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Sent: Saturday, March 21, 2015 6:19 PM
To: CPCtestimony
Cc: psgegen@hotmail.com
Subject: Submitted testimony for SB1228 on Mar 23, 2015 14:45PM

SB1228

Submitted on: 3/21/2015

Testimony for CPC on Mar 23, 2015 14:45PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
pat gegen	Kauai Regional Board - HHSC	Support	No

Comments: Master planning monies would be beneficial for the Kauai Region to identify, with community input, potential opportunities to utilize our tremendous resources and provide additional income to the region and decrease our need for ongoing state support. The Kauai Regional Board supports this measure and is appreciative of your consideration.

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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Email: communications@uluponoinitiative.com

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Monday, March 23, 2015 — 2:45 p.m. — Room 325

Ulupono Initiative Strongly Supports SB 1228 SD 2 HD 1, Relating to Procurement

Dear Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

My name is Brandon Lee and I am the policy and public-private partnership associate of the Ulupono Initiative, a Hawai'i-based impact investment company that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally grown food, increase clean, renewable energy, and waste reduction. We believe that self-sufficiency is essential to our future prosperity, and will help shape a future where economic progress and environmental stewardship work hand in hand.

Ulupono strongly supports SB 1228 SD 2 HD 1, which creates a new class within the procurement code that allows for an innovative competitive procurement process to achieve the best results. Two examples of where Ulupono sees great value in this proposed procurement process:

First, Ulupono has identified procuring more locally grown foods by governmental institutions such as prisons, hospitals, and schools can lead to more locally grown foods in Hawai'i. This bill would allow for flexibility within the procurement code to create a customizable procurement process for locally grown foods. Through a more customized procurement process, the goal is to provide more transparency and written contracts to allow for more opportunities for our local farmers to supply the bulk purchases that governmental institutions can provide.

Second, in these tight budgetary times, the State is looking at new and innovative ways to build and maintain infrastructure and services for the taxpayer. One method to obtain funding for these projects is a public-private partnership. However, these projects require flexibility for the private sector with accountability for the public sector. Under this proposed process, public-private partnership projects can be customized so that the parties needs can be better satisfied.

While procurement rules can be daunting, they exist to provide accountability through processes. Often, there are various efforts to exempt categories from the procurement code, some successful and some not. Regardless of an exemption's effectiveness, it creates a system where applicants and regulators need to navigate various procurement processes

Investing in a Sustainable Hawai'i



and jurisdictions to participate effectively. This increases costs for both businesses and the government. The special / innovative procurement class can create flexibility for key categories that require it while still keeping the overall management under the expert eyes of the procurement office. Furthermore, keeping procurement processes within the procurement office, helps to provide liability protection and contract management controls for the State.

Currently, at least 9 states currently have a program for special/innovative procurements, 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 procurement code.

As the issues we face in Hawai'i become more complex and challenging, there needs to be updated policies to address and overcome them. We appreciate this committee's efforts to look at new solutions.

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

Respectfully,

Brandon Lee
Policy and Public-Private Partnership Associate

woodson2-Rachel

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 21, 2015 10:07 PM
To: CPCtestimony
Cc: amybrinker@mac.com
Subject: *Submitted testimony for SB1228 on Mar 23, 2015 14:45PM*

SB1228

Submitted on: 3/21/2015

Testimony for CPC on Mar 23, 2015 14:45PM in Conference Room 325

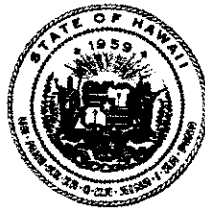
Submitted By	Organization	Testifier Position	Present at Hearing
Amy Brinker	Individual	Support	No

Comments:

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DAVID Y. IGE
GOVERNOR



LATE TESTIMONY

SARAH ALLEN
ADMINISTRATOR

PAULA A. YOUNGLING
ASSISTANT ADMINISTRATOR

STATE OF HAWAII STATE PROCUREMENT OFFICE

P.O. Box 119
Honolulu, Hawaii 96810-0119
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TESTIMONY

OF

SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE

ON

CONSUMER PROTECTION AND COMMERCE

MARCH 23, 2015, 2:45 P.M.

SENATE BILL 1228, SD2 HD1
RELATING TO PROCUREMENT

Chair McKelvey, Vice-Chair Woodson, and members of the committee, thank you for the opportunity to submit testimony on SB 1228, SD2 HD1.

The State Procurement Office (SPO) is in **STRONG SUPPORT** of **Part I** of the measure with suggested revisions as set forth below. The SPO has concerns with Part II of the measure since rules for special procurements such as public private partnerships will take time to develop.

SB 1228, SD2 HD1 **Part I**, 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 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 situations 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 statute, and the ABA 2000 Model Procurement Code recommends the use of special innovative procurements.

The language of SB1228, SD2 HD1 tracks 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.

The SPO suggests the following revisions:

PART I, SECTION 1.

On page 1, lines 17: "..., and operate more efficiently to achieve best value while giving effect to state policy goals."

On page 2, lines 1 thru 8 completely replaced with: "The Legislature further finds that public-private partnerships are utilized successfully throughout the nation, and although Hawaii has specifically authorized a select number of such partnerships, a more effective approach of addressing public-private partnership procurements is in the best interest of effective utilization of taxpayer money with increased transparency. A public-private partnership is a contractual agreement between a public agency and a private sector entity where skills and assets of each sector are combined to deliver services to the public, not a privatization of a government function. Both entities share in the risks and rewards of the venture. The partnership provides for a level of public control and oversight of operations not typical of privatization."

On page 2, line 15: "..., and financial management concerns that traditional structures of the public sector have struggled with."

