

JAN 25 2023

A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF EDUCATION.

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

1 SECTION 1. The legislature finds that the department of
2 education is the largest department in the State with two
3 hundred ninety-five schools and forty-two thousand salaried and
4 part-time employees, which must procure numerous goods,
5 services, and construction to run its operations. However,
6 chapter 103D, Hawaii Revised Statutes, the Hawaii public
7 procurement code, mandates that the department of education
8 comply with procurement laws for its purchases triggered by
9 certain threshold amounts. Abbreviating certain small purchase
10 procurement requirements for the department of education will
11 help the department procure timely and necessary goods,
12 services, and construction.

13 The legislature further finds that the electronic system,
14 due to its complicated and onerous nature, places a heavy burden
15 on school administrators seeking to address repair and
16 maintenance backlogs and further strains the already limited
17 time and resources of these school administrators. Also, with



1 the recent influx of federal funding, including the maintenance
2 of effort provisions within the Coronavirus Aid, Relief, and
3 Economic Security Act, the department of education needs to have
4 additional flexibility to expend federal funds in a timely
5 manner.

6 The purpose of this Act is to provide procurement
7 exemptions for the department of education.

8 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
9 amended by adding a new section to part V to be appropriately
10 designated and to read as follows:

11 "§302A- Education goods and services procurement; small
12 purchases. Notwithstanding section 103D-305(c) and any other
13 law to the contrary, procurements of less than \$100,000 for
14 goods and services for the department shall be exempt from the
15 requirement to conduct procurements through an electronic system
16 and shall only be subject to:

17 (1) Not less than three quotes for procurements of \$5,000
18 to less than \$15,000; and

19 (2) Not less than three written quotes for procurements of
20 \$15,000 to less than \$100,000."



1 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding a new section to part VI to be appropriately
3 designated and to read as follows:

4 "§302A- Education construction procurement; small
5 purchases. Notwithstanding section 103D-305(c) and any other
6 law to the contrary, procurements of less than \$250,000 for
7 construction for the department shall be exempt from the
8 requirement to conduct procurements through an electronic system
9 and shall only be subject to:

- 10 (1) Not less than three quotes for procurements of \$5,000
11 to less than \$15,000; and
12 (2) Not less than three written quotes for procurements of
13 \$15,000 to less than \$250,000."

14 SECTION 4. Section 103D-102, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) Notwithstanding subsection (a), this chapter shall
17 not apply to contracts by governmental bodies:

- 18 (1) Solicited or entered into before July 1, 1994, unless
19 the parties agree to its application to a contract
20 solicited or entered into prior to July 1, 1994;
21 (2) To disburse funds, irrespective of their source:



- 1 (A) For grants as defined in section 42F-101, made by
2 the State in accordance with standards provided
3 by law as required by article VII, section 4, of
4 the state constitution; or by the counties
5 pursuant to their respective charters or
6 ordinances;
- 7 (B) To make payments to or on behalf of public
8 officers and employees for salaries, fringe
9 benefits, professional fees, or reimbursements;
- 10 (C) To satisfy obligations that the State is required
11 to pay by law, including paying fees, permanent
12 settlements, subsidies, or other claims, making
13 refunds, and returning funds held by the State as
14 trustee, custodian, or bailee;
- 15 (D) For entitlement programs, including public
16 assistance, unemployment, and workers'
17 compensation programs, established by state or
18 federal law;
- 19 (E) For dues and fees of organizations of which the
20 State or its officers and employees are members,
21 including the National Association of Governors,



- 1 the National Association of State and County
2 Governments, and the Multi-State Tax Commission;
- 3 (F) For deposit, investment, or safekeeping,
4 including expenses related to their deposit,
5 investment, or safekeeping;
- 6 (G) To governmental bodies of the State;
- 7 (H) As loans, under loan programs administered by a
8 governmental body; and
- 9 (I) For contracts awarded in accordance with chapter
10 103F;
- 11 (3) To procure goods, services, or construction from a
12 governmental body other than the University of Hawaii
13 bookstores, from the federal government, or from
14 another state or its political subdivision;
- 15 (4) To procure the following goods or services which are
16 available from multiple sources but for which
17 procurement by competitive means is either not
18 practicable or not advantageous to the State:
- 19 (A) Services of expert witnesses for potential and
20 actual litigation of legal matters involving the
21 State, its agencies, and its officers and



- 1 employees, including administrative quasi-
2 judicial proceedings;
- 3 (B) Works of art for museum or public display;
- 4 (C) Research and reference materials including books,
5 maps, periodicals, and pamphlets, which are
6 published in print, video, audio, magnetic, or
7 electronic form;
- 8 (D) Meats and foodstuffs for the Kalaupapa
9 settlement;
- 10 (E) Opponents for athletic contests;
- 11 (F) Utility services whose rates or prices are fixed
12 by regulatory processes or agencies;
- 13 (G) Performances, including entertainment, speeches,
14 and cultural and artistic presentations;
- 15 (H) Goods and services for commercial resale by the
16 State;
- 17 (I) Services of printers, rating agencies, support
18 facilities, fiscal and paying agents, and
19 registrars for the issuance and sale of the
20 State's or counties' bonds;



- 1 (J) Services of attorneys employed or retained to
2 advise, represent, or provide any other legal
3 service to the State or any of its agencies, on
4 matters arising under laws of another state or
5 foreign country, or in an action brought in
6 another state, federal, or foreign jurisdiction,
7 when substantially all legal services are
8 expected to be performed outside this State;
- 9 (K) Financing agreements under chapter 37D; [~~and~~]
- 10 (L) Any other goods or services which the policy
11 board determines by rules or the chief
12 procurement officer determines in writing is
13 available from multiple sources but for which
14 procurement by competitive means is either not
15 practicable or not advantageous to the State; and
- 16 (M) Education materials including textbooks,
17 supplies, implements, tools, machinery,
18 computers, electronic devices, or other goods
19 related to any education, training, or experience
20 required for participation in an educational
21 program; and



1 (5) Which are specific procurements expressly exempt from
2 any or all of the requirements of this chapter by:

3 (A) References in state or federal law to provisions
4 of this chapter or a section of this chapter, or
5 references to a particular requirement of this
6 chapter; and

7 (B) Trade agreements, including the Uruguay Round
8 General Agreement on Tariffs and Trade (GATT)
9 which require certain non-construction and non-
10 software development procurements by the
11 comptroller to be conducted in accordance with
12 its terms."

13 SECTION 5. Department of education expenditures of less
14 than \$100,000 shall not be subject to section 103D-305(c),
15 Hawaii Revised Statutes, and shall be subject to the rules
16 governing procurements of less than \$25,000; provided that
17 department of education expenditures of \$15,000 to less than
18 \$100,000, including those made pursuant to this Act, shall be
19 subject to the requirements of section 3-122-75(a)(2), Hawaii
20 Administrative Rules, and shall be treated thereunder as



1 expenditures of \$15,000 to less than \$25,000, notwithstanding
2 any law to the contrary.

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2023;
6 provided that this Act shall be repealed on June 30, 2026.

7

INTRODUCED BY: Mehmet N. Sedani



S.B. NO. 1518

Report Title:

Department of Education; Procurement; Exemptions

Description:

Provides procurement exemptions for the Department of Education for certain goods, services, and construction. Sunsets 6/30/2026.

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