

JAN 15 2025

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Chapter 103D, Hawaii Revised Statutes, is
2 amended by adding a new section to part VII to be appropriately
3 designated and to read as follows:

4 "§103D- Penalties for non-performance or major delay.

5 (a) Notwithstanding section 103D-501(c) or any other provision
6 of this chapter to the contrary, the policy board shall adopt
7 rules requiring each contract to include clauses that:

8 (1) Provide for the imposition of mandatory fines on the
9 contractor, termination of the contract for default,
10 or both, if:

11 (A) The contractor fails to perform the contractor's
12 duties under the contract; or

13 (B) There is a major delay in the delivery of a
14 deliverable as provided in paragraph (2) (C);

15 (2) For the purpose of paragraph (1) (B), establish:

16 (A) A list of specific deliverables;

17 (B) The dates those deliverables are due; and



1 (C) What would constitute a major delay under which a
2 mandatory fine or contract termination would
3 result under paragraph (1); and

4 (3) Create a schedule of mandatory fines to be imposed
5 pursuant to paragraph (1), and specify the
6 circumstances when these fines, rather than liquidated
7 damages as provided under section 103D-501, would
8 apply.

9 (b) The mandatory fine amounts shall be set by the policy
10 board by rule. The policy board may establish different ranges
11 of mandatory fine amounts for different ranges of contract
12 values.

13 (c) All fines collected under this section shall be
14 deposited into the general fund.

15 (d) The contract clauses required by this section shall
16 not apply to:

17 (1) Delays or nonperformance under section 103D-501(c)(2);

18 (2) Contracts under section 103D-305 or 103D-307; or

19 (3) Other circumstances or types of contracts as provided
20 by the policy board by rule; provided that the policy



Report Title:

Procurement; Procurement Policy Board; Penalties for Non-Performance or Major Delay

Description:

Requires the Procurement Policy Board to adopt rules requiring contracts to impose mandatory fines or provide for termination of a contract for default if a contractor fails to perform the contractor's duties or if there is a major delay in a deliverable. Requires each contract to establish a schedule of deliverables and to specify what constitutes a "major delay".

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