

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
MARA SMITH+
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 586-0554
email: state.procurement.office@hawaii.gov
<http://spo.hawaii.gov>
Twitter: [@hawaiispo](https://twitter.com/hawaiispo)

TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
LABOR AND PUBLIC EMPLOYMENT
JANUARY 31, 9:00 AM
HB 520

UNIVERSITY OF HAWAII ATHLETICS; PROCUREMENT EXEMPTION
RELATING TO UNIVERSITY OF HAWAII ATHLETICS

Chair Johanson, Vice-Chair Holt, and members of the committee, thank you for the opportunity to submit testimony on HB 520.

The SPO opposes this bill, specifically Section 1, page 3, lines 7 to 12 requesting an exemption to the Procurement Code as follows:

“To procure goods or services for the office of intercollegiate athletics of the University of Hawaii at Manoa with moneys from the University of Hawaii at Manoa intercollegiate athletics special fund established under section 304A-2176;”

The Hawaii Public Procurement Code (code) is the single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, government disclosure and transparency in the procurement and contracting process vital to good government.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with both HRS chapter 103D and 103F conveys a sense of disproportionate equality in the law's application.

Exemptions to the code mean that all procurements made with taxpayer monies from the office of intercollegiate athletics of the University of Hawaii at Manoa, 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, Agencies can choose whether to compete any procurement or go directly to one contractor. As a result, leveraging economies of scale and cost savings efficiencies found in the consistent application of the procurement code are lost. It also means Agencies are not required to adhere to the code's procurement integrity laws.

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."

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 various jurisdictions and the entire procurement process becomes less efficient and costlier for the state and vendors.

Thank you.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Labor & Public Employment
Tuesday, January 31, 2017 at 9:00 am

by
David A. K. Matlin, Athletic Director
University of Hawai'i at Mānoa

HB 520 – RELATING TO UNIVERSITY OF HAWAII ATHLETICS

Chair Johanson, Vice Chair Holt and members of the committee:

Thank you for the opportunity to submit testimony on HB 520. This bill exempts from the Hawai'i Public Procurement Code the procurement of goods or services for the Office of Intercollegiate Athletics of the University of Hawai'i at Mānoa with moneys from the University of Hawai'i at Mānoa Intercollegiate Athletics Special Fund.

The University of Hawai'i at Mānoa Office of Intercollegiate Athletics (UHM Athletics) provides opportunities to over 500 student-athletes competing in 21 sports in events locally, on the mainland and internationally. Operating the athletic program in an efficient and cost effective manner is challenged by the myriad of travel requirements, recruiting schedule changes, and other things that are a normal part of a collegiate level athletic program. An exemption from Section 103D-102, Hawai'i Revised Statutes (HRS §103D-102) could help UHM Athletics to improve its timeliness and efficiency, as well as reduce operational costs, of obtaining goods or services.

Impact of HRS §103D-102 on UHM Athletics

HRS §103D-102 was enacted in 1993 and provides for procurement requirements by government entities. Among the procurement requirements are the use of a posting-and-bid process for expenditures above \$2,500 to identify potential vendors, and the requirement of a Certificate of Compliance from the State of Hawai'i attesting that the vendor is in tax and other compliance for doing business in Hawai'i.

These requirements have made it difficult at times to efficiently and cost effectively procure goods or services for UHM Athletics. As example of how the procurement rules can make it more expensive for UHM Athletics to procure goods or service is when teams compete on the mainland. UHM Athletics utilizes its contracted travel agency for making arrangements for its teams when competing on the mainland. Typically, at a minimum, the travel agency will handle air accommodations in exchange for a commission. In certain instances, such as hotel accommodations, ground transportation or team meals while traveling, UHM Athletics can work directly with the hotel the team is staying in for meals, or transportation companies for ground transportation. Frequently, however, the hotel or other companies are not interested in incurring the time and expense to obtain a Certificate of Compliance from the State of

Hawai'i, which is required by the procurement law. Generally, if the company is not interested in incurring the time and expense to obtain the certificate, it is because they are on the mainland and do not do business in Hawai'i and would have no other benefit from obtaining the certificate. If a hotel does not agree to incur the time and expense to obtain the Certificate of Compliance, UHM Athletics is required to go through our contracted travel agency, which does have a Certificate of Compliance as it operates regularly in Hawai'i, to obtain the hotel rooms and meals from the hotel. This results in a commission being paid on top of the cost of the rooms and meal. An example would be if a football single team meal cost \$10,000, an additional cost of \$1,000 (10%) might be incurred by UHM Athletics - - which could be avoided with the proposed legislation.

