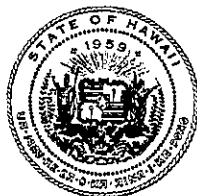


SB1228

RELATING TO PROCUREMENT.

Requires the state procurement office to develop draft rules regarding public-private partnerships in Hawaii, and to report the draft rules and any proposed legislation to the legislature.

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR

PAULA A. YOUNGLING
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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**TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE SENATE COMMITTEE
ON
GOVERNMENT OPERATIONS
February 17, 2015; 1:20 P.M.**

**SB1228
RELATING TO PROCUREMENT**

Chair Dela Cruz, Vice-Chair Nishihara, and members of the committee, thank you for the opportunity to submit testimony on SB1228.

The State Procurement Office (SPO) is in SUPPORT of the intent of the measure. The SPO views the ability to enter into public-private partnerships as a creative tool for government to contract through what are called Special Procurements. HB 1028 creates a new section within HRS chapter 103D, which is where this process should be placed. 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 chapter 103D, our State Procurement Code.

Special innovative procurements, like public-private partnerships, 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. 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 Procurement Policy Board (PPB) in turn has the authority and responsibility to adopt rules that are consistent with each section of the Code to govern the procurement, management, and control of the goods, services or construction being procured. In order for the State Procurement Office to develop and make recommendation of rules on behalf of the PPB, we need a qualified FTE with money. The total cost would be approximately \$65,000 per year for one staff member to begin the development and implementation.

Section 2 of this bill requires that the SPO shall draft rules for public-private partnership contracts. The SPO believes that currently there is no legislation that supports this. The first step would be to create the mechanism for these innovative processes within the Code. Thereafter, the SPO, with input from the public, interested groups and State stakeholders, would draft rules including language that this bill tracks as key provisions based on Public Private Partnerships (PPP) experiences from Other Countries.

The SPO request that this bill be held and allow HB1028 to pass, creating the first step to Special Procurements within the Code.

Thank you



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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**The Twenty-Eighth Legislature, State of Hawaii
Hawaii State Senate
Committee on Government Operations**

**Testimony by
Hawaii Government Employees Association
February 17, 2015**

S.B. 1228 – RELATING TO PROCUREMENT

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO is concerned with the bill as drafted. Public-private partnerships under the right situations and conditions may help government to operate more efficiently. However, there must be responsible laws, rules and policies to help state government reduce the risk of contract failure and ensure that the companies involved have a track record of providing employees with living wages and benefits.

Before the state enters into any public-private partnerships, the contracts must be carefully scrutinized. It is very clear that Hawaii, like all states, is in need of repairing and maintaining our infrastructure and that public funding for these purposes is limited. However, using public-private partnerships, which insert private interests into the development of public infrastructure, can be problematic when adequate care is not taken to protect the public interest and include necessary safeguards.

Governments must take into careful consideration the direct and indirect policy implications of these arrangements, and the economic and fiscal impacts of long-term contracts in public-private partnerships. Public-private partnerships (P3) that do not include adequate protections can be costly. Whenever governments use a P3 model, the decision-making process and resulting agreement must be carefully developed. To ensure that a P3 project is successful, the public must maintain democratic control of infrastructure as well as the ability to make public policy decisions in the future. P3s are far more reaching undertakings than hiring private companies as contractors. These involve turning over infrastructure to private investors who can design, finance, build, operate and maintain it.

A number of P3 projects contain restrictive contract clauses that limit governing bodies in their policymaking responsibilities. In addition, there must be broad-based participation in decision-making processes to ensure P3 projects meet legitimate economic, employment and community needs. Sometimes, P3 projects are developed and implemented without the input of the communities the proposed infrastructure project is designed to serve. Additionally, P3 projects should be fully transparent and accountable to governing institutions. Most importantly, the jobs that P3 infrastructure projects provide should be good middle-class jobs that improve the standard of living for those that build, maintain and operate the facility or system. Thank you for the opportunity to provide testimony on S.B. 1228.

Respectfully Submitted,

Randy Perreira
Executive Director

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Hawaii

80 Years of Excellence

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February 15, 2015

Senate Committee on Government Operations

Hearing Date: Tuesday, February 17, 1:20 p.m., Conference Room 414

Honorable Senators Donovan M. Dela Cruz, Chair; Clarence K. Nishimura, Vice Chair; and Members of the Senate Committee on Government Operations

**Subject: SB 1228, Relating to Procurement
TESTIMONY IN SUPPORT**

Dear Chair Dela Cruz, Vice Chair Nishimura, and Committee Members:

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 innovative procurement reform that safeguards the public trust by being open and transparent.

SB 1228 lays out the framework for the state procurement office to draft rules for the use of public-private partnerships. ACECH finds the requirements laid out in Section 2 (b) (1) through (6) of the bill to be well advised, and supports this bill.

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

Respectfully submitted,
AMERICAN COUNCIL OF ENGINEERING COMPANIES OF HAWAII



William H.Q. Bow, P.E.
President



Email: communications@uluponoinitiative.com

SENATE COMMITTEE ON GOVERNMENT OPERATIONS
Tuesday, February 17, 2015 — 1:20 p.m. — Room 414

Uluono Initiative Strongly Supports SB 1228, Relating to Procurement

Dear Chair Dela Cruz, Vice Chair Nishihara, and Members of the Committee:

My name is Brandon Lee and I am the policy and public-private partnership associate of the Uluono 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.

Uluono strongly supports SB 1228, which requires the state procurement office to develop draft rules regarding public-private partnerships in Hawai'i.

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. The recommendations by the state procurement office can help to create new avenues for public-private partnerships that can be effective for all entities involved.

Uluono Initiative is excited about working with the State to solve Hawai'i's food, energy, and waste issues through co-investing in projects that create a large impact and are economically sustainable.

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.

Respectfully,

Brandon Lee
Policy and Public-Private Partnership Associate

Investing in a Sustainable Hawai'i