

ACT 111

H.B. NO. 2499

A Bill for an Act Relating to Procurement for the University of Hawaii.

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

SECTION 1. The legislature finds that Act 87, Session Laws of Hawaii 2013 (Act 87), was enacted to remove the president of the university of Hawaii's full authority to act as chief procurement officer for the university for all procurement contracts under chapter 103D, Hawaii Revised Statutes; transfer authority to the administrator of the state procurement office to act as chief procurement officer with respect to university construction contracts and university professional services contracts relating to construction; and address concerns about the prudent and transparent management of public funds appropriated by the legislature and expended by the university for construction. Following its enactment, Act 87 resulted in a bifurcated procurement system at the university

wherein a different set of rules and procedures applied depending on whether the procurement involved construction or construction related professional services for university construction projects. Requirements for construction or professional services furnished by licensees under chapter 464, Hawaii Revised Statutes, had to comply with the Hawaii public procurement code and procedures governing state executive branch agencies, while requirements for goods and services had to comply with the Hawaii public procurement code and university executive and administrative procedures governing university transactions.

In January 2016, the state procurement office issued its report to the legislature as required under Act 87, which documented the extensive oversight, reviews, and coordination between the university and the state procurement office on procurements involving construction and professional services related to construction. The conclusion of the state procurement office (SPO) in the report was that “based on SPO’s review of 102 UH construction solicitations, UH’s Administrative Procedures, and 14 post-award Site Visits, SPO finds that UH is conducting construction procurements in a compliant, efficient and transparent manner.” In the report, the state procurement office further set forth minimal recommendations for improvement and mentioned several university specific procedures as “best-practices”.

Act 42, Session Laws of Hawaii 2018 (Act 42), reinstated and restored full authority to the president of the university of Hawaii to act as the university’s chief procurement officer for all procurement contracts under chapter 103D, Hawaii Revised Statutes. Act 42 also included a repeal and reenactment date of June 30, 2021. Following the conclusion of the 2021 regular session, the legislature found that on June 30, 2021, the provisions of Act 42 were repealed. During the 2021 first special session, the legislature passed Act 8, Special Session Laws of Hawaii 2021, which temporarily reenacted provisions amended by Act 42 for the purpose of extending, for three years, the authority of the president of the university of Hawaii to act as the university of Hawaii’s chief procurement officer for all procurement contracts under chapter 103D, Hawaii Revised Statutes.

The legislature finds that it is a matter of statewide concern pursuant to article X, section 6, of the Hawaii State Constitution, that the chief financial officer of the University of Hawaii simultaneously serves as the chief procurement officer for the university of Hawaii system.

Accordingly, the purpose of this Act is to:

- (1) Designate the chief financial officer of the university of Hawaii as the chief procurement officer for the university; and
- (2) Extend the sunset date for the designation of the university of Hawaii chief procurement officer to June 30, 2028.

SECTION 2. Section 103D-203, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The chief procurement officer for each of the following state entities shall be:

- (1) The judiciary—the administrative director of the courts;
- (2) The senate—the president of the senate;
- (3) The house of representatives—the speaker of the house of representatives;
- (4) The office of Hawaiian affairs—the chairperson of the board;
- (5) The University of Hawaii—the ~~president~~ chief financial officer of the University of Hawaii;
- (6) The department of education, excluding the Hawaii public library system—the superintendent of education;

ACT 111

- (7) The Hawaii health systems corporation—the chief executive officer of the Hawaii health systems corporation; and
- (8) The remaining departments of the executive branch of the State and all governmental bodies administratively attached to them—the administrator of the state procurement office of the department of accounting and general services.”

SECTION 3. Act 8, Special Session Laws of Hawaii 2021, is amended by amending section 16 to read as follows:

“SECTION 16. This Act shall take effect upon its approval; provided that:

- (1) Parts IV and V of this Act shall apply retroactively to any actions taken after June 30, 2021, by the [~~University~~] university of Hawaii pursuant to the sections of law amended by those parts;
- (2) [~~Section~~] Sections 10 and 14 shall be repealed on June 30, 2024; and
- (3) Sections 12[.] and 13[.] and 14 shall be repealed on June 30, [~~2024,~~] 2028, and sections 103D-203(a) and 304A-2672, Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 11, 2018.”

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

SECTION 5. This Act shall take effect on June 29, 2024; provided that:

- (1) The amendments made to section 103D-203, Hawaii Revised Statutes, by section 2 of this Act shall be repealed when that section is reenacted on June 30, 2028, pursuant to Act 8, Special Session Laws of Hawaii 2021, and section 3 of this Act; and
- (2) The university of Hawaii shall provide the chief financial officer a six-month transition period to hire and transfer the necessary procurement staff to effectuate the purposes of this Act; provided further that the university of Hawaii shall complete its reorganization to place the procurement staff under the control of the chief financial officer by July 1, 2025.

(Approved June 27, 2024.)