While UHM Athletics appreciates that our contracted travel agency has been accommodating and has been willing to be the "middleman" to allow the procurement to be made and on a timely basis, UHM Athletics estimates that it could save approximately \$100,000 annually if it could have made the purchases directly.

UHM Athletics Previously Exempt from HRS §103D-102

In 1997, recognizing the benefits that could accrue to UHM Athletics by exempting it from HRS §103D-102, HB1600 introduced by then Representative Mark Takai was passed, Act 186, SLH 1997. The bill provided an exemption from HRS §103D-102 for UHM Athletics for goods and services purchased with moneys from the intercollegiate athletics special fund.

Subsequently, in 1998, the entire UH System was given an exemption, similar to UHM Athletics' exemption, which negated the need for an individual exemption for UHM Athletics. As a result, the individual exemption for UHM Athletics was eliminated. When the UH System exemption was removed from HRS §103D-102 in the early 2000s, UHM Athletics was similarly impacted since it no longer had a specific exemption within HRS §103D-102.

The purpose of the proposed amendment is to reinstate the exemption within HRS §103D-102 that was provided for UHM Athletics in the past and allow it to realize cost savings that can then be used to meet other student-athlete needs.

Procurement Safeguards Would Continue

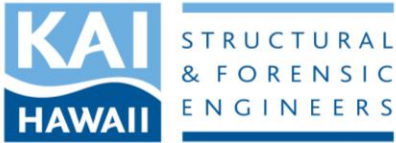
The proposed amendment to HRS §103D-102 will leave untouched various levels of existing signing authority and other measures that provide safeguards to ensure that funds are appropriately utilized for the procurement of goods or services by UHM Athletics. For example, at a minimum, two levels of approval are required on all funds spent (Associate AD and Fiscal Authority); in addition, all payments over \$10,000 require the approval of the Athletic Director and above \$25,000, the additional approval of the Chancellor.

Also, as with the prior exemption to HRS §103D-102 that was provided for UHM Athletics, the exemption proposed in HB 520 would apply only to moneys raised by UHM Athletics in the University of Hawai'i at Mānoa Intercollegiate Athletics Special Fund. It would not apply to procurement using funds from other sources such as general funds.

Summary

UHM Athletics supports HB 520 as it will reinstate an exemption from HRS §103D-102 that it had previously that will allow it to procure goods or services more efficiently and with cost savings. While UHM Athletics will be able to realize cost savings, safeguards will remain in place to ensure that funds are appropriately spent. Moreover, the proposed exemption from HRS §103D-102 will apply only to the procurement of goods or services from the University of Hawai'i at Mānoa Intercollegiate Athletics Special Fund and would not apply to other sources of funds such as general funds.

The University of Hawai'i respectfully requests passage of HB 520. Thank you for your time and consideration of this testimony.



Ken Hayashida, P.E. | *President*
Michael Hunnemann, P.E. | *Vice President*

January 30, 2017

House Committee on Labor & Public Employment

Honorable Representatives Aaron Ling Johanson, Chair; Daniel Holt, Vice Chair; and Members of the House Committee on Labor & Public Employment

Hearing: Tuesday, January 31, 2017

9:00 a.m.

State Capitol – Conference Room 309

RE: TESTIMONY IN SUPPORT OF HOUSE BILL NO. 520 RELATING TO UNIVERSITY OF HAWAII ATHLETICS

Dear Chair Johanson, Vice-Chair Holt, and Members of the Committee:

I strongly support H.B. 520 which exempts from the Hawaii Public Procurement Code contracts by governmental bodies to procure goods or services for the Office of Intercollegiate Athletics of the University of Hawaii at Manoa with moneys from the University of Hawaii at Manoa Intercollegiate Athletics Special Fund.

As a supporter of the University of Hawaii Athletics Department and the Office of the Intercollegiate Athletics of the University of Hawaii at Manoa, I feel H.B. 520 would allow the Special Fund to be used in the best interest of the program by restoring the exemption that the University of Hawaii was given previously.

I appreciate the opportunity to express my strong support for H.B. 441.

Sincerely,

Ken Hayashida

Testimony Presented Before
House Committee on Labor & Public Employment

By Marilyn Moniz-Kahoohanohano

January 31, 2017; 9:00am

HB 520 – RELATING TO UNIVERSITY OF HAWAII ATHLETICS

Chair Johanson, Vice Chair Holt, and members of the committee:

Thank you for this opportunity to submit testimony in support of HB 520. This bill would exempt the University of Hawaii at Manoa Athletic Department (UHM Athletics) from the Hawaii Public Procurement Code when it procures goods or services with moneys from the University of Hawaii at Manoa Intercollegiate Athletics Special Fund.

