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# A BILL FOR AN ACT

RELATING TO PROCUREMENT FILING FEE.

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

1           SECTION 1. The legislature finds that procurement bid  
2 challenges often result in project delays, funding lapses, and  
3 project cost increases. These concerns have been partly  
4 addressed by the requirement that the department of commerce and  
5 consumer affairs' office of administrative hearings process and  
6 hear these cases within twenty-one days and issue decisions  
7 within forty-five days of the filing of the challenges.  
8 However, these proceedings can involve complex issues, multiple  
9 litigants, and days or weeks of hearing. To meet these strict  
10 deadlines and issue written decisions that can withstand  
11 appellate review, the department must assign these cases the  
12 highest priority in terms of time and resources. Hearings for  
13 other non-procurement cases must be delayed, and hearings  
14 officers must commit substantial time to completing the bid  
15 challenge proceedings by the statutory deadlines.

16           The legislature further finds that even though the  
17 department has been tasked with this critical responsibility, it



1 has received no appropriation of funds to defray the costs of  
2 these proceedings. As a result, these costs have been  
3 indirectly paid for by the license registration fees assessed by  
4 the department.

5 The purpose of this Act is to provide a funding mechanism  
6 to partially cover the costs to conduct bid challenge hearings  
7 by authorizing the department of commerce and consumer affairs  
8 to assess a non-refundable filing fee upon the party initiating  
9 the bid challenge for contracts with an estimated value of  
10 \$500,000 or more.

11 SECTION 2. Section 103D-709, Hawaii Revised Statutes, is  
12 amended by amending subsection (e) to read as follows:

13 "(e) The party initiating a proceeding falling within  
14 subsection (d) shall pay to the department of commerce and  
15 consumer affairs a cash or protest bond in the amount of:

- 16 (1) \$1,000 for a contract with an estimated value of less  
17 than \$500,000;
- 18 (2) \$2,000 for a contract with an estimated value of  
19 \$500,000 or more, but less than \$1,000,000; or
- 20 (3) One-half per cent of the estimated value of the  
21 contract if the estimated value of the contract is



1           \$1,000,000 or more; provided that in no event shall  
2           the required amount of the cash or protest bond be  
3           more than \$10,000.

4           If the initiating party prevails in the administrative  
5 proceeding, the cash or protest bond shall be returned to that  
6 party. If the initiating party does not prevail in the  
7 administrative proceeding, the cash or protest bond shall be  
8 deposited into the general fund.

9           In addition to the bond required in this subsection, the  
10 initiating party shall pay to the department of commerce and  
11 consumer affairs a non-refundable filing fee of \$200 for a  
12 contract with an estimated value of \$500,000 or more, but less  
13 than \$1,000,000, or \$1,000 for a contract with an estimated  
14 value of \$1,000,000 or more. Failure to do so shall result in  
15 the rejection or dismissal of the request for review. The fee  
16 shall be deposited into the compliance resolution fund  
17 established pursuant to section 26-9(o) and used to help defray  
18 the costs of conducting the administrative proceeding for  
19 review."

20           SECTION 3. New statutory material is underscored.

21           SECTION 4. This Act shall take effect on January 1, 2050.



**Report Title:**

Procurement; Filing Fee; Bid Challenge

**Description:**

Requires a party initiating a bid challenge to pay the Department of Commerce and Consumer Affairs a non-refundable filing fee for contracts with an estimated value of \$500,000 or more. (HB987 HD1)

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

