

STAND. COM. REP. NO.

1083

Honolulu, Hawaii

, 2021

MAR 19

RE: S.B. No. 1329
S.D. 2
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Government Reform, to which was referred
S.B. No. 1329, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose of this measure is to create time limits to
resolve protests to the awards of competitive sealed proposal
contracts and procurements of professional services.

Your Committee received testimony in support of this measure
from the Associated Builders and Contractors Hawaii Chapter and
General Contractors Association of Hawaii. Your Committee
received comments on this measure from the Department of
Education, Department of Accounting and General Services,
Department of Human Services, Department of Transportation, and
State Procurement Office.

Your Committee finds that under the State Procurement Code,
an aggrieved party that submitted a bid for a state project that
was not awarded the bid may protest the bid award. Your Committee
further finds that the procurement protest review process can be
lengthy and complex, cause project delays, and increase project
costs that are borne by taxpayers. Your Committee believes that
establishing a deadline for bid protests to be reviewed and

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resolved will expedite the protest review process and reduce the cost associated with state-awarded projects.

Your Committee has amended this measure by:

- (1) Requiring the Chief Procurement Officer or a designee to address, rather than resolve, any protest as expeditiously as possible;
- (2) Removing language that would have provided an additional thirty calendar days if extenuating circumstances required additional time for the issuance of a written decision to uphold or deny the protest;
- (3) Specifying that if the protest is not resolved by mutual agreement and the Chief Procurement Officer or a designee does not issue a written decision to uphold or deny the protest, the protest shall prevail; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

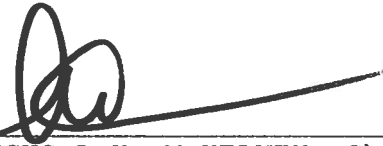
Your Committee notes that an ambiguity existed in the S.D. 2 version about what would happen to a protest after the time limit expires. To resolve this issue, your Committee amended the measure to allow said protest to prevail upon expiration of the time limit. While there may be concerns about automatically upholding a bid protest after the time limit for adjudication has expired, your Committee feels that this amendment creates a strong policy incentive for agencies to review and adjudicate protests expeditiously. Your Committee notes that the alternative approach to resolving the ambiguity, allowing the protest to sunset if not acted upon in time, would create a policy disincentive for agencies to expedite the process.

Your Committee respectfully requests your Committee on Consumer Protection & Commerce, should it deliberate on this measure, to further look at and consider the amendment made to this measure by your Committee, which provides that if the protest is not resolved by mutual agreement and the Chief Procurement Officer or a designee does not issue a written decision to uphold or deny the protest, the protest shall prevail.



As affirmed by the record of votes of the members of your Committee on Government Reform that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1329, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1329, S.D. 2, H.D. 1, and be referred to your Committee on Consumer Protection & Commerce.

Respectfully submitted on
behalf of the members of the
Committee on Government Reform,



ANGUS L.K. MCKELVEY, Chair



Record of Votes of the Committee on Government Reform

Bill/Resolution No.: SB 1329, SD2	Committee Referral: GVR, CPC, FIN	Date: 3-17-22		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
GVR Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. WILDBERGER, Tina (VC)	✓			
3. CULLEN, Ty J.K.	✓			
4. ELI, Stacelynn K.M.				✓
5. ICHIYAMA, Linda				✓
6. MIZUNO, John M.	✓			
7. WOODSON, Justin H.	✓			
8. YAMASHITA, Kyle T.	✓			
9. WARD, Gene	✓			
TOTAL (9)	7	0	0	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
If joint referral, _____ did not support recommendation. <div style="text-align:center">committee acronym(s)</div>				
Vice Chair's or designee's signature: <i>T. Winger</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				