

STAND. COM. REP. NO.

308

Honolulu, Hawaii

FEB 15 2017

RE: S.B. No. 1070  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred S.B. No. 1070 entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit bid shopping and bid peddling in the competitive sealed bidding process.

Your Committee received testimony in support of this measure from the General Contractors Association of Hawaii, Ironworkers Stabilization Fund, and Hawaii Laborers-Employers Cooperation and Education Trust. Your Committee received testimony in opposition to this measure from the Electrical Contractor's Association of Hawai'i, Subcontractors Association of Hawaii, and one individual. Your Committee received comments on this measure from the State Procurement Office, Department of Accounting and General Services, Department of Commerce and Consumer Affairs, and Contractors License Board.

Your Committee finds that efforts should be made to deter the possibility of bid shopping and bid peddling in the competitive sealed bidding process, and permitting injured subcontractor-plaintiffs to recover monetary damages from prime contractors and substituted subcontractors would discourage this unscrupulous practice and protects State interests.



Your Committee also finds that the competitive sealed bidding process can be improved by providing additional time for bidders to clarify and correct subcontractor information required in the bids, as proposed in S.B. No. 1067, Regular Session of 2017 (S.B. 1067). Your Committee finds that this minor adjustment may minimize bid challenges, costs, and delays of public works projects while maintaining the integrity of the bid process. As such, your Committee has incorporated the language of S.B. 1067 into this measure.

Your Committee has amended this measure by:

- (1) Inserting a provision allowing bidders two hours after bid closing to clarify and correct subcontractor information;
- (2) Providing that bids for construction shall be opened no sooner than two hours after bid closing;
- (3) Removing the burden on prime contractors and substituted contractors to prove bid shopping or bid peddling did not occur;
- (4) Clarifying that a substituted contractor shall not be entitled to damage from the government entity that issued the invitation for bids;
- (5) Clarifying and limiting the reasons that a substitution of a listed subcontractor may be allowed;
- (6) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1070, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1070, S.D. 1, and be referred to your Committees on Judiciary and Labor and Ways and Means.



Respectfully submitted on  
behalf of the members of the  
Committee on Government  
Operations,



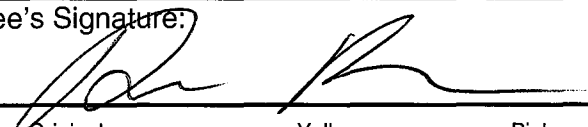
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DONNA MERCADO KIM, Chair



The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Government Operations**  
**GVO**

Bill / Resolution No.:* <i>SB 1070</i>	Committee Referral: <i>GVO, JDL</i>	Date: <i>2/9/17</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310	<input type="checkbox"/> Recommit 2313	
Members	Aye	Aye (WR)	Nay	Excused
KIM, Donna Mercado (C)	<i>X</i>			
RUDERMAN, Russell E. (VC)	<i>X</i>			
GALUTERIA, Brickwood				<i>X</i>
RHOADS, Karl	<i>X</i>			
TOKUDA, Jill N.				<i>X</i>
<b>TOTAL</b>	<i>3</i>	<i>0</i>	<i>0</i>	<i>2</i>
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature: 				
<b>Distribution:</b>				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes