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A BILL FOR AN ACT

RELATING TO EMERGENCY PROCUREMENT.

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

1           SECTION 1. Section 103D-307, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§103D-307 Emergency procurements.** (a)The head of a  
4 purchasing agency may obtain a good, service, or construction  
5 essential to meet an emergency by means other than specified in  
6 this chapter when the following conditions exist:

7           (1) A situation of an unusual or compelling urgency  
8           creates a threat to life, public health, welfare, or  
9           safety by reason of major natural disaster, epidemic,  
10           riot, fire, or similar events and to a lesser extent,  
11           by reason of equipment failures, repairs to public  
12           property in order to protect against further loss of,  
13           or damage to, public property, or to prevent or  
14           minimize serious disruption in continued functioning  
15           of government services, or such other reason as may be  
16           determined by the head of that purchasing agency;

17           (2) The emergency condition generates an immediate and  
18           serious need for goods, services, or construction that

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1 cannot be met through normal procurement methods and  
2 the government would be seriously injured if the  
3 purchasing agency is not permitted to employ the means  
4 it proposes to use to obtain the goods, services or  
5 construction; and

6 (3) Without the needed good, service, or construction, the  
7 continued functioning of government, the preservation  
8 or protection of irreplaceable property, or the health  
9 and safety of any person will be seriously threatened.

10 (b) The emergency procurement shall be made with  
11 such competition as is practicable under the  
12 circumstances. ~~and, where practicable, approval from~~  
13 ~~the chief procurement officer shall be obtained prior~~  
14 ~~to the procurement.~~ A written determination of the  
15 basis for the emergency and for the selection of the  
16 particular contractor shall be included in the  
17 contract file.

18 (c) the head of the purchasing agency that makes  
19 an emergency procurement in the response to a serious  
20 threat to life, public health, welfare, or safety by  
21 reason of major natural disaster, epidemic, riot,  
22 fire, or similar events and to a lesser extent,

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1 equipment failures, repairs to public property in  
2 order to protect against further loss of, or damage  
3 to, public property, to prevent or minimize serious  
4 disruption in continued functioning of government  
5 services, shall account for the money spent in making  
6 the procurement and report on that accounting to the  
7 legislature within sixty days after the end of the  
8 fiscal year in which the procurement was made.

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INTRODUCED BY: \_\_\_\_\_

*scm*

BY REQUEST

JAN 21 2020

**Report Title:**

Emergency procurement

**Description:**

To revise Hawaii Revised Statutes 103D-307, Emergency Procurements to add equipment failures, repairs to public property to protect against further loss of, or damage to public property, to prevent or minimize serious disruption in continued functioning of government services. To replace chief procurement officer approval with an accounting report to the legislature within sixty days after the end of the fiscal year in which the procurement was made.

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

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO EMERGENCY PROCUREMENT.

PURPOSE: The purpose of this bill is to revise the Hawaii Revised Statutes 103D-307, Emergency Procurements to add equipment failures, repairs to public property to protect against further loss of, or damage to public property, to prevent or minimize serious disruption in continued functioning of government services. To replace chief procurement officer approval with an accounting report to the legislature within sixty days after the end of the fiscal year in which the procurement was made.

MEANS: Amend section 103D-307, Hawaii Revised Statutes.

JUSTIFICATION: Maintenance schedules to extend the useful life of a facility or equipment is the primary function of preventive maintenance. A procuring agency's practical response to budgetary limitations may result in deferred maintenance or, when appropriate, through an emergency procurement.

Impact on the public: This bill broadens allowable emergency procurements within the intent of the procurement code's competition requirements. It shifts the showing of transparency from requiring approval from the chief procurement officer to a reporting by the head of the purchasing agency to the legislature.

Impact on the department and other agencies: This bill will allow the head of the purchasing agency to decide when it is

appropriate to conduct an emergency procurement.

GENERAL FUND: N/A

OTHER FUNDS: N/A

PPBS PROGRAM DESIGNATION: N/A

OTHER AFFECTED AGENCIES: State Procurement Office

EFFECTIVE DATE: Upon approval