

ACT 175

H.B. NO. 2102-76

A Bill for an Act Relating to Public Purchases and Contracts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to support the rehabilitation of the physically or mentally handicapped by establishing a preference of government agencies to purchase products manufactured and services performed by nonprofit corporations and public agencies operating sheltered workshops for physically or mentally handicapped persons in Hawaii.

SECTION 2. Chapter 103, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“Sec. 103-22.1 Services of the handicapped. When a governmental agency contracts for or purchases services, five percent preference shall be given to services to be performed by nonprofit corporations or public agencies operating sheltered workshops as certified by the department of labor and industrial relations for physically or mentally handicapped persons. The state comptroller shall adopt rules under chapter 91 to establish the preference for the services to be performed by nonprofit corporations or public agencies operating sheltered workshops consistent with this section.”

SECTION 3. Section 103-43, Hawaii Revised Statutes, is amended to read:

“Sec. 103-43 Mandatory purchase of Hawaii products. In any expenditure of public funds, a governmental agency shall purchase any required product from the Hawaii products listed established under section 103-42 where such products are available, provided the products meet the minimum specifications and the selling price does not exceed by more than three per cent, where Class I Hawaii products are involved, or five per cent where Class II Hawaii products are involved or ten per cent where Class III Hawaii products are involved, the delivered or lowest bid in Hawaii of a similar non-Hawaii product.

Where a package bid or purchase contains both Hawaii and non-Hawaii products, then for the purpose of selecting the lowest bid or purchase price only, the price bid or offered for a non-Hawaii product item shall be increased by

adding thereto three per cent, five per cent or ten per cent where similar Class I, Class II or Class III Hawaii product items have been bid or offered by another party pursuant to the preferences stated above. The lowest total bid, taking into consideration the above preferences, shall be awarded the contract but the contract amount of any contract awarded, however, shall be the amount of the bid or price offered, exclusive of such preferences.

Notwithstanding the provisions of the preceding paragraphs, an additional five percent preference shall be applicable to Hawaii products manufactured by nonprofit corporations and public agencies operating sheltered workshops as certified by the department of labor and industrial relations for physically or mentally handicapped persons. The state comptroller shall adopt rules under chapter 91 to require a governmental agency to give an additional five percent preference to the purchase of products manufactured by nonprofit corporations or public agencies operating sheltered workshops consistent with this section.”

SECTION 4. Section 103-48, Hawaii Revised Statutes is amended to read:

“**Sec. 103-48 Penalty.** Any officer of the State or of any municipality, county, or other political subdivision thereof, or any person acting under or for such officer, or any other person who violates any provisions of sections 103-22, 103-22.1, 103-23, 103-29, and 103-33 shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Any officer or employee of any governmental agency who violates any provisions of sections 103-41 through 103-47 shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Any person, or any officer or employee of any person, who violates any provisions of sections 103-41 through 103-47 shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and any person who is awarded a contract or given an order for purchase as a result of misrepresentation in his bid or makes a claim in his bid that he will purchase Hawaii products, but fails to do so shall, in addition, be fined the difference between the price of the products actually used or supplied and the price he would have paid for Hawaii products and shall not be awarded any contract or be given any order for purchase or be eligible for bidding until one year after the date when such person pays the fines levied under this section.”

SECTION 5. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 6. This Act shall take effect upon its approval.

(Approved June 1, 1976.)

*Edited accordingly.