

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR

PAULA A. YOUNGLING
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

P.O. Box 119
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Telephone: (808) 587-4700
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TESTIMONY

OF

SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE

ON

FINANCE

FEBRUARY 24, 2016, 3:00 P.M.

HOUSE BILL 2053
RELATING TO PROCUREMENT

Chair Luke, Vice-Chair Nishimoto, and members of the committee, thank you for the opportunity to submit testimony on HB 2053.

The State Procurement Office (SPO) is in **SUPPORT** of the measure.

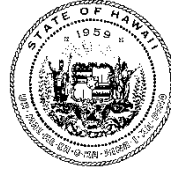
HB 2053 creates a new section within Hawaii Revised Statutes chapter 103D to address what are called special innovative procurements. Among public procurement's guiding principles are value and transparency. Value ensures prudent use of taxpayer dollars. Transparency ensures accountability and system integrity, which in turn, fosters public confidence. These guiding principles are built into HRS chapter 103D, our State Procurement Code.

Special innovative procurements will allow the State to procure when unusual or unique circumstances exist that require other than full competition, when standard procurement procedures would be contrary to the public interest. Unlike an exemption, special innovative procurements are an alternative process **within** the procurement code. This means that the State can effectively respond to unique needs or requirements and maintain the accountability and transparency of the procurement and resulting management of the contract. In other words, special innovative procurements help to avoid costly and embarrassing missteps that can occur with exemptions. In fact, our research shows that several states currently apply similar statutes, and the ABA 2000 Model Procurement Code recommends the use of special innovative procurements.

The language of HB 2053 is similar to the language found in the Alaska innovative procurements statute (AS § 36.30.308). Although aimed at flexibility to accommodate unique circumstances, special innovative procurement statutes have protections built in, which require a written determination by the CPO, notice, and a published record to be maintained. Such safeguards ensure the special innovative procurement will be utilized only in unusual or unique circumstances and only if advantageous to the state, best value can be achieved, and the public interest will be promoted in a manner not practicably realized under standard procurement procedures.

Thank you.

DAVID Y. IGE
GOVERNOR



DOUGLAS MURDOCK
Comptroller

AUDREY HIDANO
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
DOUGLAS MURDOCK, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
FINANCE
ON
FEBRUARY 24, 2016

H.B. 2053

RELATING TO PROCUREMENT

Chair Luke and members of the Committee, thank you for the opportunity to submit written testimony on H.B. 2053. The Department of Accounting and General Services supports H.B. 2053.

H.B. 2053 provides the state with the flexibility to act in the best interests of the government and the people of the State while affording sufficient checks and balances to ensure accountability and transparency while adhering to the Hawaii public procurement code. It will enable the State to act responsively in addressing unique needs or requirements such as local purchases or private-public partnerships and promote greater efficiency and best value.

Thank you for the opportunity to submit written testimony on this matter.



Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 24, 2016
3:00 p.m.
State Capitol, Room 308

H.B. 2053
RELATING TO PROCUREMENT

House Committee on Finance

The Department of Transportation (DOT) **supports** the intent of this bill which proposes to provide for the establishment of a special innovative procurement process.

Although the DOT utilizes all methods of procurement, there are situations when a procurement method does not fit the DOT purchasing needs. The purpose of a special innovative procurement process may provide the DOT with flexibility in procuring new, unique, and specialized goods, services, within the parameters of the procurement code.

This bill as proposed includes a procurement checks and balances provision (Chief Procurement Officer, (CPO) to provide written determination)¹ intending to ensure the use of a particular innovative procurement is advantageous to the State for new or unique requirements of the State, new technologies, public-private partnerships or to achieve best value.

The DOT proposes the following revision to the proposed statutory language, “§ 103D-Special Innovative Procurement.”

Thank you for the opportunity to provide testimony.

¹ With the intent that the authority will not be delegated to the head of the purchasing agency.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

**TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON FINANCE

February 24, 2016
3:00 P.M.
CONFERENCE ROOM 308

HOUSE BILL NO. 2053
RELATING TO PROCUREMENT

Chairperson Luke and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2053. The purpose of this bill is to provide for the establishment of a special procurement process for the procurement of goods and services. The Department of Agriculture supports this measure as it relates to procurement of agricultural commodities.

