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.

WHEREAS, the Hawaii Public Procurement Code, codified in
chapter 103D, Hawaii Revised Statutes, was designed to create a
method of awarding public contracts in a manner that ensures
that public moneys are spent in a way that provides the best
value for products and services provided by the most qualified
offeror; and

WHEREAS, the Procurement Policy Board is authorized under
section 103D-202, Hawaii Revised Statutes, to adopt interim
rules, which are valid for a maximum of eighteen months and are
not subject to the notice, hearing, and gubernatorial approval
requirements under chapter 91, Hawaii Revised Statutes, the
Administrative Procedure Act; and

WHEREAS, recent interim amendments to the Hawaii
Administrative Rules that address the awarding of public
contracts for construction projects may have an effect that is
contrary to the intent of the Hawaii Public Procurement Code;
and

WHEREAS, interim rulemaking actions may result in the award
of public contracts to offerors that are not the most qualified
to perform the work under the contract or do not provide the
best value; and

WHEREAS, it is in the interest of equity and fiscal
responsibility to study the relevant interim administrative
rules to determine if they comply with the letter or spirit of
the Hawaii Public Procurement Code; now, therefore,

BE IT RESOLVED by the House of Representatives of the
Twenty-fifth Legislature of the State of Hawaii, Regular Session
of 2010, that the Legislative Reference Bureau is requested to
study amendments made to the Hawaii Administrative Rules through interim rulemaking actions implementing and interpreting the Hawaii Public Procurement Code relating to construction contracts since January 1, 2003, to determine whether those amendments are contrary to the letter or spirit of chapter 103D, Hawaii Revised Statutes; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to study the feasibility and advisability of establishing a mechanism that requires the Procurement Policy Board to provide timely notice to trade unions or trade associations in Hawaii of the adoption of interim rules; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to submit a report of its findings to the Legislature not later than twenty days prior to the convening of the Regular Session of 2011; and

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

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Director of the Legislative Reference Bureau, the Comptroller, and the Administrator of the State Procurement Office.

OFFERED BY: [Signature]

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