

ACT 70

S.B. NO. 2872

A Bill for an Act Relating to Procurement.

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

SECTION 1. Section 103D-309, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) In any contract ~~pursuant to section 264-33~~ involving not only state or county funds but supplemental funds from a utility, this section shall be applicable to that portion of the contract price payable out of state or county funds as well as that portion of the contract price payable out of funds from a utility, or payable out of state or county funds paid to a utility. The State or county may certify that there are sufficient funds for the utility’s portion of the contract price if the amounts that a utility is obligated to pay under a legal agreement between the utility and the State, or a county, are sufficient to pay that portion of the contract price and the legal agreement:

- (1) Includes a specific description of the utility’s share of the payment and terms of that payment;

- (2) Allows the State, county, or utility to provide progress payments or final payment based on the actual cost after a project is completed; and
- (3) Provides that in the event the State, county, or utility is delinquent in payments under the legal agreement, the State, county, or utility shall be responsible for any and all additional costs attributable to such late payment.

Any such legal agreement shall be executed prior to the execution of the state or county contract and shall not jeopardize any federal, state, or county funds.

For the purposes of this subsection:

“Legal agreement” includes a utility agreement, memorandum of understanding, or memorandum of agreement.

“Utility” means a utility company or entity.”

SECTION 2. Statutory material to be repealed is bracketed and stricken.

SECTION 3. This Act shall take effect on July 1, 2012.

(Approved April 24, 2012.)