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# HOUSE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY RECENT  
INTERIM AMENDMENTS TO HAWAII ADMINISTRATIVE RULES RELATING  
TO CONSTRUCTION CONTRACTS UNDER THE HAWAII PUBLIC  
PROCUREMENT CODE TO DETERMINE WHETHER THOSE AMENDMENTS ARE  
CONTRARY TO THE LETTER OR SPIRIT OF THE PROCUREMENT CODE.

1           WHEREAS, the Hawaii Public Procurement Code, codified in  
2 chapter 103D, Hawaii Revised Statutes, was designed to create a  
3 method of awarding public contracts in a manner that ensures  
4 that public moneys are spent in a way that provides the best  
5 value for products and services provided by the most qualified  
6 offeror; and  
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8           WHEREAS, the Procurement Policy Board is authorized to  
9 adopt interim rules, valid for a maximum of eighteen months,  
10 that are not subject to the notice, hearing, and gubernatorial  
11 approval requirements of the Administrative Procedure Act; and  
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13           WHEREAS, recent interim amendments to the Hawaii  
14 Administrative Rules that address the awarding of public  
15 contracts for construction projects may have an effect that is  
16 contrary to the intent of the Hawaii Public Procurement Code;  
17 and  
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19           WHEREAS, these interim rulemaking actions may result in the  
20 award of public contracts to offerors that are not the most  
21 qualified to perform the work under the contract or do not  
22 provide the best value; and  
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24           WHEREAS, it is in the interest of equity and fiscal  
25 responsibility to study the relevant interim administrative  
26 rules to determine if they comply with the letter and spirit of  
27 the Hawaii Public Procurement Code; now, therefore,  
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1 BE IT RESOLVED by the House of Representatives of the  
2 Twenty-fifth Legislature of the State of Hawaii, Regular Session  
3 of 2009, the Senate concurring, that the Legislative Reference  
4 Bureau is requested to study amendments made to the Hawaii  
5 Administrative Rules through interim rulemaking actions  
6 implementing and interpreting the Hawaii Procurement Code  
7 relating to construction contracts since January 1, 2003, to  
8 determine whether those amendments are contrary to the letter or  
9 spirit of chapter 103D, Hawaii Revised Statutes; and

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11 BE IT FURTHER RESOLVED that the Legislative Reference  
12 Bureau is requested to study the feasibility and advisability of  
13 establishing a mechanism that requires the procurement policy  
14 board to provide timely notice to trade unions or trade  
15 associations in Hawaii of the adoption of interim rules; and

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17 BE IT FURTHER RESOLVED the Legislative Reference Bureau is  
18 requested to submit a report of its findings to the Legislature  
19 not later than twenty days prior to the convening of the Regular  
20 Session of 2010; and

21  
22 BE IT FURTHER RESOLVED that the State Procurement Office is  
23 requested to provide full cooperation and support to the  
24 Legislative Reference Bureau; and

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26 BE IT FURTHER RESOLVED that certified copies of this  
27 Concurrent Resolution be transmitted to the Director of the  
28 Legislative Reference Bureau, the Comptroller, and the  
29 Administrator of the State Procurement Code.

