



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Higher Education
Tuesday, February 14, 2017 at 2:03 p.m., Room 309

by
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HB 519 – RELATING TO THE UNIVERSITY OF HAWAII

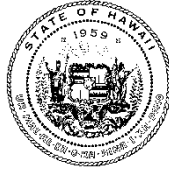
Chair Woodson, Vice Chair Hashem and members of the Committee on Higher Education:

Thank you for this opportunity to testify. The University of Hawai'i (UH) **supports** HB 519, Relating to the University of Hawaii. This bill authorizes revenues in the UH Commercial Enterprises Revolving Fund to be expended for costs and expenses associated with food services.

Section 304A-2251, HRS, allows UH to hire personnel, renovate commercial space, and purchase merchandise, supplies, and equipment without regard to Chapters 76, 78, 89, 103, and 103D. Operations that are currently run via this fund include H-Zone stores and online operations and the UH Press. Adding in the ability to provide food services to the statute will make it clear that the operation of food services is ancillary to the student experience and promote a more entrepreneurial philosophy in their operations.

Thank you for your time and consideration.

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEES
ON
HIGHER EDUCATION
AND
EDUCATION

February 14, 2017, 2:03 PM

House Bill 519
RELATING TO THE UNIVERSITY OF HAWAII

Chairs Woodson and Takumi, Vice-Chairs Hashem and Har, and members of the committees, thank you for the opportunity to submit testimony on House Bill 519. The State Procurement Office's (SPO) comments are limited to SECTION 1 of the bill amending HRS §304A as follows:

“Revenues deposited into this fund may be expended by the university for all costs and expenses associated with the operation of the enterprises, including hiring personnel, providing food services, renovating commercial space, and purchasing merchandise, supplies, and equipment, without regard to chapters 76, 78, 89, 103, and 103D.”

The SPO is not in opposition of this bill, however, would like to submit comments pertaining to SECTION 1, page 1, lines 8 to 13.

HRS §102-1 defines the word “concession” as used in chapter 102 as “the grant to a person of the privilege to: (1) Conduct operations involving the sale of goods, wares, merchandise, or services to the general public including but not limited to **food**...in or on buildings or land under the jurisdiction of any government agency.” The SPO recommends that the University of Hawaii (UH) follow HRS chapter 102, Concession on Public Property, which already establishes the process for bidders to qualify, how the bids will be advertised, how the bids will be opened and/or rejected, and how the contract will be awarded.

Furthermore, statutory exemptions are contrary to the Hawaii Public Procurement Code (Code), section 103D-102, HRS, on the applicability of the chapter that states in part “...shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract

is cash, revenues, realizations, receipts, or earnings....” Any governmental agency with the authority to expend funds should be in compliance with chapter 103D, which promotes the policy of fair and equitable treatment of all persons who deal with the procurement system; fosters effective broad-based competition; and increases public confidence in public procurement.

The Code should not be viewed as an obstacle to a purchasing agency’s mission, but rather as the single source of public procurement policy to be applied equally and uniformly to obtain its requirements, which was the legislature’s intent for the Code. If individual agencies are exempted and allowed to develop their own individual processes, it becomes problematic for the administration and vendors/contractors that must comply with a variety of processes. Most agencies agree that fairness, open competition, a level playing field, and government disclosure and transparency in procurement and contracting process are vital to good government. They believe that for this to be accomplished, we must participate in the process with one set of statutes and rules.

One of public procurement’s primary objectives is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in the awarding of contracts. Another critical objective is to ensure disclosure and public visibility into the way taxpayer dollars are being spent. As such, along with open competition the Code provides safeguards to ensure procurement integrity, determination of fair and reasonable pricing, public notice, and transparency. The Code also provides consistency in the manner in which purchasing agencies procure goods, services, and construction.

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.”

Exemptions to the Code mean that all procurements made with taxpayer monies for this authority, 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 authority can choose whether to compete any procurement or go directly to one contractor. As a result, leveraging economies of scale and cost saving efficiencies found in the consistent application of the procurement code are lost. It also means the authority is not required to adhere to the Code’s procurement integrity laws.

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. Moreover, a public body often can no longer achieve the benefits of aggregation by using another public body’s contract because different state laws and regulations may apply to the various public bodies making compliance more difficult.

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 different jurisdictions and the entire procurement process becomes less efficient and more costly for the State and vendors.

Thank you.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 10, 2017 12:19 PM
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Cc: dylanarm@hawaii.edu
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HB519

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Submitted By	Organization	Testifier Position	Present at Hearing
Dylan P. Armstrong	Individual	Support	No

Comments:

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