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# A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1           SECTION 1. The legislature finds that section 103-55.6,  
2 Hawaii Revised Statutes, is cumbersome and has been problematic  
3 from an enforcement perspective across all applicable agencies.  
4 This provision, enacted in 2009, provides a procurement  
5 preference to a contractor in a public works construction  
6 contract of not less than \$250,000 if the contractor is a party  
7 to an apprenticeship agreement registered with the department of  
8 labor and industrial relations for each apprenticeable trade  
9 that the contractor will employ to construct the public works.

10           The legislature further finds that the law has had  
11 unintended results when applied throughout Hawaii. For example,  
12 it does not benefit neighbor island contractors because they do  
13 not have access to apprentice training, which is largely  
14 conducted on Oahu only. This causes neighbor island contractors  
15 to be disadvantaged when bidding against contractors based on  
16 Oahu. Also, some trades do not have apprentice programs,  
17 including for example, non-union civil contractors performing



1 machine and labor work. Contractors performing a trade that  
2 does not have an apprentice program are unfairly disadvantaged  
3 when competing for contracts against contractors from trades  
4 that have apprenticeship programs.

5 The legislature further finds that amending section 103-  
6 55.6, Hawaii Revised Statutes, to apply only to appropriate  
7 contracts will solve these problems.

8 SECTION 2. Section 103-55.6, Hawaii Revised Statutes, is  
9 amended as follows:

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

11 "(a) [A] In counties with a population of 500,000 or more,  
12 a governmental body, as defined in section 103D-104, that enters  
13 into a public works contract under this chapter having an  
14 estimated value of not less than \$250,000, shall decrease the  
15 bid amount of a bidder by five per cent if the bidder is a party  
16 to an apprenticeship agreement registered with the department of  
17 labor and industrial relations for each apprenticeable trade  
18 that the bidder will [~~employ~~] utilize in the completion of the  
19 contract to construct the public works, and in conformance with  
20 chapter 372. The lowest total bid, taking the preference into  
21 consideration, shall be awarded the contract unless the



1 solicitation provides for additional award criteria. The  
2 contract amount awarded, however, shall be the amount of the  
3 price offered, exclusive of the preference."

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

5 "(c) At the time of submission of a competitive sealed bid  
6 or a competitive sealed proposal by a bidder, the bidder shall  
7 furnish written proof of being a party to a registered  
8 apprenticeship agreement for each apprenticeable trade that the  
9 bidder will [~~employ~~] utilize in the completion of the contract  
10 to construct the public works and, if awarded the contract,  
11 shall continue to certify monthly in writing that the bidder is  
12 a party to a registered apprenticeship agreement for each  
13 apprenticeable trade that the bidder will [~~employ~~] utilize in  
14 the completion of the contract to construct the public works for  
15 the entire duration of the bidder's work on the project. This  
16 subsection shall be deemed to be incorporated into a public  
17 works contract. A bidder who is awarded a contract shall be  
18 subject to the following sanctions if, after commencement of  
19 work, the bidder at any time during the construction is no  
20 longer a party to a registered apprenticeship agreement for each



1 apprenticeable trade that the bidder will [~~employ~~] utilize in  
2 the completion of the contract to construct the public works:

3 (1) Temporary or permanent cessation of work on the  
4 project, without recourse to breach of contract claims  
5 by the bidder; provided that the governmental body  
6 shall be entitled to restitution for nonperformance or  
7 liquidated damages, as appropriate; or

8 (2) Proceedings to debar or suspend under section 103D-  
9 702."

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

13 SECTION 4. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2115, and  
16 shall apply to bids affected by this Act that are submitted on  
17 or after July 1, 2015.



**Report Title:**

Procurement; Public Works Construction; Apprenticeship Agreement

**Description:**

Limits public works procurement preference for bidders with registered apprenticeship agreements to contracts with governmental bodies in counties with a population of 500,000 or more. Requires apprenticeship agreement for each apprenticable trade the contractor will utilize in construction of the public works. (HB517 HD1)

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

