

SB 149

RELATING TO PROCUREMENT.

LAB, FIN

SB149



Submit Testimony

Measure Title: RELATING TO PROCUREMENT.

Report Title: Procurement; Child Care Programs

Description: Repeals the requirement that all applicants for procurement contracts for health and human services possess all licenses necessary to conduct the subject business. Repeals the requirement that all contracts include only costs, fees, and taxes reflected on the face of the proposal.

Companion: [HB557](#)

Package: None

Current Referral: LAB, FIN

Introducer(s): BAKER

Sort by Date		Status Text
1/20/2017	S	Introduced.
1/20/2017	S	Passed First Reading.
1/20/2017	S	Referred to GVO/HMS/CPH.
1/25/2017	S	Re-Referred to GVO/HMS/CPH, WAM.
2/7/2017	S	The committee(s) on GVO/HMS/CPH has scheduled a public hearing on 02-10-17 9:30AM in conference room 229.
2/10/2017	S	The committee(s) on GVO recommend(s) that the measure be PASSED, UNAMENDED. The votes in GVO were as follows: 3 Aye(s): Senator(s) Kim, Ruderman, Galuteria; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) K. Rhoads, Tokuda.
2/10/2017	S	The committee(s) on HMS recommend(s) that the measure be PASSED, UNAMENDED. The votes in HMS were as follows: 3 Aye(s): Senator(s) Green, S. Chang, Harimoto; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) Tokuda, Wakai.
2/10/2017	S	The committee(s) on CPH recommend(s) that the measure be PASSED, UNAMENDED. The votes in CPH were as follows: 4 Aye(s): Senator(s) Baker, Nishihara, S. Chang, Ruderman; Aye(s) with

		reservations: none ; 0 No(es): none; and 3 Excused: Senator(s) Espero, Ihara, Kidani.
2/15/2017	S	Reported from GVO/HMS/CPH (Stand. Com. Rep. No. 310) with recommendation of passage on Second Reading and referral to WAM.
2/15/2017	S	Report adopted; Passed Second Reading and referred to WAM.
2/21/2017	S	The committee(s) on WAM will hold a public decision making on 02-23-17 1:30PM in conference room 211.
2/23/2017	S	The committee(s) on WAM recommend(s) that the measure be PASSED, UNAMENDED. The votes in WAM were as follows: 6 Aye(s): Senator(s) Tokuda, English, Galuteria, Harimoto, Riviere, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 5 Excused: Senator(s) Dela Cruz, Inouye, K. Kahele, Shimabukuro, Taniguchi.
3/2/2017	S	Reported from WAM (Stand. Com. Rep. No. 572) with recommendation of passage on Third Reading.
3/2/2017	S	One Day Notice 03-03-17.
3/3/2017	S	Report adopted; Passed Third Reading. Ayes, 24; Aye(s) with reservations: none . Noes, 0 (none). Excused, 1 (Senator(s) Gabbard). Transmitted to House.
3/3/2017	H	Received from Senate (Sen. Com. No. 25).
3/7/2017	H	Pass First Reading
3/7/2017	H	Referred to LAB/HUS, FIN, referral sheet 26
3/17/2017	H	Re-referred to LAB, FIN, referral sheet 32
3/20/2017	H	Bill scheduled to be heard by LAB on Thursday, 03-23-17 10:00AM in House conference room 309.

JAN 20 2017

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 103F-401.5, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§103F-401.5 Proposals and awards. (a) No contract~~
4 ~~proposals shall be accepted from any applicant who lacks any~~
5 ~~license necessary to conduct the business being sought by the~~
6 ~~request for proposals, with the exception of proposals from~~
7 ~~applicants to operate a child care program required to be~~
8 ~~licensed pursuant to section 346-161.~~

9 ~~(b) Proposals submitted under this chapter shall include~~
10 ~~all costs, fees, and taxes, and any award or contract shall be~~
11 ~~for the amount of the proposal. No award or contract shall~~
12 ~~include any other payment, rebate, or direct or indirect~~
13 ~~consideration that is not included in the proposal, such as~~
14 ~~insurance premium or general excise tax rebates to or waivers~~
15 ~~for an applicant or bidder."]~~

