
A BILL FOR AN ACT

RELATING TO PUBLIC PROPERTY, PURCHASING, AND CONTRACTING.

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

1 SECTION 1. Section 103-53, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) All state and county officers and agents making
5 contracts on behalf of the State or any county shall require, as
6 a prerequisite to entering into these contracts, tax clearances
7 from the director of taxation and the Internal Revenue Service
8 to the effect that all tax returns due have been filed, and all
9 taxes, interest, and penalties levied against the contractor or
10 accrued under title 14 that are administered by the department
11 of taxation and under the Internal Revenue Code have been paid.
12 The director of taxation may waive the Internal Revenue Service
13 tax clearance requirement if the director determines that it is
14 in the best interest of the State.

15 A contractor's tax clearance shall be valid for one year
16 from the date it is received by a state or county contracting
17 officer or agent."



1 2. By amending subsections (c) and (d) to read:

2 "(c) All state and county contracting officers or agents
3 shall withhold final payment of a contract until the receipt of
4 tax clearances from the director of taxation and the Internal
5 Revenue Service. A contractor's tax clearance shall be valid
6 for one year from the date it is received by a state or county
7 contracting officer or agent.

8 Notwithstanding sections 40-57 and 40-58, if a contractor
9 fails to provide the requisite tax clearances within six months
10 of the completion date of the contract, the state or county
11 contracting officer or agent shall first notify the department
12 of taxation which in turn will notify the Internal Revenue
13 Service, of amounts payable to the contractor on completed
14 contracts. The department of taxation and the Internal Revenue
15 Service [~~shall~~], within thirty days, shall request the
16 contracting officer or agent to offset the amount of taxes due
17 against any payment due to the contractor until the tax debt is
18 paid in full to the State or the Internal Revenue Service or
19 both. No final bill or invoice from the contractor shall be
20 required as a condition to the offset. Any remaining contract



1 balance shall revert to the appropriation under which it was
2 encumbered.

3 (d) Any assignment of a contract shall require the
4 assignee, as a condition precedent to the assignment, to first
5 obtain a bulk sales certificate if required under section 237-
6 43, and present the certificate, or tax clearance as provided
7 under subsection (a) if a bulk sales certificate is not
8 required, to the state or county contracting officer or
9 agent [-]; provided that a tax clearance for the contractor
10 making the assignment shall not satisfy the requirements of this
11 subsection."

12 SECTION 2. Section 103D-328, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By amending subsection (a) to read:

15 "(a) Unless the director of taxation determines that
16 waiver of the Internal Revenue Service tax clearance requirement
17 is necessary to expedite or facilitate the procurement process
18 and is in the best interest of the State, and waives the
19 Internal Revenue Service tax clearance requirement, no contract
20 shall be binding or effective until the contractor secures and
21 the purchasing agency receives a tax clearance from the director



1 of taxation and the Internal Revenue Service to the effect that
2 all tax returns due have been filed, and all taxes, interest,
3 and penalties levied or accrued, under title 14 that are
4 administered by the department of taxation and under the
5 Internal Revenue Code, against the contractor have been paid.

6 A contractor's tax clearance shall be valid for one year
7 from the date it is received by a purchasing agency."

8 2. By amending subsection (c) to read:

9 "(c) All state and county procurement officers or agents
10 shall withhold final payment of a contract until the receipt of
11 tax clearances from the director of taxation and the Internal
12 Revenue Service. A contractor's tax clearance shall be valid
13 for one year from the date it is received by a procurement
14 officer or agent.

15 Notwithstanding sections 40-57 and 40-58, if a contractor
16 fails to provide the requisite tax clearances within six months
17 of the completion of the contract, the state or county
18 procurement officer or agent shall first notify the department
19 of taxation which in turn will notify the Internal Revenue
20 Service, of amounts payable to the contractor on completed
21 contracts. The department of taxation and the Internal Revenue



H.B. NO. 2628

1 Service, within thirty days, shall request the procurement
2 officer or agent to set off the amount of taxes due against any
3 payment due to the contractor until the tax debt is paid in full
4 to the State or the Internal Revenue Service, or both. No final
5 bill or invoice from the contractor shall be required as a
6 condition to the setoff. Any remaining contract balance shall
7 revert to the appropriation under which it was encumbered."

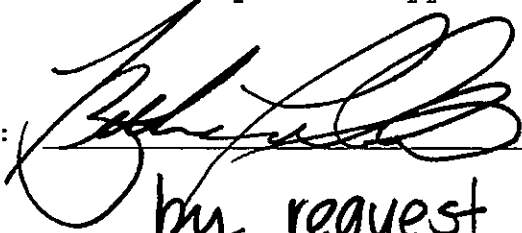
8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

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

14

INTRODUCED BY:


by request

JAN 27 2016



H.B. NO. 2628

Report Title:

Public Contracts; Tax Clearances

Description:

Provides that, for public contracting purposes, a contractor's tax clearance will be valid for one year from the date the procuring agent receives the clearance from the contractor.

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

