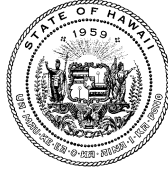


DAVID Y. IGE
GOVERNOR



CURT T. OTAGURO
COMPTROLLER
AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
CURT T. OTAGURO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE

SENATE COMMITTEE
ON
GOVERNMENT OPERATIONS

THURSDAY, JANUARY 27, 2011, 3:00 P.M.
CONFERENCE ROOM 016, STATE CAPITOL

S.B. 2386

RELATING TO PROCUREMENT

Chair Moriwaki, Vice Chair Dela Cruz, and members of the Committee, thank you for the opportunity to submit testimony on S.B. 2386. The Department of Accounting and General Services (DAGS) supports the intent of the bill to increase the efficiency of procurement for small purchase construction projects where procurement by competitive means is either not practicable or not advantageous to the State.

Thank you for the opportunity to submit testimony on this matter.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Government Operations
January 27, 2022 at 3:00 p.m.

By
Jan Gouveia
Vice President for Administration
University of Hawai'i

SB 2386 – RELATING TO PROCUREMENT

Chair Moriwaki, Vice Chair Dela Cruz, and members of the committee:

Thank you for the opportunity to testify in support of SB 2386 – Relating to Procurement. This bill exempts construction projects below the small purchase threshold from competitive procurement when it is not practical or beneficial to the State.

It is not uncommon for agencies to be presented with situations where it is neither practical nor advantageous to secure construction services via a competitive small purchase procurement. SB 2386 would provide all government agencies, including the University of Hawai'i, with an alternative that provides the flexibility to efficiently and prudently utilize state funds.

Thank you for the opportunity to testify in support of SB 2386.

DAVID Y. IGE
GOVERNOR



BONNIE KAHAKUI
ACTING ADMINISTRATOR

STATE OF HAWAII
STATE PROCUREMENT OFFICE

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 586-0554
email: state.procurement.office@hawaii.gov
<http://spo.hawaii.gov>

TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE
ON
GOVERNMENT OPERATIONS
January 27, 2022; 3:00 PM

SENATE BILL 2386

RELATING TO PROCUREMENT

Chair Moriwaki, Vice Chair Dela Cruz, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 2386. The State Procurement Office (SPO) supports the intent of the bill and provides the following comments.

HRS Section 103D-1029(b)(L) specifically allows only good and services to be exempt by the Procurement Policy Board, by rules, or chief procurement officer, if it is determined in not to be practicable or advantageous to the State to compete it out.

Allowing construction exemption, under the small purchase threshold, is a step towards government efficiency. Future consideration should be given to allow goods, services, and construction be treated equally.

Thank you.



January 27, 2022

Canaan Shon
Hawaii Geophysical Services
Chairman

Malcolm Barcarse, Jr.
A&B Electric Co., Inc.
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Oceanic Companies, Inc.
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To: Committee on Government Operations
Sen. Sharon Y. Moriwaki, Chair
Sen. Donovan M. Dela Cruz, Vice Chair

From: Malcolm Barcarse, Jr. ABC Hawaii Legislative Committee Chair.

Associated Builders and Contractors Hawaii Chapter Testimony in SUPPORT of SB 2386.

Chair Moriwaki, Vice Chair Dela Cruz, and members of the Committee:

Thank you for the opportunity to testify, my name is Malcolm Barcarse, Jr. I am currently the Legislative Committee Chair of Associated Builders and Contractors, Hawaii Chapter which represents over 150 member companies in the Construction Industry. We also have a State Approved Trade Apprenticeship Program in the trades of Carpentry, Electrical, Painting, Plumbing and Roofing.

This bill addresses a frequent problem that our members encounter on State and County Projects, where an unforeseen condition happens on a construction project that is outside the contractor's scope of work holds up a project because the extra work must be treated as a separate procurement that can potentially take months to do.

We feel that allowing the SPO or Procurement Policy Board to set up procedures to exempt these kinds of projects from the procurement code, will help to alleviate a known source of project delays and increased cost. Therefore, we ask this committee to pass this bill out of committee.

