

Honolulu, Hawaii

FEB 28 2020

RE: S.B. No. 2843
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committees on Judiciary and Ways and Means, to which was referred S.B. No. 2843, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

beg leave to report as follows:

The purpose and intent of this measure regarding bid protests to an award of a contract for a state project subject to the procurement code, is to, until July 1, 2025:

- (1) Change the amounts to be posted for a protest bond from a flat fee for contracts under \$1,000,000 to a percentage of the estimated value of the contract;
- (2) Increase the percentage for contracts with an estimated value of \$1,000,000 or more;
- (3) Repeal the cap on the maximum amount of the protest bond; and
- (4) Require the Comptroller, Superintendent of the Department of Education, and Director of the Department of Transportation to each submit an annual report to the Legislature on the number of protests and outcomes resulting from this change in valuation of protest bonds.



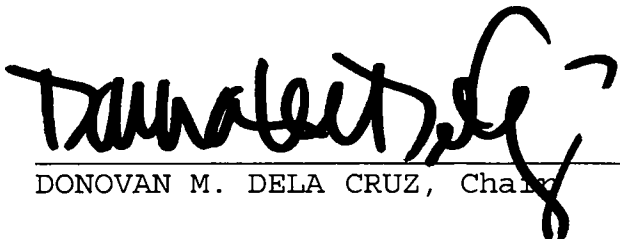
Your Committees received testimony in support of this measure from the Department of Transportation, Department of Accounting and General Services and City and County of Honolulu Department of Budget and Fiscal Services. Your Committees received testimony in opposition to this measure from the Subcontractors Association of Hawaii; John H. Connors Insurance; Risk Solutions Partners, LLC; and two individuals. Your Committees received comments on this measure from the State Procurement Office.

Your Committees find that under existing law, when a project solicitation or project award is protested, the government agency involved replies by either denying or sustaining the protest. The protestor then has an opportunity to appeal the government agency's decision to the Department of Commerce and Consumer Affairs, Office of Administrative Hearings. Contracts with an estimated value of over \$1,000,000 require a protest bond of one-half percent capped at \$10,000. If the protestor prevails, the \$10,000 bond is returned, but if the protestor does not prevail, the \$10,000 bond is deposited into the general fund. This measure increases the amount of protest bond required and repeals the protest bond cap.

Your Committees further find that this measure balances the interests of protest bonds being enough to discourage non-substantive protests and making the amount equitable by tying it to the value of the contract.

As affirmed by the records of votes of the members of your Committees on Judiciary and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2843, S.D. 1, and recommend that it pass Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Ways and Means,



DONOVAN M. DELA CRUZ, Chair



KARL RHOADS, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 2843 SD1	Committee Referral: GVO, JDC/WAM	Date: 2/28/2020		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	/			
KEOHOKALOLE, Jarrett (VC)	/			
GABBARD, Mike				/
KIM, Donna Mercado	/	X		
FEVELLA, Kurt		X		
TOTAL	2	2		1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