Act 218 (SLH 2015) established a Farm to School Program within the Department of Agriculture, directing the Farm to School Coordinator to “address the issues of supply, demand, procurement, and consumption of Hawaii-grown foods in state facilities” (HRS §141-11(b)). One of the five goals of the program is to “[e]nrich the local food system through the support and increase of local food procurement for the State’s public schools and other institutions” HRS §141-11(a)(3). Through our Farm to School Coordinator’s systematic and technical procurement collaboration with stakeholders in the Lieutenant Governor’s Advisory Group, as well as working directly with the State Procurement Office, Department of Education, Hawaii Child Nutrition Program, Department of Health, farmers, distributors, and nonprofit entities, it is apparent that the procurement processes available in chapter 103D are hindering efforts to increase the State’s institutional purchasing of locally grown food.



The State policy to buy local produce and support local agriculture was formally established with Act 55 (SLH 2013), codifying the policy in Objectives and policies for the economy — agriculture in the Hawaii State Planning Act:

- HRS§226-7(b)(7) “Strengthen diversified agriculture by developing an effective promotion, marketing, and distribution system between Hawaii’s food producers and consumers in the State, nation, and world.”
- HRS§226-7(b)(13) “Promote economically competitive activities that increase Hawaii’s agricultural self-sufficiency, including the increased purchase and use of Hawaii-grown food and food products by residents, businesses, and governmental bodies as defined under section 103D-104.”

This measure would allow for development of a “special procurement” alternative competitive process to address the unique situations faced with implementing such specialized State policies in transparent manner that is advantageous to the State, achieving best value with stated policies.

Thank you for the opportunity to testify on this measure.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the House Committee on Finance
Wednesday, February 24, 2016 at 3:00 P.M.
Conference Room 308, State Capitol**

RE: HOUSE BILL 2053 RELATING TO PROCUREMENT

Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** HB 2053, which provides for the establishment of a special procurement process for the procurement of goods and services. Also requires the establishment of procedures by the procurement policy board for use of the special procurement process.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The procurement process is in need of improvement. Business and the public want an open, competitive and transparent procurement process. The procurement process must also be timely in the selection and payment for goods and services. In addition, the State is looking for the best value, not necessarily the lowest price.

We know of many small businesses in Hawaii that do not pursue work from the State of Hawaii because of the uncertainty and delays caused by the current procurement process.

We look forward to the Procurement Policy Board's procedures for these new procurement processes.

We appreciate the opportunity to express our support for HB 2053.

Thank you for the opportunity to testify.



Email: communications@ulupono.com

HOUSE COMMITTEE ON FINANCE
Wednesday, February 24, 2016 — 3:00 p.m. — Room 308

Ulupono Initiative Strongly Supports HB 2053, Relating to Procurement

Dear Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

My name is Kyle Datta and I am General Partner of the Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally produced food; increase affordable, clean, renewable energy; and reduce waste. We believe that self-sufficiency is essential to our future prosperity and will help shape a future where economic progress and mission-focused impact can work hand in hand.

Ulupono strongly supports HB 2053, which creates a new procurement class for goods and services under the State Procurement Code.

Ulupono has identified procuring more locally grown foods by governmental institutions such as hospitals, schools, and prisons as a critical catalyst to expanding local food production and stimulating the rural economy throughout the state. This bill would allow for flexibility within the procurement code to create a customizable procurement process for locally grown foods while enhancing fiduciary discipline. Through a more customized procurement process under the purview of the State Procurement Office, the goal is to provide more transparency about what local food is purchased by state government. Written business contracts will allow our local farmers to supply the bulk purchases to governmental institutions. Secure contracts provide financial stability and creditworthiness that enables farmers to secure loan financing and greater financial investment. Keeping procurement processes within the Procurement Office, helps to provide liability protection and contract management controls for the State. Ulupono believes that HB 2053 provides the appropriate balance between flexibility and fiduciary oversight.

We believe this a better alternative than attempting to exempt categories from the procurement code altogether or allowing higher costs to be charged for local food through bid formula “adders”. Both of these approaches have been tried over the last decade with little success.