Thank you for opportunity to testify.

ABC Hawaii Staff

Jeffrey Durham – President/CEO Renee Rosehill – Operations Manager
Shannon Richardson – Education Director Justin Ou – CEF Service Coordinator

SAH - Subcontractors Association of Hawaii

1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938

Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

January 27, 2022

Testimony To: Senate Committee on Government Operations
Senator Sharon Y. Moriwaki, Chair

Presented By: Tim Lyons, President

Subject: S.B. 2386 – RELATING TO PROCUREMENT

Chair Moriwaki and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The SAH represents the following nine separate and distinct contracting trade organizations.

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL AND AIR CONDITIONING NATIONAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We are not in favor of this bill as written.

We believe we understand the problem and the issue, being the cumbersome and time consuming effort that is required to go back out to bid when unanticipated or unexpected work surfaces, however we believe that exempting such projects from the Procurement Code and the small purchase rules is not entirely the way to go.

There are many smaller contractors whose livelihood depends on small contracts. They are not the "big boys" that are participating in million dollar projects. They concentrate their efforts in small jobs which oftentimes include those under \$250,000.00. That is because the smaller projects take a lot less time, ties up their bond for a much less shorter period of time and they can see the job through completion without long term planning including materials and labor needs. So this bill could impact them severely.

At the very least, since the intent of this bill is to handle work that is unanticipated or unexpected, we believe that the proposal in Section 103D-102(b)(M) should be reworded to specifically provide that this applies to other construction projects that were originally in the normal procurement process but for which the need of additional unanticipated or unexpected work on the same project is needed. Further, we also believe that it should be made clear that these projects are subject to the Subcontractor Listing Clause in the Procurement Code and other public postings by SPO. It is noted that 103D-305b allows for a specific provision that imposes bonding requirements for jobs that are greater than \$50,000.00. That tells us that exceptions to the Small Purchase Program can be better defined in having certain provisions apply.

Again, we sympathize with the State and the Procurement Agencies when situations such as this arise however we think it is very important to recognize that there are some contractors who depend on this particular type of procurement as their livelihood and accommodating the agencies to make it easier for them to expedite these contracts can also have the adverse effect of drastically harming smaller contractors.

Again, we are not in support of the bill, however we do believe that the amendments that we suggested confining these types of exceptions to only additional work for projects that have gone through the full procurement process and posting provisions for payment progress as well as sublisting should continue to apply. If we can accomplish that then we think it is a "win-win" situation.

Thank you.



ELECTRICAL CONTRACTOR'S ASSOCIATION OF HAWAII

NECA Hawai'i Chapter

1286 Kalani Street, Suite B-203

Honolulu, Hawai'i 96817

PH: (808) 847-7306

FX: (808) 841-8096

Email: ecah@ecahi.com



January 26, 2022

To: Senate Committee on Government Operations
Honorable Chairperson Senator Sharon Moriwaki
Vice Chairman Senator Donovan Dela Cruz

From: Al Itamoto, Executive Director
Electrical Contractors Association of Hawaii
National Electrical Contractors Association, Hawaii Chapter

Subject: SB 2386 Relating to Procurement

Notice of Hearing

Date: Thursday, January 27, 2022
Time: 3:00 PM
Place: Conference Room 016 and Videoconference
State Capitol
415 South Beretania Street

Dear Chair Moriwaki and Committee members:

The Electrical Contractors Association of Hawaii (ECAH) is a non-profit association representing over 100 electrical contractors doing business in the State of Hawaii. ECAH **opposes** the intent and purpose of SB 2386 exempting certain small construction purchases from the procurement code. In effect, this measure would allow the procurement of construction purchases up to \$250,000 without the oversight and protections of the procurement code which are key to a fair and equitable means of procurement.

Approximately 80% of electrical contractors operate as small electrical shops and regularly perform work that are \$250,000 or less. Removing the protection of the procurement code would greatly impact negatively their means of operating their business. Currently, with these protections, it creates an even playing field for all contractors bidding for these jobs and provides some stability in a very competitive arena.