PART I, SECTION 2.

On page 3, line 17 - Include an additional paragraph:

"(b) All special innovative procurements shall include, to the extent possible, provisions and processes to ensure taxpayer accountability, transparency of innovative process for evaluation, communication of innovation for future duplication, and clear cause for deviation from other standard methods of source selection in section 103D-301. Administrative rules shall be adopted by the policy board, addressing the following:

- (1) Compliance with local, State, and federal laws;
- (2) Attaining the maximum level of competition to achieve best value;
- (3) Adherence to purchasing ethics to protect the public trust, as codified in the administrative rules;
- (4) Specific procedures for addressing public-private partnerships;
- (5) Minimizing deviation from section 103D-302 and 1-3D-303 for construction contracts, specifically addressing contractor provisions such as subcontractor listing, as applicable; and
- (6) Minimizing deviation from section 103D-304 provisions for professional services, as applicable."

All further passage alpha references amended in Section 2 to accommodate new paragraph above.

On page 3, lines 17 thru 20: "(c) The head of the purchasing agency. . . to this section and rules adopted by the board, to the attorney general. . ."

On page 4, line 1: "(d) Notice of the invitation..."

On page 4, lines 3 thru 5: "(e) Nothing in this section....instead of preferences, or requiring subcontractor provisions in a procurement . . ."

On page 4, lines 6 thru 14: "(f) A written determination. . . annual report, pursuant to procedures directed by the Administrator of the State Procurement Office. The report shall be transmitted to the A[~~a~~]dministrator of the S[~~s~~]tate P[~~p~~]rocurement O[~~e~~]ffice who shall make the report [~~publicly~~] publically available."

PART I, SECTION 3.

One page 5, lines 6 thru 8: "SECTION 4. (a) The procurement policy board shall draft rules for special innovative procurements, including but not limited to public-private partnership contracts, pursuant to chapter 91 rulemaking procedures, to allow full stakeholder vetting through the rulemaking process."

PART II.

SPO recommends that Part II relating to appropriation of funds to HHSC be held until Part I, which is the development of Special Procurements be enacted and implemented.

PART III.

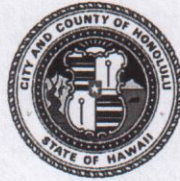
SPO recommends that Part I take effect on July 1, 2015, to allow use of funds to be appropriated in fiscal year 2015-2016 and fiscal year 2016-2017 for the purpose of developing and implementing Special Procurements.

Thank you.

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

LATE TESTIMONY

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KIRK CALDWELL
MAYOR

ROY K. AMEMIYA, JR.
MANAGING DIRECTOR

GEORGETTE T. DEEMER
DEPUTY MANAGING DIRECTOR

March 23, 2015

The Honorable Angus L.K. McKelvey, Chair
and Members
Committee on Consumer Protection
& Commerce
House of Representatives
415 South Beretania Street, Room 320
Honolulu, Hawaii 96813

Dear Chair McKelvey, Vice Chair Woodson, and Members:

The City and County of Honolulu is in strong support of SB No. 1228, SD2, Relating to Procurement.

The City and County of Honolulu is involved in a number of large scale projects that impact and benefit the residents of Oahu. In order to maximize the full potential and reach of certain initiatives, we believe it would be mutually beneficial to partner with the private sector in order to take advantage of the expertise and resources in our community.

For example, Mayor Caldwell recently presided over the "Living Age Friendly" summit, where over 500 residents of all ages, but primarily seniors, gathered to discuss making Honolulu a more age friendly city. The implementation of age friendly projects is within the City's responsibility in many areas, such as complete streets, affordable housing, elderly affairs programs, etc. However, it does and should extend beyond the City's authority, in private business, in education, in healthcare and physical fitness, to name a few, and we would like to work in concert with the private sector so that all of Honolulu operates through an age friendly lens.

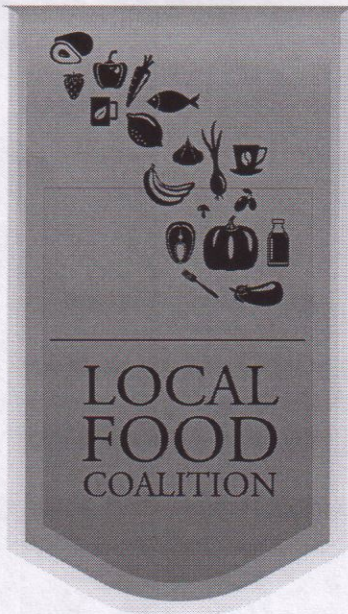
SB No. 1228, SD2, provides government with a framework for public private partnerships, and the flexibility to use these types of structures to implement important public projects. It is a needed tool for the City as we strive to find creative ways to make the best and highest use of public funds.

Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink that reads "Roy K. Amemiya, Jr." The signature is written in a cursive style.

Roy K. Amemiya, Jr.
Managing Director



HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Monday, March 23, 2015 - 2:45 PM - Room 325

RE: SB 1228 SD2 HD1 - Relating to Procurement - In Support

Aloha Chair McKelvey, Vice Chair Woodson and Members of the
Committee:

The Local Food Coalition supports SB 1228 SD2 HD1, which establishes a process for special innovative procurement and generates a framework for public-private partnership in Hawaii, among other things.

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 an innovative procurement process to achieve this. The goal is for Hawaii'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.

Our comments in support relate to Part I of the bill. We are not taking a position on Part II.

We respectfully ask for your support of SB 1228 SD2 HD1. Thank you.

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

4 Ag Hawai'i

Hawai'i Aquaculture &
Aquaponics Association

Hawai'i Association of
Independent Schools

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