

Honolulu, Hawaii

March 2, 2018

RE: H.B. No. 2581
H.D. 2

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Finance, to which was referred H.B. No. 2581, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC-PRIVATE PARTNERSHIPS,"

begs leave to report as follows:

The purpose of this measure is to assist the State and county governments in undertaking certain capital improvement projects in a more cost-effective and efficient manner by:

- (1) Establishing the Office of Public-Private Partnership within the Department of Accounting and General Services to support State and county agencies in the use of best practices in contracting for public-private partnerships, and to appropriate funds for its establishment;
- (2) Adding design-build-operate-maintain and design-build-finance-operate-maintain project delivery methods to the Hawaii Public Procurement Code and related conditions and requirements;
- (3) Requiring the Department of Accounting and General Services, in coordination with the Office of Public-Private Partnership, to submit an annual report to the



Legislature and specifying the information the report shall contain; and

- (4) Appropriating funds for establishing and filling the State Public-Private Partnership Coordinator position.

The Department of Transportation, Department of Budget and Fiscal Services of the City and County of Honolulu, Ho'omanapono Political Action Committee, Ho'omano Pono, LLC, Ulupono Initiative, and a concerned individual testified in support of this measure. The Community Alliance on Prisons, Hawai'i Justice Coalition, Young Progressives Demanding Action - Hawaii, Oahu County Committee on Legislative Priorities of the Democratic Party of Hawaii, Ohana Ho'opakele, and several concerned individuals testified in opposition to this measure. The Department of Accounting and General Services, State Procurement Office, Office of Planning, The Chamber of Commerce Hawaii, Building Industry Association of Hawaii, Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, and American Civil Liberties Union of Hawai'i provided comments.

Your Committee has amended this measure by:

- (1) Deleting language specifically adding design-build-operate-maintain and design-build-finance-operate-maintain project delivery methods to the Hawaii Public Procurement Code (Procurement Code) and related conditions and requirements and instead, inserting language specifically adding public-private partnership delivery methods to the Procurement Code, including related conditions and requirements;
- (2) Requiring, as part of the public-private partnership procurement process:
 - (A) The Governor, in the case of a State project, or the mayor, in the case of a county project, to provide initial approval of a recommendation from the head of the purchasing agency to proceed with a public-private partnership; and
 - (B) The Director of Budget and Finance and the Comptroller, in the case of a State project, or the Mayor, in the case of a county project, to provide



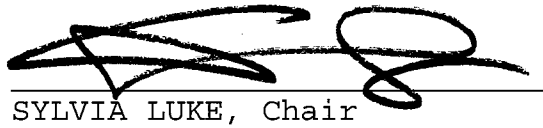
final approval of a recommendation from the head of the purchasing agency to execute a public-private partnership;

- (3) Inserting language to specify responsible persons designated to attend meetings and otherwise stay apprised of important events and decisions related to a public-private partnership after initial approval, and in anticipation of final approval, of a public-private partnership;
- (4) Inserting language providing additional conditions for the use of public-private partnerships under the Procurement Code including:
 - (A) Requiring construction contracts using the public-private partnership procurement process to specify the use of public worker union positions customarily and historically provided for such projects when an operational phase is part of the project delivery;
 - (B) Authorizing purchasing agencies to engage in negotiations with the highest-ranked offeror in a public-private partnership procurement and specifying the terms and conditions to be negotiated; and
 - (C) Authorizing purchasing agencies to terminate negotiations with the offeror of a public-private partnership when negotiations are not successful and specifying conditions under which negotiations should be continued with the next highest-ranked scoring offeror; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2581, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2581, H.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Finance,



A handwritten signature in black ink, appearing to read 'Sylvia Luke', is written over a horizontal line.

SYLVIA LUKE, Chair



