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# 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.



1 Additionally, with the recent influx of federal funding,  
2 including the maintenance of effort provisions within the  
3 Coronavirus Aid, Relief, and Economic Security Act, the  
4 department of education needs to have additional flexibility to  
5 expend federal funds in a timely 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) Education materials including textbooks,
- 11 supplies, implements, tools, machinery,
- 12 computers, electronic devices, or other goods
- 13 related to any education, training, or experience
- 14 required for participation in an educational
- 15 program; and
- 16 [~~L~~] (M) Any other goods or services which the policy
- 17 board determines by rules or the chief
- 18 procurement officer determines in writing is
- 19 available from multiple sources but for which
- 20 procurement by competitive means is either not



1                   practicable or not advantageous to the State[  
2                   and]\_.

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

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

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

15           SECTION 5. Department of education expenditures of less  
16           than \$100,000 shall not be subject to section 103D-305(c),  
17           Hawaii Revised Statutes; and shall be subject to the rules  
18           governing procurements of less than \$25,000; provided that  
19           department of education expenditures of \$15,000 to less than  
20           \$50,000 for goods and services and less than \$125,000 for  
21           construction, including those made pursuant to this Act, shall





1 be subject to the requirements of section 3-122-75(a)(2), Hawaii  
2 Administrative Rules, and shall be treated thereunder as  
3 expenditures of \$15,000 to less than \$25,000, notwithstanding  
4 any law to the contrary.

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

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



**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. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

