom and Members of the Committee,

My name is Glenn Ida representing the 2000 active members and retirees of the Plumbers and Fitters UA, Local 675. Local 675 is an affiliate of the Hawaii Building and Construction Trades Council.

Local 675 opposes SB2557, which directs the State Procurement Officer to study the feasibility of replacing the State procurement Code with the provisions of the federal procurement code and report findings to the legislature.
Repeals Chapter 103D, HRS, on 7/1/2016.

We believe that Section 2. of SB2557 will repeal Chapter 103D without any consideration to the report.

Therefore Local 675, Opposes SB2557.

Thank you for allowing me the opportunity to testify.

Mahalo,
Glenn Ida
808-295-1280



A'ohē hana nui ka alu'ia
"No Task Is Too Big When Done Together By All"

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

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KIKA G. BUKOSKI
Executive Director

February 1, 2014

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Local 221

Honorable Senator Donovan Dela Cruz, Chair
Honorable Senator Sam Slom, Vice Chair
Members of the Committee on Economic Development, Government Operations and Housir
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: **IN OPPOSITION** TO SB2557 RELATING TO PROCUREMENT
Hearing: Monday, February 3, 2014, 3:20 p.m. Conference Room 016

Honorable Chair, Vice Chair and Committee Members;

The Hawaii Building & Construction Trades Council, AFL-CIO is a chartered member of the Building and Construction Trades Department, AFL-CIO first organized in 1908 and comprised of 16 out of 17 construction trade unions with 386 state, local and provincial councils in the United States and Canada and an estimated 15,000 members locally. Our primary mission is to provide employment opportunities and living wages for many of Hawaii's working men and women in the construction industry.

The Council **STRONGLY OPPOSES** SB2557, which directs the State Procurement Officer to study the feasibility of replacing the State Procurement Code with provisions of the federal procurement code, report its findings to the legislature and repeals chapter 103D, HRS, on 7/1/2016.

The state procurement process, specifically chapter 103D, HRS is vital to the equitable distribution of taxpayer dollars and fair disposition of public works contracts, especially when it comes to the construction industry, where cases of abuse and favoritism have been cited.

Notwithstanding the above, we also find it extremely concerning that although the Bill appears to simply call for a feasibility study, it in effect repeals chapter 103D HRS. We note, there is no reason and/or justification given to substantiate such action.

The 2013 Legislature formed a State Procurement Code Task Force charged with studying how, if at all, the state procurement process could be improved. This Task Force is also required to prepare and submit a report of their findings to the Legislature. Adopting the provisions in SB2557 prior to reviewing the Task Force' findings, is simply premature.

For these reasons, we respectfully urge that you reconsider SB2557 and HOLD it in Committee.

Mahalo for this opportunity to provide testimony in OPPOSITION to SB2557.