While I have been the Associate Athletics Director/Senior Woman Administrator for the University of Hawaii at Manoa since 1989, I am submitting this testimony as an individual and not in any official capacity at UHM Athletics.

As an administrator at UHM Athletics, I have been able to observe first hand, that at times, UHM Athletics has had to incur the higher costs that HB 520 seeks to eliminate with the proposed exemption to HRS §103D. I can also attest for team travel that if the higher costs could be avoided with HB 520, the funds that would have gone to cover the costs will be redirected to benefit our student-athletes in other areas.

I respectfully request your passage of HB 520 and thank you for the opportunity to provide this testimony.

Marilyn Moniz-Kahoohanohano
Rainbow Wahine Alumna

Testimony Presented Before
House Committee on Labor & Public Employment

by

Alyssa Simbahon

January 31, 2017; 9:00am

HB 520 – RELATING TO UNIVERSITY OF HAWAII ATHLETICS

Chair Johanson, Vice Chair Holt, and Members of the Committee:

My name is Alyssa Simbahon and I would like to submit this testimony in support of HB 520 and its exempting of the University of Hawaii at Manoa Athletic Department (UHM Athletics) from the Hawaii Procurement Code when it procures goods or services with funds from its Intercollegiate Athletics Special Fund.

I am a graduate of the University of Hawaii at Manoa, a former student-athlete, and a current board member of the UH Letterwinners Club. I am very grateful for the time that I spent at the University of Hawaii at Manoa, and grateful for the opportunity to represent UH and the state as a student-athlete. I continue to support the University of Hawaii and UHM Athletics.

As a former student-athlete and a current member of the Letterwinners Club, I have observed and experienced first hand the careful spending and tight budgets of UHM Athletics. If HB 520 could allow UHM Athletics to avoid costs being higher than they need to be, that could allow for more funds to go to directly benefitting the student-athletes involved in the different sports.

In light of the above, I respectfully request the passage of HB 520. Thank you for the opportunity to submit this testimony.

Alyssa Simbahon
808-282-9490

Testimony Presented Before
House Committee on Labor & Public Employment

by
Edwin J. Gayagas
98-1807 Ipuala Place
Aiea, HI 96701
(808) 486-2153

January 31, 2017; 9:00am

HB 520 – RELATING TO UNIVERSITY OF HAWAII ATHLETICS

Chair Johanson, Vice Chair Holt and members of the committee:

My name is Edwin J. Gayagas and I would like to submit this testimony in support of HB 520 and its exempting of the University of Hawaii at Manoa Athletic Department (UHM Athletics) from the Hawaii Procurement Code when it procures goods or services with funds from its Intercollegiate Athletics Special Fund.

I am proud to be a graduate of the University of Hawaii at Manoa, a former student-athlete, and a member of the UH Letter Winners Club. I am very grateful for the time I spent at the University of Hawaii at Manoa and being able to represent the school and the state as a student-athlete. I continue to support the University of Hawaii and UHM Athletics.

As a former student-athlete, a current member of the Letter Winners Club, a former General Contractor and former Procurement/Contracting Consultant, I have observed and experienced the careful spending and tight budgets of UHM Athletics. If HB 520 could allow UHM Athletics to avoid costs being higher than they need to be, that could allow more funds to go to directly benefitting the support the student-athletes involved in the different sports.

I thank you for being allowed to submit this testimony and respectfully request your passage of HB 520.

Edwin J. Gayagas
EDWIN J. GAYAGAS

Testimony Presented Before
House Committee on Labor & Public Employment

By Lois Manin

January 31, 2017; 9:00am

HB 520 – RELATING TO UNIVERSITY OF HAWAII ATHLETICS

Chair Johanson, Vice Chair Holt, and members of the committee:

Thank you for allowing me to present this testimony in support of HB 520. This bill would exempt the University of Hawai'i at Manoa Athletic Department (UHM Athletics) from the Hawai'i Public Procurement Code when it procures goods or services with moneys from the University of Hawai'i at Manoa Intercollegiate Athletics Special Fund.

