

STAND. COM. REP. NO. 2181

Honolulu, Hawaii

FEB 09 2022

RE: S.B. No. 2386

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred S.B. No. 2386 entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to amend section 103D-102, Hawaii Revised Statutes, to exempt from competitive procurement, construction projects that are below the small purchase threshold in situations where competitive procurement is neither practical nor advantageous to the State.

Your Committee received testimony in support of this measure from the State Procurement Office, Department of Accounting and General Services, University of Hawai'i System, and Associated Builders and Contractors Hawaii Chapter. Your Committee received testimony in opposition to this measure from the Subcontractors Association of Hawaii; Electrical Contractor's Association of Hawaii; 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 Plumbing & Mechanical Contractors Association of Hawaii.

Your Committee finds that it is not unusual for a procuring agency to encounter situations where the original scope of work



must be expanded due to unexpected developments or unforeseen physical conditions that were not known or considered when drafting the scope of work to be performed in the invitation for bids or requests for proposals. This is particularly true in the dynamic area of construction procurement. Your Committee further finds that, in these situations, existing law requires the procuring agency to separately procure the additional work, despite the fact that it is related to an existing project. This leads to increased and unnecessary delays and costs.

Accordingly, your Committee finds that, in limited circumstances, competitive procurement is neither practical nor advantageous to the State, even where multiple sources exist. Your Committee further finds that the exemption proposed by this measure clarifies that a separate solicitation is not required where competitive procurement is neither practical nor advantageous to the State, thereby increasing efficiency and reducing costs in the procurement process.

Your Committee additionally finds that safeguards to address concerns of anti-competitive procurement by agencies seeking the exemption are provided by the requirement that the agency must seek and obtain the approval of the Chief Procurement Officer, rather than the agency having sole discretion to determine whether the exemption is warranted. The Chief Procurement Officer must post public notice of the request and decision as provided by law and rule. Your Committee finds that these safeguards will also address concerns expressed in testimony regarding "parceling", which is the improper practice of breaking larger projects into smaller parts for purposes of avoiding the competitive procurement process.

As affirmed by the record of votes of the members of your Committee on Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2386 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committee on Government
Operations,



SHARON MORIAKI, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

Record of Votes
Committee on Government Operations
GVO

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2386	GVO, WAM	1/27/22		
<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
MORIWAKI, Sharon Y. (C)	X			
DELA CRUZ, Donovan M. (VC)	X			
CHANG, Stanley				X
GABBARD, Mike	X		X	
FEVELLA, Kurt	X			
TOTAL	3		1	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