16 SECTION 2. Statutory material to be repealed is bracketed
17 and stricken.



S.B. NO. 149

1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY: Randy H. Beck



S.B. NO. 149

Report Title:

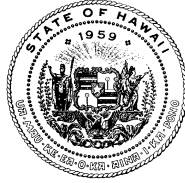
Procurement; Child Care Programs

Description:

Repeals the requirement that all applicants for procurement contracts for health and human services possess all licenses necessary to conduct the subject business. Repeals the requirement that all contracts include only costs, fees, and taxes reflected on the face of the proposal.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony in STRONG SUPPORT of SB149
RELATING TO PROCUREMENT

REPRESENTATIVE AARON LING JOHANSON, CHAIR
COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

Hearing Date: Thursday, March 23, 2017 10:00 a.m. Room Number: 309

1 **Fiscal Implications:** Undetermined at this time.

2 **Department Testimony:** The Department of Health (DOH) testifies in strong support of this bill
3 and offers comments.

4 The purpose of this bill is to repeal the requirement that all applicants for procurement
5 contracts for health and human services, possess all licenses necessary to conduct the subject
6 business, and to repeal the requirement that all contracts include only costs, fees, and taxes
7 reflected on the face of the proposal.

8 The Adult Mental Health Division (AMHD) has directly experienced the negative impact
9 of this law. As part of rebuilding community mental health programs for adults, the AMHD
10 seeks to increase the capacity of community based programs. This may entail new providers
11 entering our system, in addition to expanding capacity through existing providers. This may
12 especially be the case for program sub types which are new to Hawaii and this effort is
13 significantly hampered and delayed by present law.

14 Specifically, and for example, the DOH has identified that there is a shortage of special
15 treatment facilities (STF) in the community that are appropriate for consumers receiving
16 services from the AMHD, and who no longer require hospitalization. This shortage continues to

1 be a critical problem affecting the length of stay for consumers waiting to be discharged from
2 the Hawaii State Hospital (HSH).

3 The requirement that the facility obtain licensure prior to being awarded a state
4 contract has proven to be unfavorable to rebuilding our community based service system and
5 serves as a significant barrier to new providers entering the service system. Very few, if any,
6 providers will obtain a facility, hire staff, train staff, create policy and procedures, obtain
7 licensure, etc. without the promise of a contract first.

8 It is our understanding that the original intent of this law was to address procurement
9 for Department of Human Services Medicaid contracts with insurance companies, not non-
10 profit service provider contracts. In 103D, there is no similar provision for contracting for goods
11 and services. The only provision available for health and human services contracts is in 103F.

12 The DOH strongly supports this measure.

13 Thank you for the opportunity to testify.

14 **Offered Amendments:** None.

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
MARA SMITH
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE
TO THE HOUSE COMMITTEE
ON
LABOR & PUBLIC EMPLOYMENT

MARCH 23, 2017, 10:00 A.M.

SENATE BILL 149
RELATING TO PROCUREMENT

Chair Johanson, Vice-Chair Holt, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 149. The State Procurement Office (SPO) supports the repeal of HRS §103F-401.5.

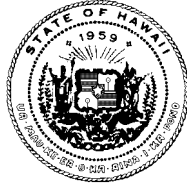
HRS §103F-401.5 was passed as Act 69, a Veto Override, during the 2009 Legislature. The section cannot be applied across the board. In many instances, providers cannot be licensed prior to award of a contract. The provider is selected then obtains clearances prior to being licensed (e.g., fire and safety) and prior to commencing services. HRS §103F-401.5 greatly restricts competition among qualified health and human service providers.

HRS 103F administrative rules has provisions without this section, which meets service requirement(s), as applicable. HAR section 3-143-201(12), preparing a request for proposals (RFP), states the RFP shall include "Any specific requirements or qualifications that an applicant must meet in order to submit a proposal including, but not limited to, licensure or accreditation." An applicant submitting a proposal without the required license(s) or qualifications, as determined by the purchasing agency and stated in the RFP, would not be considered for contract award.