I have worked at, or worked with, UHM Athletics for the past 26 years. Currently, I am the Assistant Athletic Director/Chief of Staff at UHM Athletics and for the past athletic year, served as its Director of Football Operations (DFO), working closely with Head Coach Nick Rolovich. I am submitting this testimony as an individual and not in any official capacity at UHM Athletics.

As DFO, I observed first-hand how HB 520 could help UHM Athletics be more efficient in procuring goods or services and avoid unnecessary costs. Among the responsibilities of the DFO is to coordinate air travel, hotel, ground transportation, team meals and other arrangements when the team is competing outside of the state of Hawai'i, both nationally and internationally.

In performing my football duties this past season, I experienced that hotels, transportation companies, or others, will at times decline to incur the time and expense of obtaining a Certificate of Compliance, as is required by the Hawai'i Public Procurement Code. As a result, in order to still obtain those services for the team while on the road, we have had to ask our contracted travel agency, which has a Certificate of Compliance since they regularly do business in Hawai'i, to obtain and pay for the goods or services on our behalf. While we appreciate our close working relationship with our contracted travel agency and their willingness to accommodate our needs to obtain the goods or services while traveling, UHM Athletics ends up paying a higher cost due to the commission that is added by the travel agency for handling the transaction.

In addition to these added expenses, I also experienced added time spent in requests and follow up with hotels, ground transportation companies to become compliant.

By exempting UHM Athletics from HRS §103D it could avoid the unnecessary higher costs by allowing UHM Athletics to obtain the goods or services directly from the providers. The costs saved could then be redirected by the teams for other uses to the benefit of our student-athletes.

I respectfully request your passage of HB 520 and thank you for the opportunity to provide this testimony.

Lois Manin
Assistant Athletic Director/Chief of Staff
University of Hawai'i at Manoa Intercollegiate Athletics

Testimony Presented Before State of Hawaii House Committee on Labor & Public Employment

By Maryann Sacharski
January 31, 2017: 9:00AM

HB 520: RELATING TO UNIVERSITY OF HAWAII ATHLETICS

Chair Johanson, Vice Chair Holt, and members of the committee: Thank you for the opportunity to enter my testimony to your committee today.

My name is Maryann Sacharski. I am a former University of Hawaii coach. I have served on various university and athletic department advisory committees and I am currently a member of the UH Letter Winners Club and its former chair.

I am in support of HB 520 that exempts the University of Hawaii at Manoa Office of Intercollegiate Athletics (UHAM) from the provisions of the Hawaii Procurement Code relating to government procurement of goods or services when UHAM contracts and pays for goods and services remunerated by UH Athletics generated funds.

This exemption would not apply to goods or services when paid for by the general fund or other sources.

The Athletic Department is a State of Hawaii government entity subject to the provisions of HRS 103D-102 enacted in 1993. The principal intent of HRS 103D-102 is to bring transparency and accountability to the procurement process of the state's many operating agencies and departments. The primary scope of these entities is the discharge of their responsibilities here in the State of Hawaii. They are, for all intents and purposes, day-to-day, Hawaii-centric in the majority of business (transactions) they do to carry out their responsibilities. They are consumers of goods and services no matter the origin of the vendor be it Hawaii-registered or offshore.

The UHAM, by the nature of its off-shore affiliations necessary to conduct its business and where it discharges at least one-half of its responsibilities is not Hawaii-centric. For this reason, UHAM needs the flexibility HB 520 provides to conduct its off-shore business and related goods and services transactions quickly and efficiently without the constraints imposed by compliance with the Hawaii Procurement Code. This is particularly applicable to transactional costs.

The university fields 21 teams and 500 athletes who compete in the following off-shore transactional environments.

1. National Collegiate Athletic Association (NCAA), Indianapolis, IN
 - Collegiate sports governing body that sets rules and procedures impacting the way UHAM conducts its business internally and in relationship to other collegiate institutions
 - Sponsors national tournaments around the country in which UH teams compete
2. Mountain West Conference, Colorado Springs, CO
 - UHAM is a football-only member in this 11 team league; 10 of the teams are located on the mainland where UHAM plays anywhere from four to five games per season
3. Big West Conference, Irvine CA
 - UHAM is a full member of the Big West Conference including men's and women's basketball, volleyball, baseball / softball; of the nine teams in the conference, eight are offshore
4. Non-League Contests
 - UHAM teams compete in a variety of non-league contests offshore

Enactment of HB 520 will allow UHAM to act quickly, decisively and efficiently regarding procurement of goods and services attendant to fulfilling its mandated mission for which offshore presence and participation is without question essential to the success of its mission.

GO BOWS!

Maryann Sacharski