

JAN 23 2020

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A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Section 103D-709, Hawaii Revised Statutes, is  
2 amended by amending subsection (e) to read as follows:

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

6 (1) ~~\$1,000 for a contract with an estimated value of~~ One  
7 percent of the estimated value of the contract if the  
8 estimated value of the contract is less than \$500,000;

9 (2) Two and one-half percent of the estimated value of the  
10 contract if the estimated value of the contract is  
11 ~~\$2,000 for a contract with an estimated value of~~  
12 \$500,000 or more, but less than \$1,000,000; or

13 (3) Four and one-half ~~One-half~~ percent of the estimated  
14 value of the contract if the estimated value of the  
15 contract is \$1,000,000 or more; ~~provided that in no~~  
16 ~~event shall the required amount of the cash or protest~~  
17 ~~bond be more than \$10,000.~~

S . B . NO . 2843

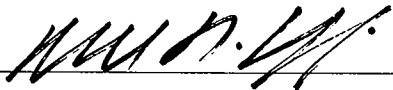
1           If the initiating party prevails in the administrative  
2 proceeding, the cash or protest bond shall be returned to that  
3 party. If the initiating party does not prevail in the  
4 administrative proceeding, the cash or protest bond shall be  
5 deposited into the general fund.

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INTRODUCED BY: 

BY REQUEST

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# S .B. NO. 2843

**Report Title:**

Procurement; protest bond.

**Description:**

To revise Hawaii Revised Statutes 103D-709, Administrative proceedings for review to replace the protest bond amount for a contract with an estimated value of less than \$500,000 from \$1,000 to one-percent; to replace the protest bond amount for a contract with an estimated value of less than \$1,000,000 from \$2,000 to two and one-half percent; to replace the protest bond amount when the estimated value of the contract is \$1,000,000 or more from one-half percent to four and one-half percent; to delete the \$10,000 cap on the protest bond amount.

*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 PROCUREMENT.

PURPOSE: The purpose of this bill is to revise the Hawaii Revised Statutes 103D-709, Administrative proceedings for review to replace the protest bond amount for a contract with an estimated value of less than \$500,000 from \$1,000 to one-percent; to replace the protest bond amount for a contract with an estimated value of less than \$1,000,000 from \$2,000 to two and one-half percent; to replace the protest bond amount when the estimated value of the contract is \$1,000,000 or more from one-half percent to four and one-half percent; to delete the \$10,000 cap on the protest bond amount.

MEANS: Amend section 103D-709(e), Hawaii Revised Statutes.

JUSTIFICATION: The current cap on the protest bond amount is too low for public works projects that have estimated value exceeding millions of dollars. The State Procurement Code was established with fairness, to increase public confidence, to foster broad-based competition, fiscal responsibility and efficiency in the procurement process. Unfounded and frivolous protests impact procuring agencies by project delays, lapsed funding, and project cost increases.

Impact on the public: Timely delivery of public works projects after procurement and award.

Impact on the department and other agencies: Reduced project delays, funding lapses, and project cost increases.

GENERAL FUND: N/A

# SB. NO. 2843

OTHER FUNDS: N/A

PPBS PROGRAM  
DESIGNATION: N/A

OTHER AFFECTED  
AGENCIES: State Procurement Office, State Department of  
Commerce and Consumer Affairs

EFFECTIVE DATE: Upon approval