

STAND. COM. REP. NO. 594-22

Honolulu, Hawaii

FEB 18 , 2022

RE: H.B. No. 1908
H.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 1908, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose of this measure is to minimize bid challenges, costs, and delays of public works construction projects for two years by:

- (1) Allowing a bidder of a public works construction project to clarify and correct immaterial or technical issues with subcontractor listings for up to twenty-four hours after the bid submission deadline, in addition to certain time frames allowed by the State Procurement Policy Board;
- (2) Requiring that bids for construction be publicly opened no sooner than twenty-four hours after the bid submission deadline; and
- (3) Defining "immaterial or technical information".

Your Committee received testimony in support of this measure from the Subcontractors Association of Hawaii, General Contractors Association of Hawaii, and Building Industry Association Hawaii.

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Your Committee received testimony in opposition to this measure from the Department of Accounting and General Services; Department of Budget and Fiscal Services of the City and County of Honolulu; Painting Industry of Hawaii Labor Management Cooperation Trust Fund; Hawaii Tapers Market Recovery Trust Fund; Hawaii Glaziers, Architectural Metal, Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund; and Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund. Your Committee received comments on this measure from the Department of Transportation, State Procurement Office, and Contractors License Board.

Your Committee finds that the existing requirement under the Hawaii Public Procurement Code that general contractors disclose the subcontractors they intend to use on a project, while serving its purpose, also has the unintended consequence of increasing the number and complexity of construction protests. The State Procurement Office's review of Hawaii procurement laws found that most protests allege technical issues stemming from the subcontractor listing requirement.

Your Committee further finds that issues with the subcontractor listing may be addressed by providing prime contractors with additional time to correct immaterial or technical issues with subcontractor listings. This adjustment would facilitate the Legislature's intent of ensuring that subcontractors are listed properly on the bid submittal and are licensed, while maintaining the integrity of the bid process. This measure seeks to make these adjustments to the bid process for a two-year period, which will allow the State Procurement Office an opportunity to evaluate its effectiveness.

Your Committee notes its appreciation for the discussions and deliberations between the stakeholders representing both general contractors and subcontractors to find an agreeable resolution to the disagreement over bid listing modifications being addressed in this measure, while maintaining the core purpose of the bid listing requirement. As this measure continues through the legislative process, your Committee encourages the parties to continue their efforts to find a resolution that is mutually agreeable and satisfactory for both parties.

Your Committee has amended this measure by:



- (1) Clarifying that the provisions of this measure that allow a bidder to clarify or correct immaterial or technical information do not abrogate or modify the authority of the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs and Contractors License Board to enforce the contractor licensing law; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1908, H.D. 1, as amended herein, and recommends that it be referred to your Committee on Finance in the form attached hereto as H.B. No. 1908, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



AARON LING JOHANSON, Chair