Additionally, subsection (b) is unclear and unnecessary. Funding levels are determined by client needs, often on a fee for service basis. It is frequently unknown in advance the precise amount of services needed making it difficult to determine exact funding for a particular service. When that occurs, amounts quoted in proposals may be based on specific units of service identified in the request for proposals with the caveat that the exact number of units to be used may vary from estimates provided in the solicitation. Requiring that the award or contract be for the amount of proposal complicates and delays the State's ability to render required services.

Thank you.

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

BRIDGET HOLTHUS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

March 23, 2017

TO: The Honorable Representative Aaron Ling Johanson, Chair
House Committee on Labor and Public Employment

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 149 – RELATING TO PROCUREMENT**

Hearing: Thursday, March 23, 2017, 10:00 a.m.
Conference Room 309, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this bill.

PURPOSE: The bill proposes to repeal the requirement that all applicants for procurement contracts for health and human services possess all licenses necessary to conduct the subject business; repeal the requirement that all contracts include only costs, fees, and taxes reflected on the face of the proposal.

The primary focus of the DHS child care licensing program is the health and safety of all children in care. DHS is supportive of the repeal of requirements as proposed in SB 149, as it would result in applicants who submit contract proposals to operate a child care program to not be required to obtain the license prior to their proposals being accepted.

Pursuant to the service specifications issued by DHS in the Request For Proposals, and as required by Hawaii Administrative Rules (HAR) Chapter 3-143, Competitive Purchase of Services, once an applicant's proposal is accepted by DHS, the applicant must obtain a license to operate a group child care center or group child care home before contract services may start.

Thank you for the opportunity to provide testimony on this bill.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 21, 2017 3:38 PM
To: LABtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB149 on Mar 23, 2017 10:00AM*

SB149

Submitted on: 3/21/2017

Testimony for LAB on Mar 23, 2017 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

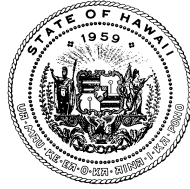
Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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SB 149

Late Testimony

DAVID Y. IGE
GOVERNOR OF HAWAII



LATE

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

LATE

STATE OF HAWAII
DEPARTMENT OF HEALTH
STATE COUNCIL ON MENTAL HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

LATE

In reply, please refer to:
File: DOH/AMHD

March 23, 2017

MEMORANDUM

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Sandra Simms

EX-OFFICIO:

Lynn N. Fallin
Deputy Director for
Behavioral
Health Administration

TO: Representative Aaron Ling Johanson, Chair
Committee on Labor and Public Employment

FROM: Marie Vorsino, Psy.D., Chair, State Council on Mental Health

Marie Vorsino LMHC, Psy.D.

SUBJECT: SB149 Relating to Procurement

HEARING: March 23, 2017

POSITION: Strong Support

The State Council on Mental Health (SCMH) is in strong support of SB149, Relating to Procurement. The Adult Mental Health Division is currently in the process of rebuilding community mental health programs for adults, and specifically increase the capacity of community based residential or outpatient programs. To meet these consumer driven needs in Hawaii, new providers that currently provide evidence-based programs outside of Hawaii may attempt to enter into our service provider community. Our current state procurement law structure would significantly delay and hamper their ability to provide much needed services. Most care providers will not establish a program in Hawaii without a contract – which is the current procurement process – and will not be able to meet the procurement requirements which require a facility, hired and trained staff, policy and procedure creation, and facility licensure.

Part of these consumer driven needs include the procurement of Special Treatment Facilities (STF) where consumers who no longer need acute level hospitalization care, can be provided specialized care in a community based settings. In Hawaii, we have a significant shortage of STF's which can affect the consumer in a number of ways – it can affect their discharge from the Hawaii State Hospital, keep the consumer in a higher level of care when it is not medically necessary, and delay the consumer's ability to successfully transition into community settings.

It is imperative, in addressing the needs of consumers who would benefit from lower-level care in specialized treatment facilities, that procurement laws do not

hamper Hawaii's ability to provide community based settings in our efforts to assure that consumers have access to specialized care in tandem with community integration. Research indicates that when discharging adults with severe and persistent mental illness (SPMI's) from hospital based settings, it is critical that service systems build capacity to assure continuity of care and decrease the readmission to the hospital and exacerbation of symptoms.

Thank you for the opportunity to provide testimony in strong support of SB 149.