

A BILL FOR AN ACT

VETO OVERRIDE

RELATING TO PROCUREMENT.

ACT No. 17
Approved: [Signature] / Cha
Dated: July 15, 2009

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

1 SECTION 1. Chapter 103, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§103- Public works construction; apprenticeship
5 agreement. (a) A governmental body, as defined in section
6 103D-104, that enters into a public works contract under this
7 chapter having an estimated value of not less than \$250,000,
8 shall decrease the bid amount of a bidder by five per cent if
9 the bidder is a party to an apprenticeship agreement registered
10 with the department of labor and industrial relations for each
11 apprenticeable trade the bidder will employ to construct the
12 public works, and in conformance with chapter 372. The lowest
13 total bid, taking the preference into consideration, shall be
14 awarded the contract unless the solicitation provides for
15 additional award criteria. The contract amount awarded,
16 however, shall be the amount of the price offered, exclusive of
17 the preference.



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1 (b) For purposes of subsection (a), in determining whether
2 there is conformance with chapter 372, the procurement officer
3 shall consider the actual number of apprentices enrolled in and
4 the annual number of graduates of the apprenticeship program.

5 (c) At the time of submission of a competitive sealed bid
6 or a competitive sealed proposal by a bidder, the bidder shall
7 furnish written proof of being a party to a registered
8 apprenticeship agreement for each apprenticeable trade the
9 bidder will employ to construct the public works and, if awarded
10 the contract, shall continue to certify monthly in writing that
11 the bidder is a party to a registered apprenticeship agreement
12 for each apprenticeable trade the bidder will employ to
13 construct the public works for the entire duration of the
14 bidder's work on the project. This subsection shall be deemed
15 to be incorporated into a public works contract. A bidder who
16 is awarded a contract shall be subject to the following
17 sanctions if, after commencement of work, the bidder at any time
18 during the construction is no longer a party to a registered
19 apprenticeship agreement for each apprenticeable trade the
20 bidder will employ to construct the public works:

21 (1) Temporary or permanent cessation of work on the
22 project, without recourse to breach of contract claims



1 by the bidder; provided that the governmental body
2 shall be entitled to restitution for nonperformance or
3 liquidated damages, as appropriate; or

4 (2) Proceedings to debar or suspend under section
5 103D-702.

6 (d) For purposes of this section, "bidder" means an entity
7 that submits a competitive sealed bid under section 103D-302 or
8 submits a competitive sealed proposal under section 103D-303."

9 SECTION 2. New statutory material is underscored.

10 SECTION 3. This Act shall take effect upon its approval.

