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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. The legislature finds that it is important that  
2 the state government utilize local businesses and entities  
3 whenever practically possible as it is in the best interest of  
4 the State to direct its vast internal operational resources  
5 toward supporting Hawaii's economic infrastructure. The  
6 legislature further finds that one such area of support is using  
7 a Hawaii chartered bank or credit union for the utilization of  
8 the State's financial services, including the purchasing card  
9 program, which is the system of credit cards used by state  
10 agencies for state approved purchases of goods and services.  
11 The legislature additionally finds that it is of utmost  
12 importance to ensure that the money being spent by the State for  
13 these necessities stays within local financial institutions to  
14 strengthen the State's financial sectors and grow the State's  
15 overall economy internally, because most of their investments  
16 are in Hawaii to families and businesses.



1       The legislature also finds that using offshore banks  
2 chartered in other areas will direct state resources to the  
3 benefit of other entities at the expense of Hawaii's own  
4 financial well-being. The legislature additionally finds that  
5 bid preferences and other areas of the procurement code afford  
6 local businesses a preference insofar as awarding of state  
7 contracts, given the concerns and the precedence of bid  
8 preferences for local entities. The legislature further finds  
9 that by giving a special bid preference to local financial  
10 institutions for the State's financial service contracts, like  
11 in other areas of the country, it would serve the fairness and  
12 balance of the procurement code while protecting the State's  
13 interests.

14       The legislature further finds that in order to satisfy  
15 constitutional concerns and ensure the credibility and fiscal  
16 worthiness of potential bidders, a bid preference program should  
17 be used to address the policy goals of this Act. The  
18 legislature finds that this will allow the State to give a  
19 preference for locally domiciled financial institutions as  
20 described above but also balances other factors to ensure that



1 such services will be conducted with the highest fiduciary duty  
2 and service.

3 The purpose of this Act is to require the state procurement  
4 office to give a bid preference to a bank or credit union  
5 domiciled in Hawaii to provide services for financial service  
6 contracts.

7 SECTION 2. Section 103D-1002, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§103D-1002 Hawaii products[-] and financial services.**

10 (a) A purchasing agency shall review all specifications in a  
11 bid or proposal for purchase of Hawaii products where these  
12 products are available.

13 (b) All invitations for bids and requests for proposals  
14 shall:

15 (1) Include a description of the products that are listed  
16 in the Hawaii products list established pursuant to  
17 this section, which may be used to complete the scope  
18 of work specified in the invitation for bids or  
19 request for proposals; or

20 (2) Allow as part of the offer, self-certification that  
21 the Hawaii products qualify for preference;



1 provided that the offer may be evaluated along with any other  
2 published criteria in the solicitation, including but not  
3 limited to considerations such as specific nutritional content  
4 or its equivalent, timing of delivery, quality or freshness, and  
5 past performance, if applicable.

6 All Hawaii products in any bid or request for proposal  
7 shall be made available for inspection, or additional  
8 information may be requested to verify that the Hawaii product  
9 meets the minimum specifications.

10 (c) All persons submitting bids or proposals to claim a  
11 Hawaii products preference shall designate in their bids which  
12 individual product and its price is to be supplied as a Hawaii  
13 product.

14 (d) Where a bid or proposal contains both Hawaii and non-  
15 Hawaii products, then for the purpose of selecting the lowest  
16 bid or purchase price only, the price or bid offered for a  
17 Hawaii product item shall be decreased by subtracting ten per  
18 cent for class I Hawaii product items bid or offered, or fifteen  
19 per cent for class II Hawaii product items bid or offered. The  
20 lowest total bid or proposal, taking the preference into  
21 consideration, shall be awarded the contract unless the bid or



1 offer provides for additional award criteria. The contract  
2 amount of any contract awarded, however, shall be the amount of  
3 the bid or price offered, exclusive of the preferences.

4 (e) Upon receipt and approval of application for Hawaii  
5 products preference, the administrator shall include within the  
6 Hawaii products list, the names of producers and manufacturers  
7 in the State who are authorized to supply locally manufactured  
8 soil enhancement products to state agencies under subsection  
9 (k). The administrator of the state procurement office shall  
10 maintain and distribute copies of the list to the purchasing  
11 agencies of the various governmental agencies.

12 (f) Any person not on the Hawaii products list desiring a  
13 preference pursuant to this section shall certify the Hawaii  
14 product when submitting a response to a solicitation; provided  
15 that the person certifies under penalty of sanctions that the  
16 offered Hawaii products meet the requirements for the  
17 preference.

18 The procurement officer may request additional information  
19 deemed necessary to qualify a product and shall have sole  
20 discretion in determining qualification for the preference.



1 Any offeror whose product is deemed not qualified for the  
2 preference may appeal by filing a written request for  
3 reexamination of facts to the procurement officer. Upon  
4 determining that the offeror is qualified for the preference,  
5 the procurement officer shall notify the administrator and the  
6 administrator shall place the offeror on the Hawaii products  
7 list.

8 (g) Solicitations shall contain a provision notifying  
9 offerors who request application of the preference that in the  
10 event of any change that materially alters the offeror's ability  
11 to supply Hawaii products, the offeror shall immediately notify  
12 the chief procurement officer in writing and the parties shall  
13 enter into discussions for the purposes of revising the contract  
14 or terminating the contract for convenience.

15 (h) For the establishment of financial services, the state  
16 procurement office shall apply a bid preference for banks or  
17 credit unions domiciled in the State in contracts for financial  
18 services; provided that the preference shall evaluate, along  
19 with any other published criteria in the solicitation,  
20 considerations including but not limited to community ratio  
21 investments, financial reserves, customer service history within



1 the State, obligations to the State, as well as other criteria  
2 determined by the state procurement office or other contracting  
3 agency.

4 ~~[(h)]~~ (i) Nothing in this section shall limit, restrict,  
5 or preclude a Hawaii product from any preferences, set-asides,  
6 or criteria that may be applied under section 103D-906, and this  
7 section shall operate instead to mutually enhance the purpose of  
8 this section and section 103D-906.

9 ~~[(i)]~~ (j) This section shall not apply whenever its  
10 application will disqualify any governmental agency from  
11 receiving federal funds or aid.

12 ~~[(j)]~~ (k) Any purchase made or any contract awarded or  
13 executed in violation of this section shall be void and no  
14 payment shall be made by any purchasing agency on account of the  
15 purchase or contract.

16 ~~[(k)]~~ (l) For the purposes of this section, "soil  
17 enhancement product" means any nonchemical soil preparation,  
18 conditioner, or compost mixture designed to supplement aeration  
19 or add organic, green waste, or decaying matter to the soil;  
20 provided that the term does not include any plant fertilizer  
21 intended to stimulate or induce plant growth through chemical



1 means. All state agencies shall include in their solicitations,  
2 when required, the soil enhancement products identified on the  
3 Hawaii products list pursuant to subsection (e)."

4 SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on July 1, 2112.

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# H.B. NO. 1909 H.D. 2

**Report Title:**

Procurement; State Procurement Office; Financial Services;  
Contracts; Hawaii Products and Financial Services; Preference

**Description:**

Requires the state procurement office to give a bid preference to a bank or credit union domiciled in Hawaii to provide services for financial service contracts, based on certain criteria. Effective 7/1/2112. (HD2)

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

