



STATE OF HAWAII
STATE PROCUREMENT OFFICE

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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
GOVERNMENT REFORM
February 4, 2022; 9:30 AM

HOUSE BILL 2072
RELATING TO PROCUREMENT

Chair McKelvey, Vice Chair Wildberger, and members of the committee, thank you for the opportunity to submit testimony on House Bill 2072. The State Procurement Office (SPO) supports this bill.

Procurement Policy Board

The SPO strongly supports streamlining and increasing efficiency to fulfill its statutory duties.

Pursuant to Sections 103D-201, 103D-202, and 103F-106 of the Hawaii Revised Statutes (HRS), the seven-member Procurement Policy Board (PPB) adopts, amends, or repeals, administrative rules to carry out and effectuate the purpose and provisions of Chapter 103D, Hawaii Revised Statutes (HRS), governing the procurement, management, control, and disposal of any and all goods, services, construction, and Chapter 103F, HRS, for the purchase of health and human services. The PPB considers and decides on matters of policy, including those referred to it by a chief procurement officer; audits and monitors the implementation of its Hawaii Administrative Rules (HAR) and the requirements of its statutes. The PPB also issues Procurement Directives to transmit the HAR and policies and review applications for and recommends the appointment of the administrator for State Procurement Office.

When it was active, the PPB had been outstanding in its tasks, and its members have provided valuable input as representatives of their respective sectors. The PPB last held a meeting in May 2019 but has not been able to hold subsequent meetings due to attrition, a lack of applications to fill resulting vacancies, and the inability to meet quorum. Furthermore, the nominating process posed a challenge. While there are well-qualified individuals who have submitted applications, the **number** of applications submitted do not meet the requirement stated in Section 103D-201(3), HRS: "The initial and subsequent members of the policy board, other than the comptroller, shall be appointed by the governor from a list of **three** individuals for

each vacant position, submitted by a nominating committee composed of four individuals chosen as follows: two persons appointed by the governor; one person appointed by the president of the senate; and one person appointed by the speaker of the house.”

The inability for the PPB to meet hinders the SPO’s ability to adopt, amend, or repeal administrative rules to carry out the objective of Chapter 103D, Hawaii Revised Statutes. In place of the PPB, the SPO will adhere to Chapter 91, HRS, to provide the balance necessary to ensure fair and equitable treatment to government entities, vendors, and stakeholders. The SPO comments that if §103D-201 and §103D-202, HRS, are repealed, the Hawaii Administrative Rules will have to be amended and will require time to process.

Procurement Automation Systems/eProcurement

The SPO strongly supports the language in HB 2072 regarding the procurement automation system.

The SPO has digitized its processes and conducted business online to improve its level of customer service, and it seeks to transition to an online procurement automation system (eProcurement System) as a self-funded model to stay on par with industry standards. A procurement automation system, which is an accounting-oriented, multi-module, data-based system that integrates all procurement activities from solicitation to contract management, will provide the following benefits and more:

- Maximized administrative efficiency and resources (one-stop-shop for government buyers and vendors)
- Automated government policy and guidance (built-in adaptable technology to remain compliant with policy)
- Improved user-friendly procurement templates
- Increased competition (more competition means lower costs)
- Managed spending (leverage buying power, monitor compliance)
- Validated data (spend data,
- Mitigated risks
- Improved transparency and accountability (less off-contract/non-catalog spend)

HB 2072 describes how the procurement automation system can be a self-funded model. If a self-funded model is not used, the cost would be approximately \$5 million for implementation, plus an additional \$500,000 to \$1 million for annual licenses.

Thank you.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, New User Fee for Automated Procurement System and New Special Fund

BILL NUMBER: HB 2072, SB 3040

INTRODUCED BY: HB by Saiki by request, SB by Kouchi by request (Governor's Package)

EXECUTIVE SUMMARY: Amends the nomination process and the number of the members for the Procurement Policy Board; authorizes the State Procurement Administrator to develop and administer procurement automation systems and assess, charge, and collect a transaction fee from all vendors using the procurement automation systems; establish a procurement automation system special fund; and amends section 103D-1010, Hawaii Revised Statutes (HRS), to conform with the amendments made to section 103D-1001, HRS. Our view is that the end game of this bill is to milk those from whom the State buys goods or services and squirrel away the resulting fees in a special fund that could largely avoid legislative scrutiny.

