



Written Comments

**HB1086**  
**RELATING TO THE ENVIRONMENT**

Comments by the Legislative Reference Bureau  
Charlotte A. Carter-Yamauchi, Acting Director

Presented to the House Committee on Energy and Environmental Protection

Tuesday, February 10, 2015, 8:30 a.m.  
Conference Room 325

Chair Lee and Members of the Committee:

Good morning Chair Lee and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Acting Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on H.B. No. 1086, Relating to the Environment.

The purpose of this bill is to:

- (1) Require the Legislative Reference Bureau to update its 1985 study "The Feasibility of Environmental Reorganization for Hawaii" and assess the feasibility of implementing the findings and recommendations of the Department of Environmental Protection Task Force.
- (2) Authorizes the Bureau to contract the services of another entity, without regard to the procurement requirements of Chapter 103D, Hawaii Revised Statutes, to provide services related to the performance of the update;
- (3) Appropriate moneys to the Bureau for the contract.

While the Legislative Reference Bureau takes no position on this measure, we submit the following comments for your consideration.

The Bureau believes that the update requested under this measure, as presently drafted, is manageable and that the Bureau will be able to provide the update in the time allotted; provided that the Bureau's interim workload is not adversely impacted by too many other studies or additional responsibilities, such as conducting, writing, or finalizing other reports, drafting legislation, or both, for other state agencies, task forces, or working groups that may be requested or required under other legislative measures.

Thank you again for this opportunity to provide written comments.

DAVID Y. IGE  
GOVERNOR



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TESTIMONY

OF

SARAH ALLEN, ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE

ON

FINANCE

March 3, 2015, 1:30 P.M.

HOUSE BILL 1086  
RELATING TO THE ENVIRONMENT

Chair Luke, Vice-Chair Nishimoto, and members of the committee, thank you for the opportunity to submit testimony on HB1086.

The State Procurement Office (SPO) opposes the exemption from HRS 103D proposed on page 4, Section 2(b) of this Act.

The Code is the single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, government disclosure and transparency in the procurement and contracting process vital to good government.

Public procurement's primary objective is to provide potential contractors equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with HRS chapter 103D conveys a sense of disproportionate equality in the law's application.

Exemptions to the Code mean that all contracts awarded with taxpayer monies within Section 2(b) of this Act, will not have the same oversight, accountability and transparency requirements mandated by those procurements processes provided in the code. It means that there is no requirement for due diligence, proper planning or consideration of protections for the state in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. As such, the Legislative Reference Bureau can choose whether to compete any procurement

or go directly to one contractor. As a result, leveraging economies of scale and cost savings efficiencies found in the consistent application of the procurement code are lost. It also means the Bureau is not required to adhere to the code's procurement integrity laws.

The National Association of State Procurement Officials state: "Businesses suffer when there is inconsistency in procurement laws and regulations. Complex, arcane procurement rules of numerous jurisdictions discourage competition by raising the costs to businesses to understand and comply with these different rules. Higher costs are recovered through the prices offered by a smaller pool of competitors, resulting in unnecessarily inflated costs to state and local governments."

When public bodies, are removed from the state's procurement code it results in the harm described above. As these entities create their own procurement rules, businesses are forced to track their various practices.

Each year new procurement laws are applied to state agencies causing state agency contracts to become more complex and costly, while other public bodies, such as agencies with strong legislative influence, are exempted. Relieving some public bodies from some laws by exempting or excluding them from compliance with a common set of legal requirements creates an imbalance wherein the competitive environment becomes different among the various jurisdictions and the entire procurement process becomes less efficient and more costly for the state and vendors.

As such, the SPO recommends deleting specified wording from Page 4, Section 2(b) as follows:

#### SECTION 2.

(b) The legislative reference bureau may contract the services of another entity to perform any related services that may be required pursuant to this Act. Any contract for services executed pursuant to this Act shall be in compliance with ~~exempt from~~ chapter 103D, Hawaii Revised Statutes.

Thank you.



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**Testimony in SUPPORT of HB 1056  
RELATING TO THE ENVIRONMENT**

REPRESENTATIVE SYLVIA LUKE, CHAIR  
HOUSE COMMITTEE ON FINANCE

Hearing Date: March 3, 2015 – 1:30 p.m.

Room Number: 308

1 **Office Testimony:** The Office of Environmental Quality Control (OEQC) supports HB 1086,  
2 which requires the Legislative Reference Bureau to update its 1985 study on environmental  
3 reorganization for Hawai‘i and recommendations of the 1992 department of environmental  
4 protections task force, and funds to support the measure.

5 The disjointed nature of environmental management, as described in HB 1086, merits a  
6 reevaluation of the current system and its practical implications with respect to the state’s  
7 response to the various environmental issues today, including for example, climate change,  
8 energy, food security, water resource management, and invasive species. An update to the  
9 LRB’s 1985 study can be a helpful tool to identify how different agencies and programs can be  
10 consolidated to cohesively, efficiently and effectively address the state’s environmental  
11 management and protection efforts.

12 Therefore we strongly support the update of the 1985 study on environmental  
13 reorganization.

14 **Fiscal Implications:** OEQC takes no position on the funding request, deferring to the  
15 Governor's Executive Budget Request for fiscal priorities.

16 Thank you for the opportunity to testify.