Investing in a Sustainable Hawai'i



Currently, at least nine states currently have a program for special procurement, 39 states include options for other than full competition within the procurement code, and all states allow for exemptions of some kind outside of their respective procurement codes.

Over the years, the State has procured tens of millions of dollars worth of food purchases under the procurement code. Yet no one can definitively determine how much has been spent on local vs. imported food. Our goal is to have more of these dollars be spent on local food purchases.

This bill supports efforts that align with our collective goal of providing more locally produced food. As Hawai'i's local food issues become more complex and challenging, institutions need to be creative in addressing and meeting the needs of the marketplace. We appreciate this committee's efforts to look at policies that support local food production.

We believe that by collaborating, we can help produce more local food and support an economically robust homegrown agriculture industry, which strengthens our community with fresh, healthy food. Thank you for this opportunity to testify.

Respectfully,

Kyle Datta
General Partner

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 23, 2016 2:04 PM
To: FINTestimony
Cc: jmas808@gmail.com
Subject: Submitted testimony for HB2053 on Feb 24, 2016 15:00PM

HB2053

Submitted on: 2/23/2016

Testimony for FIN on Feb 24, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Jeffrey Masatsugu	Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund	Comments Only	Yes

Comments: The Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund does not oppose this measure to the extent that it excludes construction projects and applies only to goods and services.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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HB2053

Submitted on: 2/23/2016

Testimony for FIN on Feb 24, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Jeffrey Masatsugu	Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund	Comments Only	Yes

Comments: The Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund does not oppose this measure to the extent that it excludes construction projects and applies only to goods and services.

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HB2053

Submitted on: 2/23/2016

Testimony for FIN on Feb 24, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Jeffrey Masatsugu	Hawaii Tapers Market Recovery Trust Fund	Comments Only	Yes

Comments: The Hawaii Tapers Market Recovery Trust Fund does not oppose this measure to the extent that it excludes construction projects and applies only to goods and services.

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HB2053

Submitted on: 2/23/2016

Testimony for FIN on Feb 24, 2016 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Jeffrey Masatsugu	Painters Labor Management Cooperation Trust Fund	Comments Only	Yes

Comments: The Painting Industry of Hawaii Labor Management Cooperation Trust Fund does not oppose this measure to the extent that it excludes construction projects and applies only to goods and services.

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e-mail info@hfbf.org; www.hfbf.org

February 24, 2016

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON HB 2053
RELATING TO PROCUREMENT

Room 308
3:00 PM

Aloha Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau Federation (HFB). Organized since 1948, HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

HFB supports HB 2053 which establishes a special procurement process for the procurement of goods and services in order to increase the consumption of locally-grown agricultural products within state institutions.

HFB strongly supports increased use of locally grown agricultural products, fruits, vegetables, meats, dairy and poultry products in our schools and other public institutions.

In 2009, the State enacted ACT 175 which gave Hawaii agricultural products a price preference and included Hawaii agricultural products under the State's procurement code. HFB believed that an agricultural producers' price preference for bidding presented a competitive advantage. This included enjoyment of the small business preference rule that permits an agency to identify certain contracts for competition among small businesses or requires a large business to subcontract with small businesses to provide the products. We believed that the preference helped cultivate a level playing field with out-of-state bidders and created additional market opportunities for Hawaii's farmers and small businesses

HFB suggested the changes because farmers and ranchers were having a difficult time entering into state supply contracts. During our involvement with this process, it became clear that education at all levels, not just within our group of farmers and ranchers, but

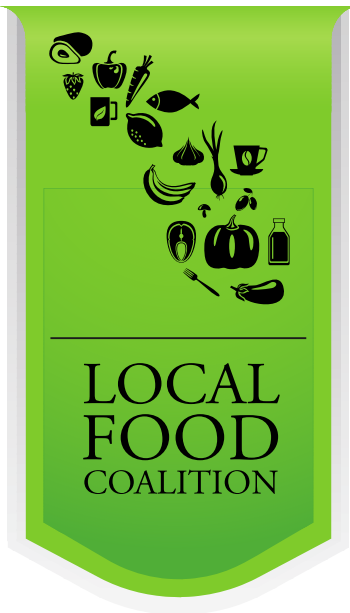
even within the procurement offices, was needed. Although HFB attempted to move everyone in this direction, the training was never accomplished.