SYNOPSIS: Adds a new section to chapter 103D, HRS, to establish the state procurement automation system special fund.

Amends section 103D-206, HRS, to require the administrator of the procurement office to develop and administer procurement automation systems, and to assess, charge, and collect a transaction fee for the use of the procurement automation system to cover procurement automation system costs.

Makes other technical and conforming amendments.

EFFECTIVE DATE: Upon Approval

STAFF COMMENTS: This is an Administration bill sponsored by the Department of Accounting and General Services and designated as AGS-04 (22).

Essentially, this bill is taking an opportunity to modernize and automate procurement (which is not objectionable), tacking on a "user fee" and charge it to the persons from whom the State buys goods and services (which is probably going to be charged right back to the State in the form of higher prices for those goods or services), and then siphon it off into a special fund where it would be, by and large, under sole control of DAGS and not subject to the appropriation and budgeting processes (which is objectionable).

Special funds are pots of money that exist for a specific purpose, and largely bypass the legislative appropriation process. The existence of hundreds of these special funds has often confounded those who seek answers to simple questions like "How much money does the State have?"

Our Legislature is supposed to be the steward of all state moneys, but special funds make it very easy to lose track of where the money is and how it is being spent. Departments are supposed to tell the Legislature if they have special funds and how much is in them, but let's just say they don't always. Recently, in Report No. 20-01, the State Auditor took DBEDT to task for failing to report \$6.5 million in non-general fund moneys. DBEDT's response? Just that they'll "take corrective action." Not even a "Whoops! We screwed up and promise to do better next time!" This followed closely on the heels of Report No. 19-16, where the Auditor found that \$1.04 million in non-general fund moneys administered by the Attorney General wasn't reported. That department responded that they "shall establish procedures to assure required reports are issued." Is it any wonder that it's getting harder and harder to follow the money and rein in government spending?

Digested: 2/1/2022

HB-2072

Submitted on: 2/2/2022 11:52:35 AM

Testimony for GVR on 2/4/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerald Gordner	Individual	Support	No

Comments:

I support the creation of a statewide procurement automation system for all of the reasons put forth in the bill.

However, as a business owner who has used procurement automation systems in other states, I would encourage the committee to clarify the transaction fee in 1(4). As currently worded, the procurement office could charge an unspecified fee to all vendors simply for registering. This would have the negative effect of discouraging small vendors in particular from participating, limit the pool of vendors available, and ultimately increase the cost of goods and services for the public.

As far as I know, imposing a transaction fee is not best practice--I never paid one in other states. If it must be imposed here, I would recommend constraining it to specific kinds of transactions, e.g. the submission of a bid, and/or specify a maximum limit on the fee that can be charged.

DAVID Y. IGE
GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
STATE COUNCIL
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February 4, 2022

The Honorable Representative Angus L.K. McKelvey, Chair
House Committee on Government Reform
The Honorable Representative Dale T. Kobayashi, Chair
House Committee on Legislative Management
The Thirty-First Legislature
State Capitol
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Representative McKelvey, Representative Kobayashi, and Committee Members:

SUBJECT: HB2072 Relating to Procurement

The Hawaii State Council on Developmental Disabilities **SUPPORTS HB2072**, Amends the nomination process and the number of the members for the Procurement Policy Board; authorizes the State Procurement Administrator to develop and administer procurement automation systems and assess, charge, and collect a transaction fee from all vendors using the procurement automation systems; establish a procurement automation system special fund; and amends section 103D-1010, Hawaii Revised Statutes (HRS), to conform with the amendments made to section 103D-1001, HRS.

This measure will correct a conflict in the procurement code relating to Qualified Community Rehabilitation Programs (QCRP). Act 055 of the 2021 Hawaii legislative session removed 14c certificates from the requirement of being a QCRP program under 103D-1001 of the procurement code and replaced it with: "Maintains a disabled to non-disabled employee ratio equal to or greater than one to three at all times. To ensure integrated employment of individuals with disabilities, this one-to-three ratio is to include all levels of employment, management, and sub-contracting."

The employee ratio language in procurement code 103D-1010 needs to be removed to conform with the amendment made to section 103D-1001 by Act 55, Session Laws of Hawaii 2021. We support the changes on page 9 lines 10 and 12-16.

Thank you for the opportunity to submit testimony in **support of HB2072**.

HB2072 Relating to Procurement

February 04, 2022

Page 2 of 2

Sincerely,



Daintry Bartoldus
Executive Administrator