

JAN 26 2022

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A BILL FOR AN ACT

RELATING TO HAWAII PRODUCTS.

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

1 SECTION 1. Section 103D-1002, Hawaii Revised Statutes, is  
2 amended by amending subsection (i) to read as follows:

3 "(i) This section shall not apply [~~whenever its~~] when at  
4 least one of the following conditions is met:

5 (1) Its application will disqualify any governmental  
6 agency from receiving federal funds or aid[-]; or

7 (2) The solicitation is for construction."

8 SECTION 2. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11 SECTION 3. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.


13 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



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BY REQUEST

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**S.B. NO. 3036**

**Report Title:**

Hawaii Products Preference; Construction Procurements

**Description:**

Exempts construction procurements from section 103D-1002, Hawaii Revised Statutes.

*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: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO HAWAII PRODUCTS.

PURPOSE: To exempt construction procurements from section 103D-1002, Hawaii Revised Statutes (HRS).

MEANS: Amend section 103D-1002(i), HRS.

JUSTIFICATION: Section 103D-1002, HRS, is intended to encourage the use of Hawaii products by bidders to support local industry.

Contractors and subcontractors have indicated that they now choose to use Hawaii products even without the incentive provided by this statute because of the availability and competitive pricing. There are also Leadership in Energy and Environmental Design (LEED) incentives for the use of regionally extracted or manufactured products associated with new construction.

Because the Hawaii products preference can reduce the bid amount (for the purposes of evaluation) by ten or fifteen percent of the cost of the Hawaii products a bidder proposes to use, it may increase the cost of construction for the State. If the industry no longer requires this incentive to use Hawaii products, there is no benefit to the public to justify the added construction cost associated with the preference and it is contrary to the Legislature's goal to increase the economy, efficiency, effectiveness, and impartiality of the public works construction procurement process.

Further, the preference has also decreased the efficiency of the construction procurement process because it can be

difficult for agencies to determine whether it is being fairly assessed. This occurs because some bidders claim the preference by providing a lump sum price (instead of using the appropriate unit for the material) or listing a quantity that is very different from that of other bidders. Because some differences in quantity can be attributed to the contractor's method of work, it is difficult for agencies to discern when a bidder is attempting to gain a competitive advantage by skewing the pricing of the Hawaii Products.

Impact on the public: Elimination of the Hawaii product preference as proposed may yield potential savings in the cost of construction and reduce the effort necessary to prepare a construction bid.

Impact on the department and other agencies: Elimination of this preference as it applies to construction would simplify the solicitation documents, increase the efficiency of the bid evaluation process, and eliminate the possibility of the State paying more for construction without justifiable benefit due to application of the Hawaii products preference.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: AGS 221

OTHER AFFECTED  
AGENCIES: Governmental bodies, as defined in section 103D-104, HRS, that enter into public works construction contracts.

EFFECTIVE DATE: Upon approval.