In previous sessions, there have been measures that proposed to remove the preference and ease the process required for governmental bodies to acquire local agricultural commodities by exempting Hawaii agricultural producers from the procurement code. This would change the current code back to where it was before HFB's requests to the Legislature modified the language, resulting in the current code.

In previous sessions, when bills were introduced that would revert back to exempting locally-grown agricultural products from the procurement code, HFB has requested clear metrics to help determine the success of the procurement code with the exemption.

The proposed special innovative procurement process will provide the flexibility that should help increase the purchase of more locally grown agricultural products, fruits, vegetables, meats, dairy and poultry products from State institutions.

HFB is committed to work with the Procurement Office to improve and implement a procurement program that will allow Hawaii farmers and ranchers to source more products to State institutions.



HOUSE COMMITTEE ON FINANCE
Wednesday, February 24, 2016 – 3:00 PM - Room 308
Agenda #2

RE: HB 2053 - Relating to Procurement – In Support

Aloha Chair Luke, Vice Chair Nishimoto and Members of the Committee:

4 Ag Hawai'i
Hawai'i Aquaculture &
Aquaponics Association
Hawai'i Cattlemen's Council
Hawai'i Farm Bureau
Federation
Hawai'i Farmers' Union
United
Hawai'i Food Industry
Association
Hawai'i Food
Manufacturers Association
Kohala Center
Malama Kaua'i
Maui School Garden
Network
Ulupono Initiative

The Local Food Coalition supports HB 2053, which establishes a special procurement process of goods and services and requires the establishment of procedures by the procurement policy board for use of the special procurement process.

The Local Food Coalition is an organization comprising of farmers, ranchers, livestock producers, investors and other organizations working to provide Hawai'i's food supply.

One of the priorities of the Local Food Coalition is to help facilitate the State's procurement of locally grown food and this bill will allow for the flexibility to create a procurement process to achieve this. The goal is for Hawai'i's agricultural industry to have more opportunity to sell locally grown products to government institutions such as schools, hospital and prisons while providing transparency and accountability.

We respectfully ask for your support of HB 2053. Thank you.

Lori Lum
808-544-8343
llum@wik.com



February 23, 2016

President
Robin M. Lim, P.E.
Geolabs, Inc.
Ph: (808) 841-5064

House Committee on Finance
Hearing Date: Wednesday, February 24, 3:00 p.m., Conference Room 308

President-Elect
Corey M. Matsuoka, P.E.
SSFM International
Ph: (808) 531-1308

Honorable Representatives Sylvia Luke, Chair; Scott Y. Nishimoto, Vice Chair; and Members of the House Committee on Finance

Treasurer
Jeffrey K. Kalani, P.E.
Yogi Kwong Engineers, LLC
Ph: (808) 942-0001

Subject: **HB 2053, Relating to Procurement**
TESTIMONY in OPPOSITION

Secretary
Sean Sugai, P.E.
Ronald N.S. Ho & Assoc.
Ph: (808) 941-0577

Dear Chair Luke, Vice Chair Nishimoto, and Committee Members:

Past President
William H.Q. Bow, P.E.
Bow Engineering & Development, Inc.
Ph: (808) 941-8853

The American Council of Engineering Companies of Hawaii (ACECH) represents more than 70 member firms with over 1,500 employees throughout Hawaii. ACECH is a strong supporter of HRS §103D-304, the State’s “qualification-based selection” (QBS) law, which follows the National model procurement code, for procurement of professional services.

National Director
Sheryl E. Nojima, P.E., PhD
Gray, Hong, Nojima & Assoc.
Ph: (808) 521-0306

HRS §103D-304 shows a strong commitment by the Legislature to follow recognized best practices for the procurement of professional services, particularly for Architect-Engineer design services furnished by licensees under HRS Chapter 464. A robust QBS law reduces corruption and protects the public interest in the award of these potentially large projects. QBS has also been shown in national studies to reduce project costs. HRS §103D-304 allows for the procurement of design professional services under §103D-307 in an emergency situation.