Based on the above, ECAH **opposes** the passage of SB 2386 until more research is conducted on the impact to all stakeholders in procuring so called small purchases.

Thank you for the opportunity to provide testimony on this issue.

Al Itamoto



1088 BISHOP STREET #408
HONOLULU, HI 96813
PH: (808) 597-1216

GREGG S. SERIKAKU
EXECUTIVE DIRECTOR

Via E-File

January 25, 2022

Senator Y. Sharon Moriwaki, Chair
Senator Donovan M. Dela Cruz, Vice-Chair
Senate Committee on Government Operations

Chair Moriwaki, Vice Chair Dela Cruz, and Members of the Committee:

SUBJECT: SB2386 RELATING TO PROCUREMENT

My name is Gregg Serikaku, Executive Director for the Plumbing and Mechanical Contractors Association of Hawaii, and we are the State's largest association representing contractors in the plumbing, air conditioning, refrigeration, steamfitter, and fire sprinkler trades throughout Hawaii.

Our Association is concerned with the proposed exemption from the state procurement code for construction projects that are below the small purchase threshold of \$250,000.

The current state procurement rules for small purchases on construction projects include the following requirements that are meant to protect the prudent and ethical use of public funds:

- The procurement shall not be artificially divided or parceled so as to constitute a small purchase.
- Small purchase procurements greater than \$50,000 for construction shall require security by performance and payment bonds.
- Procurements of \$25,000 to less than \$250,000 shall be made through an electronic system.
- Generally small purchases require no less than 3 quotes.
- Generally small purchases require award to the lowest responsive and responsible offeror which include proper contractor licensing.

Our primary concern is whether the proposed exemption in SB2386 will include any of the above requirements that we believe are critical components in the procurement of state construction projects.

We therefore urge this committee to carefully consider the implementation of such a broad exemption from the procurement code and the potential negative consequences that may arise.

Thank you for this opportunity to provide our testimony.

Respectfully,

A handwritten signature in black ink, appearing to read "Gregg S. Serikaku", written in a cursive style.

Gregg S. Serikaku
Executive Director

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

Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund

LATE

Re: The Senate Committee on Government Operations
Hearing on Senate Bill 2386 Relating To Procurement
Hearing Date : January 27, 2022
Time : 3:00 p.m.

Chair Moriwaki and Members of the Committee:

Thank you for this opportunity to submit testimony on behalf of the 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 in **strong opposition** to Senate Bill 2386. The aforesaid organizations are labor management cooperation funds between the Painters Union, Tapers Union, Glaziers Union, and Carpet and Soft Tile Layers Union and their signatory contractors.

Senate Bill 2386 would exempt from the procurement code, Hawaii Revised Statutes ("HRS") Chapter 103D, all construction projects of less than \$250,000 that the Procurement Policy Board or the Chief Procurement Officer determines is available from multiple sources but for which competitive bidding under HRS §103D-302 is either not practicable or not advantageous to the state.

As an initial matter, although Section 1 of this bill suggests that this measure is necessary to perform unanticipated or unexpected work that was not in the original scope of work on construction projects, there is no indication given as to the scope of this alleged problem either in terms of rate of occurrence or cost impact. No reason is given either as to why this measure is the best way to solve any problem that may exist.

The lack of any hard data showing that a significant problem exists is a grave concern because the overly broad language of this measure goes far beyond the stated need in Section 1. This measure could potentially allow all or most construction projects of \$250,000 or less to be completely exempt from Chapter 103D. Currently, construction projects \$250,000 or less are not subject to the full procurement code, but instead are subject to certain small purchase rules under HRS §103D-305, including but not limited to, a requirement that performance and payment bonds be furnished. Again, this measure would potentially take all construction contracts under \$250,000 completely out of the procurement code.

The procurement code provides transparency and fairness in the spending of taxpayer dollars. Any exemption to the code should therefore never be made lightly. The complete lack of information on the scope of the alleged problem and the sweeping, overly broad nature of the statutory amendment here compel us to ask you to **defer this measure indefinitely**. Thank you again for this opportunity to share our concerns.

Jeffrey S. Masatsugu