



**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEES ON
EDUCATION
AND
ENERGY & ENVIRONMENTAL PROTECTION
MARCH 18, 2021, 2:00 P.M.

SENATE BILL 466, SD2
RELATING TO A SCHOOL FACILITIES AGENCY

Chair Woodson, Chair Lowen, Vice Chair Kapela, Vice Chair Marten, and members of the committees, thank you for the opportunity to submit testimony on SB 466, SD2. The State Procurement Office (SPO) supports the intent of the bill, specifically Section 1, page 3-line 1 lines 4-5:

" The agency shall comply with chapter 103D. "

The SPO believes that if the original requirement remains as stated below:

" Any award of a contract for construction shall be subject to the requirements of section 103D-302; provided that the agency shall give preference to construction bids submitted by a contractor or subcontractor domiciled within the State. "

it may be problematic for the Department of Education (DOE) to implement. One important note: restricting construction contracts to section 103D-302, Hawaii Revised Statutes (HRS) Competitive Sealed Bidding, will eliminate the benefits of awarding contracts pursuant to Small Purchase, and Competitive Sealed Proposals, specifically design build. This may cause confusion as DOE's Facilities and Operations Auxiliary Service Branch are not bound by this requirement and will continue to use the Request for Proposal (RFP) method to award contracts.

As it stands, Act 72 (SLH 2020) does not address the methodology of applying such a local construction preference. This act is not clear as to what local preference the agency will be applying, if it will any of the following:

- Act 17 (SLH 2009) – Apprenticeship Program
- Act 68 (SLH 2010) – Employment of State Residents on Construction Procurement Contracts
- §103D-1002, HRS – Hawaii Products

It is unclear if the DOE will create a new preference exclusive for the school facilities agency.

The implementation of a new DOE construction preference may cause undue confusion and frustration among agencies and construction companies.

Chapter 103D, HRS, the Hawaii Public Procurement Code, should be universally applied to all agencies statewide.

Thank you.

((CONTINUATION OF TESTIMONY))

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House Committee on Education
House Committee on Energy & Environmental Protection
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STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 03/18/2021
Time: 02:00 PM
Location: 309 & 430 Via
Videoconference
Committee: House Education

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: SB 0466, SD2 RELATING TO A SCHOOL FACILITIES AGENCY.

Purpose of Bill: Amends Act 72, Session Laws of Hawaii 2020, to require that the school facilities agency complies with the Hawaii Public Procurement Code. Authorizes the school facilities agency to have additional powers and duties. Specifies additional uses for the school facilities special fund. Provides the executive director of the school facilities agency with authority relating to capital improvement projects for the school facilities agency. Effective 7/1/2050. (SD2)

Department's Position:

The Hawaii State Department of Education (Department) respectfully offers comments on SB 0466, SD2.

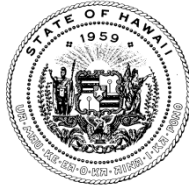
The Department appreciates the legislature's commitment to addressing the needs of Hawaii's K-12 public school students. This measure further clarifies the roles and responsibilities of the School Facilities Agency. The Department looks forward to working with the School Facilities Agency and its Executive Director in determining how to best address the facilities needs for the Department's students and schools.

Thank you for the opportunity to provide testimony on this measure.

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in

every school to engage and elevate our communities. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

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March 18, 2021
2:00 P.M.
State Capitol, Teleconference

S.B. 466, S.D. 2
RELATING TO THE SCHOOL FACILITIES AGENCY

House Committee on Education and Energy & Environmental Protection

The Department of Transportation, Highways Division, as the Administration's lead for setting up the School Facilities Agency (SFA), and operationalizing the provisions of Act 72, Session Laws of Hawaii 2020, **offers comments** and respectfully requests that S.B. 466, S.D. 2, be held, in favor of presenting all proposed amendments to Act 72 in a single bill, S.B. 808, S.D. 2.

S.B. 808, S.D. 2 proposes more amendments to Act 72 than S.B. 466, S.D. 2, and includes most, if not all of the amendments that S.B. 466, S.D. 2 proposes. S.B. 808 also amends Act 72, as codified by the Revisor of Statutes, i.e., as Hawaii Revised Statutes §§ 302A-1701 – 302A-1707 of Subpart C, of Part VI, of HRS Ch. 302A. Most importantly, using a single bill to consider and amend the provisions of Act 72, to set out the duties and responsibilities of the SFA, and its Board and Executive Director more clearly, will avoid any unintended consequences if both bills were enacted in their present form. Our testimony in support of S.B. 808, S.D. 2, details how S.B. 466's proposed amendments to Act 72 have already been, or will be incorporated into S.B. 808, S.D. 2 when S.B. 466, S.D. 2 is held.

Thank you for the opportunity to testify on this measure.