Directors
Garret Masuda, P.E.
InSynergy Engineering
Ph: (808) 521-3773

ACECH is concerned with the potential use of a process other than QBS for the procurement of design professional services and, therefore, opposes this bill unless the revised language can be added to safeguard QBS.

Ken Kawahara, P.E.
Akinaka & Assoc.
Ph: (808) 836-1900

We appreciate the opportunity to provide testimony on this matter. Please do not hesitate to contact us if you have any questions.

Liana Choy, P.E.
Sato & Assoc.
Ph: (808) 955-4441

Respectfully submitted,
AMERICAN COUNCIL OF ENGINEERING COMPANIES OF HAWAII

Ginny M. Wright
Executive Director
P.O. Box 88840
Honolulu, HI 96830
Ph: (808) 741-4772
Email: gwright@acechawaii.org
Website: www.acechawaii.org

Robin M. Lim, PE
President

Attachment: Proposed Revised Text, HB2053 Relating to Procurement

Proposed Revised Text (ACECH added text shown in *bold italics*):

SECTION 2. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§103D- Special procurement. (a) Contracts for goods and services may be awarded with other than full competition using a special innovative procurement process in accordance with this section and procedures set forth in rules adopted by the procurement policy board; *provided that design professional services furnished by licensees under chapter 464 shall be procured pursuant to section 103D-304 or 103D-307.* The special innovative procurement process authorized by this section shall only be used when the chief procurement officer determines in writing that it is advantageous to the State to use the process for procurement of new or unique requirements of the State, new technologies, public-private partnerships, or to achieve best value.

Hawai'i Green Growth is a public-private partnership that coordinates across government, non-governmental and cultural organizations, business, academia and philanthropy to achieve Hawai'i's Aloha+ Challenge 2030 sustainability goals.

Steering Committee

Deanna Spooner
June Matsumoto
Matt Lynch
Mark Fox
Mike Hamnett
Piia Aarma
Pono Shim
Scott Enright
Scott Seu
Ulalia Woodside
William J. Aila Jr.

Testimony of Hawai'i Green Growth In Support of HB2053 Relating to Procurement House Committee on Finance 24 February 2016, 3:00pm, Room 308

LATE

Aloha Chair Luke and Vice Chair Nishimoto and Members of the Committee:

Hawai'i Green Growth (HGG) strongly supports HB2053 to establish a special innovative procurement process to provide the State with greater flexibility in the procurement of certain goods and services. This measure would allow the state to develop a local food purchasing structure, while maintaining the accountability and transparency afforded by the State Procurement Code.

HB2053 will increase the opportunity for locally grown food products in governmental institutions such as hospitals, schools, and prisons, which is an important step to economically strengthening Hawai'i's agricultural industry. This would allow local farmers to supply bulk products to Hawai'i governmental institutions, thereby helping to provide critical financial stability for farmers while increasing access to local foods.

HGG public-private partners identified procurement as a shared 2016 legislative priority to increase the *Aloha+ Challenge* local food production goal. The *Aloha+ Challenge* is a statewide commitment by the State Legislature (SCR 69), Governor, Mayors and Office of Hawaiian Affairs to achieve six sustainability goals for 2030 in the areas of clean energy, local food, natural resources, solid waste reduction, smart growth and climate resilience, and green jobs and education. Statewide HGG public-private partners are identifying shared measures to track progress and provide accountability with the online *Aloha+ Challenge* Dashboard, while developing an annual policy and action agenda to advance Hawai'i's shared 2030 sustainability goals.

The *Aloha+ Challenge* has been recognized nationally and internationally by the US State Department and Global Island Partnership as a model for locally appropriate implementation of UN Sustainable Development Goals. With the upcoming IUCN World Conservation Congress hosted by Hawai'i in September 2016, this legislative session is an important opportunity for Hawai'i to showcase leadership on sustainable development, conservation and resilience.

As a public-private partnership, Hawai'i Green Growth supports HB2053 to help drive implementation on the *Aloha+ Challenge* local food production goal and help foster a more diversified local economy.